



4. KEY POINTS/ISSUES

4.1 Definition of short stay accommodation for the purposes of this report

For the purposes of this report, short-stay accommodation (SSA) refers to apartments, houses and rooms rented out on a short-term basis, through online providers such as Airbnb, Stayz, Booking.com and the like. They can be booked for days or months.

4.2 Introduction and scope

Recent media reports have described SSA as a casual factor for the housing shortage. Stories also appear in relation to unruly parties or vandalism.

In the seven-year period 2016/17 to 2022/23 Council received 153 complaints specifically referencing short stay accommodation. In June 2023 there was a spike that included 59 anonymous complaints. Complaints centre around noise, guest behaviour, waste and parking. The data is detailed within this report. Refer Table 2.

As SSA industry has emerged in recent years Council's webpages and customer request management systems have been reconfigured to identify SSA enquiries and complaints. This means that historical data may not capture the total number of complaints/enquiries received over the past seven years.

On 8 March 2023 Council received a petition with 73 signatures that requested "...Council lobby and join other Councils in calling for fit for purpose State legislation including fair rights for Owners Corporations to act; local Council oversight and suitable fees and a VCAT system that delivers for residents, not these unregulated short stay business models that do not pay their fair share of fees or taxes".

On 4 April 2023, in response to a Notice of Motion from Councillor Baxter, Council resolved the following:

Officers undertake research and prepare a report that investigates how other Councils in Victoria and Australia have used local laws to address short stay accommodation; and that the report detail:

How regulation and management arrangements could be implemented in the City of Port Phillip, and the advantages, disadvantages and limitations of doing so;

The number of complaints the City of Port Phillip has received about short stay accommodation over the 2022/23 financial period and in the period 4 April to 4 July 2023; and

The Victorian Government's response to short-stay accommodation and identify any opportunities for positive change.

This report responds to the resolution.

4.3 Current state of short stay accommodation in Port Phillip

The number of SSA properties in Port Phillip

There are approximately 68,000 residential properties in Port Phillip.

A Financial Review article on 29 June 2023, states that AirBnB listings in Port Phillip totalled 2,582. Source unconfirmed.

A Council officer review identified 744 short stay accommodation properties in Port Phillip through searches including Booking.com, Stayz and Vrbo (linked), AirBnB,

MEETING OF THE PORT PHILLIP CITY COUNCIL 2 AUGUST 2023



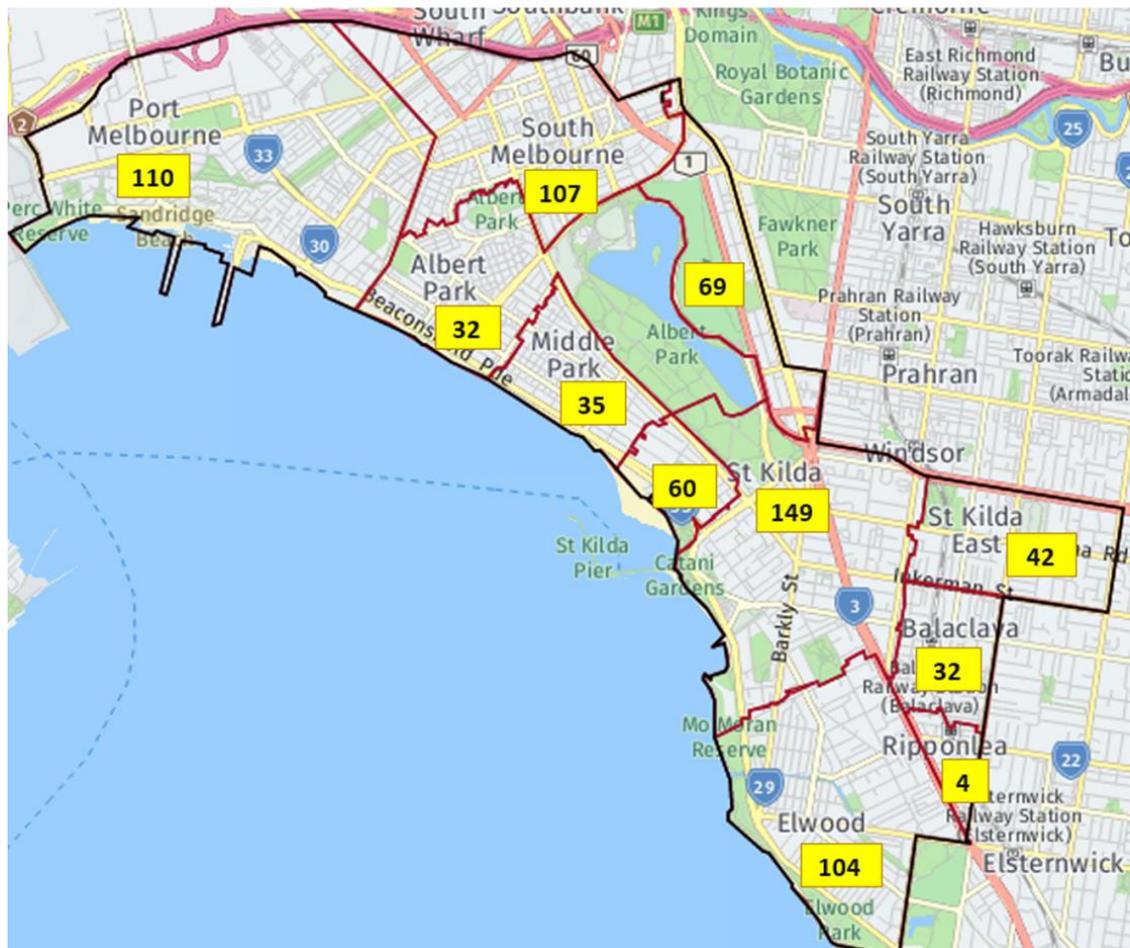
CozyCozy and EasyLivingMelbourne. Serviced apartments, hotels or similar were excluded.

The officer review eliminated multiple, duplicate listings and suburb search overlaps in websites and only considered those within the municipal boundaries of the City of Port Phillip, with identified properties mapped to suburbs as per the ABS census distribution <https://profile.id.com.au/port-philip>

Data captured is only relevant at the time of research and may vary due to:

- Owners removing or modifying listings.
- Listings may be hidden where there are three or more expired reservation requests in a 90-day period. Some sites will specifically hide a listing temporarily, to prevent more declined bookings and maintain their performance and property ranking metrics.
- Seasonal changes in property availability (i.e. a fluid and ever-changing market).
- The data analysis by officers was performed in April and repeated in June 2023.

Map – Short stay accommodation by suburb – June 2023



MEETING OF THE PORT PHILLIP CITY COUNCIL 2 AUGUST 2023



Table 1 - Types of Short Stay Accommodation in the City of Port Phillip

| Suburb | Property Type | | | | | | | | | | | Totals |
|-----------------------|---------------|------------|-------------|------------|------------|-------------|------------|------------|--------------------|------------------|--------------|------------|
| | Apartment | Cottage | House | Studio | Townhouse | Unit | Villa | Penthouse | Room - Share House | Studio Apartment | Private Room | |
| Albert Park | 10 | | 20 | | 2 | | | | | | | 32 |
| Balaclava | 23 | | 8 | | | 1 | | | | | | 32 |
| Elwood | 41 | | 28 | 1 | 5 | 28 | 1 | | | | | 104 |
| Middle Park | 10 | | 12 | 1 | | 8 | | | | | 4 | 35 |
| Port Melbourne | 52 | | 24 | 4 | 8 | 19 | 1 | | | | 2 | 110 |
| Ripponlea | 3 | | 1 | | | | | | | | | 4 |
| South Melbourne | 43 | | 27 | 2 | 2 | 30 | | 1 | | | 2 | 107 |
| St Kilda | 59 | 3 | 20 | 4 | 1 | 36 | | 8 | 9 | 9 | 9 | 149 |
| St Kilda Road | 27 | | 1 | | | 36 | | | | | 5 | 69 |
| St Kilda West | 15 | | 4 | 1 | | 38 | | | | | 2 | 60 |
| St Kilda East | 13 | | 3 | | 1 | 4 | | | 21 | | | 42 |
| Totals (count) | 296 | 3 | 148 | 13 | 19 | 200 | 2 | 1 | 8 | 30 | 24 | 744 |
| Total % | 39.8 | 0.4 | 19.9 | 1.7 | 2.6 | 26.9 | 0.3 | 0.1 | 1.1 | 4.0 | 3.2 | 100 |

Table 2 - Complaints about Short Stay Accommodation received

| Complaints - Short Stay Accommodation | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23* | Totals |
|---------------------------------------|-----------|-----------|-----------|-----------|----------|-----------|-----------|------------|
| Chimney smoke | | | | | | 1 | | 1 |
| General complaint (non-specific) | 1 | 3 | 2 | | | 2 | 5 | 13 |
| Health concern | 1 | | | | | | 1 | 2 |
| Law reform needed | | | | | | | 2 | 2 |
| Lawful use of property concern | 5 | 1 | 3 | 2 | 2 | | 5 | 18 |
| Noise and/or behaviour - general | 4 | 2 | | 1 | 1 | | 44 | 52 |
| Noise and/or behaviour - apartments | 4 | 2 | 5 | 3 | 2 | 2 | 2 | 20 |
| Parking | 2 | 1 | 1 | 2 | 1 | 2 | 8 | 17 |
| Safety - unfenced spa | | | | | | 1 | | 1 |
| Unightly premises | | | | | 1 | | | 1 |
| Waste | 4 | 7 | 2 | 2 | 1 | 4 | 6 | 26 |
| Totals | 21 | 16 | 13 | 10 | 8 | 12 | 73 | 153 |

| Enquiries - Short Stay Accommodation | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23* | Totals |
|---|----------|----------|----------|----------|----------|----------|-----------|-----------|
| Enquiry - food served in SSA | | 1 | | | | | | 1 |
| Enquiry - information availability re SSA | | 1 | | | | 1 | 4 | 6 |
| Enquiry - parking | 2 | 1 | | | 5 | | 3 | 11 |
| Enquiry - planning use | 3 | | 2 | | | 2 | 3 | 10 |
| Totals | 5 | 3 | 2 | 0 | 5 | 3 | 10 | 28 |

*Data for 2022-23 financial year is up to the 26 June 2023. 59 anonymous complaints were submitted in June 2023.

Examples of community complaints

The following are excerpts from customer complaints received by Council. They illustrate the type of impacts experienced by some community members.

"We live in a property that backs onto flats...people rented this over the New Year's Eve weekend and kept us awake for three nights ...partying all night, drinking and using offensive language. They were even tossing cigarette butts over our fence." Elwood.

"Rubbish left by short term tenants is left overflowing from bins on to the street." St Kilda.



"Over the Easter weekend, there was noise from early Friday evening until the Monday....we called the Police five times and they were unable to assist." Balaclava.

"ANZAC Day long weekend they partied every night until 2.30am. Shouting, clanging bottles and fire alarms going off." Elwood.

"The other week, AirBnB guests were walking down the street in their underwear with their trousers down." St Kilda.

"They are excessively loud on the balcony until the early hours of the morning. My elderly neighbour stays with friends on weekends to get away from the noise." St Kilda.

"Guests play loud party music and ...smoke in front of my apartment." St Kilda West.

"An ongoing problem with noise from an AirBnB next door...it has happened about 10 times in six months." Port Melbourne.

"I am a paramedic and do shift work. It is really affecting me as the noise is just crazy. Six complaints the Police...have advised me to contact Council as it is an ongoing issue" Balaclava.

"Ongoing issue with guests having parties for two 2 months...I have called the Police three times. They advised me to get in touch with the Council". St Kilda.

"Tenants change weekly...with noise all hours. Sometimes they are so badly behaved the owner has to move them on." St Kilda.

"Bins are not regularly taken out so fill up and overflow around our carpark. Building is all AirBnB so can't talk to owner about it." Elwood.

4.4 Regulatory Framework

Table 3 - Relevant Victorian State Government Legislation

| Regulation | What it does | Investigation and Enforcement |
|---|--|--|
| <p>Environmental Protection Act 2017 and Regulations 2021 (EPA2017)</p> <p>Noise provisions</p> | <p>EPA2017 noise provisions apply to unreasonable noise.</p> | <ul style="list-style-type: none"> The EPA2017 regulates pollution (including residential noise), waste and other environmental issues. Its relevance to SSA is largely around the noise provisions. The EPA2017 makes it an offence to create unreasonable noise. EPA2017 noise provisions were expanded in 2021 to include all residential noise. To investigate and verify an unreasonable noise complaint an investigator measures the sound, in a habitable room of the complainant, using calibrated equipment. Council investigates resident to resident noise complaints during business hours, in line with its resourcing. Where a resident has a complaint about noise out of hours, both EPA and Council advise them to contact Victoria Police. Council does not have resourcing to respond "in real time" to late night noise complaints which are often associated with large groups of |

MEETING OF THE PORT PHILLIP CITY COUNCIL

2 AUGUST 2023



| Regulation | What it does | Investigation and Enforcement |
|---|---|--|
| | | <p>people/parties. VicPol is equipped, trained and resourced to address these issues.</p> <ul style="list-style-type: none"> • If a breach is established, Council Authorised Officer (AO) can direct the property to abate the noise, issue infringements and prosecute breaches. AOs do not have the powers to seize equipment (the Police do). • Council can also issue residential noise improvement notices to deal with ongoing noise issues. • Individuals can also take action against another person under the EPA2017. |
| <p>Local Law 2023 S59 Additional Requirements Applying to Commercial Premises</p> | <p>Commercial premises must not detrimentally affect neighbourhood amenity or create a nuisance (including noise).</p> <p>SSA is included in the definition of 'commercial premises'.</p> | <ul style="list-style-type: none"> • Council Authorised Officers (AOs) can investigate residential noise complaints under Clause 59. Officers will gather evidence and take statements as part of the investigation. • If a breach is established, Council AOs can require owners to provide and adhere to an Amenity Management Plan; or issue an infringement or commence legal proceedings. • Amenity Management Plans were developed in response to complaints about the amenity impacts of backpackers renting rooms in residential dwellings. They have not been used to regulate issues associated with SSA. • Amenity Management plans could address ongoing issues, although it is not particularly responsive to immediately abate complaints. |
| <p>Public Health and Wellbeing Act 2008 (PHW Act)</p> <p>Part 6 s58 - Public Health Nuisance provisions</p> | <p>Noise, or other conditions, may be a public health nuisance if they are dangerous to health or offensive.</p> <p>It is an offence to cause a nuisance.</p> | <ul style="list-style-type: none"> • Under the PHWAct noise, or other conditions, may be a public health nuisance if they are dangerous to health or offensive. It is an offence to cause a nuisance. • The Council Health Services team investigate complaints of public health nuisances. These legislative provisions require establishment of a nuisance, with some regularity. • The provision requires that officers are satisfied that the noise or other conditions are ongoing, more than annoying and are unreasonable to the point of being dangerous to health or offensive. • Once established, Council AOs can issue an Improvement or Prohibition Notice or commence legal proceedings. |

MEETING OF THE PORT PHILLIP CITY COUNCIL

2 AUGUST 2023



| Regulation | What it does | Investigation and Enforcement |
|---|---|--|
| <p>Planning Permits (City of Port Phillip Planning Scheme)</p> | <p>SSA premises with more than 10 habitable rooms in one dwelling require a planning permit.</p> | <ul style="list-style-type: none"> Requirement for a Planning Permit is triggered under the City of Port Phillip Planning Scheme where properties used for SSA have more than 10 habitable rooms in one dwelling. The potential for adverse amenity impacts is considered as part of the permit application process. Under the Planning Scheme, SSA of a domestic (or smaller) scale are exempt from requiring a permit. The majority of SSA properties fall into this category. The Planning Compliance team investigates breaches relating to compliance with lawful use of land and conditions of planning permits. Enforcement options include: Official warning (issued under the Infringements Act 2006) Planning infringement notice (alleged offender required to pay penalty and carry out remedial action) Enforcement order (application to VCAT to achieve compliance) Interim enforcement order (application to VCAT where there is a need for immediate action) Prosecution (Magistrates' Court) |
| <p>Owners Corporation Act 2006 (including Owners Corporation Amendment (Short Stay Accommodation) Act 2018)</p> | <p>Establishes a 'self-help' scheme for owner's corporations to address unruly behaviour by SSA guests.</p> <p>Includes:</p> <ul style="list-style-type: none"> Noise Health, safety & security Damage to property | <ul style="list-style-type: none"> The Owners Corporations Act 2006 sets out the duties and powers of an owners' corporation. In 2019 changes were introduced to address SSA apartments in buildings being used to host. The reforms allow owners corporations to act against owners and guests, who are now jointly and individually liable for any compensation, fines, and awards for damage to common property. Owners' corporations can issue notices to comply, which can be enforced at VCAT. It is difficult to estimate the success of the Owners Corporation legislation. Anecdotally, some residents advise that this option is not working. Action is considered costly, time-consuming and not delivering desired outcomes. This legislation is not a tool which is available to Council. |



City of Port Phillip Community Amenity Local Law 2023

Council's Local Law *Clause 59* was introduced in 2017 in response to complaints about the amenity impacts of backpackers renting rooms in residential dwellings with less than 10 habitable rooms. The Local Law was designed to address a person leasing the dwelling, sub-leasing the rooms and living elsewhere why the surrounding neighbours were impacted by party noise etc.

Clause 59 makes it an offence for the owner or occupier of a commercial premises to detrimentally affect the amenity of the neighbourhood, whether through the emission of unreasonable noise or smell from the premises, activities conducted in the premises, the appearance of the premises or otherwise.

In the Local Law, 'Commercial premises' means premises used:

- primarily for commercial purposes;
- as a hostel, rooming house or student dormitory; or
- for short-term or other accommodation for commercial gain (including accommodation for backpackers).

The Local Law allows Council to request Amenity Management Plans (AMP) from the owner or occupier of a commercial premises. Two AMP's have been put in place since 2017, one to address commercial waste and the other to address amenity concerns associated with a rooming house. There is an opportunity to test extending AMPs to regulate ongoing issues associated with SSA.

Council's legal advice is that the law's efficacy would only be known once tested in Court. There has been no Court test of this clause.

4.5 State Government's consideration of housing and short stay accommodation

It is unclear if the State Government is considering a response to concerns about SSA.

Recent media reports that have referred to levers State Government may be considering in relation to its housing policy. These include:

- Potential changes to the Victorian Planning Provisions.
- New taxes / charges upon the platforms on which SSA properties are listed.
- New taxes on SSA properties themselves (e.g. tourist tax).
- A cap on the number of nights a SSA property can be rented for, per annum.
- Enablement for Council to charge commercial rates for such properties.

4.6 Local Government Advocacy to State Government

City of Port Phillip Council made a submission to the Municipal Association (MAV) of Victoria 19 May 2023 State Council meeting. The MAV is the legislated peak body for representing the interests of the 79 local government in Victoria. The MAV supports councils and councillors and provides a platform for advocacy and promotes the role of local government. The submission was that:

- *That MAV advocate for more effective and uniform State Government legislation in relation to short stay accommodation, including AirBnB, in all types of dwellings to alleviate amenity impacts, and to consider limiting the amount of time in a*



given year whereby dwellings can be rented out on a short-stay basis in areas where housing availability has been identified as a particular issue.

- This motion was carried (80% for / 20% against).

Additionally, at the October 2022 MAV State Council the following motions were passed:

- City of Yarra advocated for a state-wide register of short stay properties.
- City of Greater Bendigo advocated for planning schemes to identify short stay properties as commercial premises, for differential rating purposes.

There is an on-going opportunity for the City of Port Phillip to advocate to the Victorian State Government on SSA regulation.

4.7 Places to Live – Port Phillip Housing Strategy

While the driver of this report is the amenity impacts of short stay accommodation, Council is developing a Housing Strategy to address the anticipated housing needs of our community over the next 15 years.

As part of the development of the Housing Strategy, Council has developed a Discussion Paper, which sets the context to plan for changing housing needs in Port Phillip and identifies key issues and opportunities.

The Discussion Paper considers the impacts of the short-term rental market on housing affordability. It notes that recent research has shown that short term letting platforms are not significantly worsening rental affordability across Melbourne as a whole, but they are having an impact on availability of rental properties in specific high-demand areas and can be contributing to the challenges confronted by long-term renters.

4.8 Benefits of Short Stay Accommodation in Port Phillip

Short stay accommodation provides:

- Short-term accommodation in areas where there may be a shortage of hotel accommodation, whether it is for tourism, workers, accessing health services and visiting friends or family.
- Increased access for visitors to stay and enjoy local and major events and festivals, including St Kilda Festival, Grand Prix, Australia Open and Melbourne Cup.
- Unique and desirable stay experiences to 'live like a local'.
- Access to more amenities than standard hotel rooms.
- A source of income for local property owners.

Short stay accommodation also supports:

- Increased visitation and supporting local events.
- Local economy spending on food, entertainment, and transport.
- Local jobs including short-stay management, cleaning and maintenance services.

4.9 Benchmarking

Benchmarking with a selection of Councils was undertaken. Refer Attachment 1 – Summary of Benchmarking Findings – Victoria and Interstate.



4.10 Summary of options for regulating and managing short stay accommodation

Each option is detailed separately in Attachment 2 – Detailed Options for Regulating and Managing Short Stay Accommodation.

Table 4 – Summary of options

| | How it could work (summary) | Estimated additional \$ costs/revenue |
|---|--|---|
| <p>OPTION 1 Maintain existing controls Utilising existing controls, legislation and advocacy.</p> | <ul style="list-style-type: none"> Existing State legislation to address SSA amenity concerns. No change to enforcement service levels. After hours complaints to be made to VicPol. Continue advocacy to State Government for introduction of a consistent, state-wide approach to regulation of SSA. | Funded through Business as usual budget. |
| <p>OPTION 2 Use local law clause 59 to address amenity concerns</p> | <ul style="list-style-type: none"> As for Option 1 above, PLUS Undertake enforcement utilising local law clause 59 to address amenity concerns. Dedicated resource to investigate and resolve complaints. Applicable to all dwellings (i.e. both detached and those with owners' corporations). | Estimated 0.2 FTE dedicated resource allocation – could seek to absorb in business as usual but would need to be monitored. |
| <p>OPTION 3 New Local Law requiring Registration and Annual Fee.</p> | <ul style="list-style-type: none"> A new local law requiring compulsory annual registration with fee. Council to issue permit with conditions (e.g. requirement that property owners are not more than 2 hours away from property, and immediately address amenity complaints) Owners to implement Code of Conduct / Management Standards Penalties for breaches of local law. Applicable to all dwellings (i.e. both detached and those with owners' corporations). No change to enforcement service levels (i.e. business hours) After hours complaints to be made to VicPol. | <p>Costs (5-year): \$2.2m Income (5-year): \$1.9m Total cost of service: \$304k</p> |



| | | |
|---|---|--|
| <p>OPTION 4 New local law; with expanded 24/7 complaint contact service</p> | <ul style="list-style-type: none"> As for Option 3 above PLUS 24/7 hotline for complaints. On-call Officer available to take complaints, contact owners and require them to attend and remedy amenity concerns immediately. No out of hours attendance of properties by Council Officers due to OHS concerns and limited enforcement powers. | <p>Costs (5-year): \$2.6m Income (5-year): \$2.2m Total cost of service: \$360k</p> |
| <p>OPTION 5 Option 4 plus differential rate</p> | <ul style="list-style-type: none"> Option 4 above PLUS Introduce differential rates applicable to short stay properties. | <p>Costs (5-year): \$2.63m Income (5-year): \$2.2m Total cost of service: \$390k</p> |

Summary and recommended option

In considering the options for Council, this report notes that the adverse impacts of SSA on residents including late night noise and property damage can be significant. However, the numbers of complaints received by Council has been relatively small (153 complaints in seven years.)

Complaints relating to noise, particularly late at night, cannot be adequately addressed by Council without significant additional costs in both resources and equipment. In addition, there may be significant safety risks associated with Council officers seeking to investigate and stop late night noise and other adverse behaviour associated with SSA tenants. Investigation of this behaviour should be undertaken by the Victorian Police who have the training, equipment, and legislative powers to stop this behaviour.

This report recommends a state-wide approach to the regulation of SSA and recommends that Council continue to advocate for consistent, state-wide approach to regulation of SSA.

5. CONSULTATION AND STAKEHOLDERS

5.1 Officers conducted research by contacting a range of local and inter-state Councils with SSA, to provide benchmarking information and regulation options, including identifying the risks and benefits. Refer Attachment 1.

6. LEGAL AND RISK IMPLICATIONS

6.1 The legal and risk issues have been addressed in the body of the report.

7. FINANCIAL IMPACT

7.1 Option 1 - Based on the current, low level of complaints relating to SSA, this would not result in any financial or resourcing impacts. As SSA can be described as a fluid market, this may require review over-time.

7.2 Options 2 to 5 have all been forecast to provide a range of financial and resourcing implications, each considering systems, processes, resources and some with potential revenue.

7.3 Option 5 specifically considers a differential rate and may also be the most resource-intensive option. While this has not been thoroughly explored, benchmarking



information suggests this creates a range of challenges, given the fluid SSA market and Council's ability to track short-term and long-term listings.

- 7.4 The forecast financial and resourcing impacts are included in the Summary of Options. Refer Table 4.

8. ENVIRONMENTAL IMPACT

- 8.1 None identified.

9. COMMUNITY IMPACT

- 9.1 The community has expressed their concerns with a range of amenity impacts that are associated with SSA. Key themes are noise, waste and parking and the data is included earlier in this report.
- 9.2 Our data suggests approximately one per cent of City of Port Phillip's housing stock are currently used for SSA and the number of complaints relating to these are also low.
- 9.3 Council is committed to supporting the community with information and investigating their complaints, in partnership with Victoria Police and State legislation.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 Liveable Port Phillip

State-wide regulation is required to ensure that the amenity impacts from a minority of SSA's does not unnecessarily burden all SSA owners or the Council.

10.2 Vibrant Port Phillip

The demand for SSA acknowledges our City as a desirable place to stay, close to key services and attractions.

10.3 Well Governed Port Phillip

Officers have examined the regulatory frameworks and options at local and State levels of Government, to manage the current scale of associated SSA amenity complaints being experienced by our community.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 Maintaining existing controls would not require any additional implementation.

11.2 COMMUNICATION

- 11.2.1 The Petitioner to the Council Meeting on 8 March 2023 will be informed of Council's decision.
- 11.2.2 Council's SSA webpage will be kept updated with any changes.
- 11.2.3 Council will also continue its advocacy for State-led regulations, including through the MAV.

12. OFFICER DIRECT OR INDIRECT INTEREST

- 12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

1. **Summary of Benchmarking - Victoria and Interstate Short Stay Accommodation**[↓](#)
2. **Detailed Options for Regulating and Managing Short Stay Accommodation**[↓](#)