

MEETING OF THE PORT PHILLIP CITY COUNCIL 4 OCTOBER 2023



10.1 OPTIONS FOR REGULATION AND MANAGEMENT OF SHORT STAY ACCOMMODATION

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1. PURPOSE

1.1 To provide Council with information about short stay accommodation (SSA) in Port Phillip and outline options for Council regulation and management of amenity impacts caused by short stay accommodation premises.

2. EXECUTIVE SUMMARY

- 2.1 A report on Options for Regulation and Management of Short Stay Accommodation was presented to Council at its meeting 2 August 2023. Council resolved to adjourn consideration of the Report until 4 October 2023, pending further legal advice. The legal advice received informs this report and its recommendations.
- 2.2 This report responds to a petition received on 8 March 2023 with 73 signatures presented to Council at its meeting on 4 April 2023 and responds to the Notice of Motion moved by Councillor Baxter and supported by Council on 4 April 2023. A further petition was received by Council on 6 September calling on Council to utilise clause 59 of the Local Law to enforce amenity impacts associated with short stay accommodation.
- 2.3 Analysis of data from short stay web platforms in June 2023, found that there are 744 SSA premises in Port Phillip, which equates to approximately 1% of the 68,000 residential properties in the city.
- 2.4 SSA complaints to Council generally relate to amenity impacts (such as noise, poor behaviour and waste) upon adjacent residents and have been relatively small in number over the past seven years.
- 2.5 Applicable existing controls and legislation include Environmental Protection Act 2017, Public Health & Wellbeing Act 2008 and Planning Permits issued under the Planning & Environment Act 1987, and the Community Amenity Local Law 2023.
- 2.6 This report proposes a set of guidelines be incorporated into the Local Law Procedures and Protocols Manual (PPM) to guide Officers in the application of Clause 59 as it relates to short stay accommodation. The report also explains how Amenity Management Plans would work, as a practical tool available under the Local Law to place conditions upon how property owners manage their properties.
- 2.7 Council has been advocating to the State Government – through the Municipal Association of Victoria (MAV) – for State-wide regulation of SSA. It is recommended that this advocacy continue.



3. RECOMMENDATION

That Council:

- 3.1 Notes that the concept of short stay accommodation has evolved significantly since its inception, and that some short stay accommodation premises can cause adverse amenity impacts upon neighbouring residents when not well managed.
- 3.2 Thanks the petitioners for their petition to Council on 4 April 2023 seeking advocacy for a State Government response to Short Stay Accommodation.
- 3.3 Thanks the petitioners for their petition to Council on 6 September 2023 requesting Council utilise Clause 59 of the Local Law to address amenity concerns arising from short stay accommodation.
- 3.4 Implements Option 1: Utilise existing legislation and its Local Law, including Clause 59 to address amenity concerns arising from short stay accommodation.
- 3.5 Approves the following guidelines for inclusion into the Local Law Procedures and Protocols Manual.

“In considering whether to take enforcement action in response to a complaint about commercial premises being used for short-term or other accommodation for commercial gain, an authorised officer must consider the following guidelines:

 - a) *The severity of the impact of the conduct complained of on the amenity of the surrounding properties, including history of complaints, number of complainants and the extent of the alleged impacts.*
 - b) *The prospects of any enforcement action succeeding, including the:*
 - (i) *Nature and reliability of the evidence available; and*
 - (ii) *Level of engagement of the complainant in any enforcement action.*
 - c) *The resources required to investigate and/or pursue enforcement action in respect of the conduct complained of.*
 - d) *Any mitigating circumstances, including factors such as the steps taken by the owner/occupier of the property to minimise the amenity impacts.*
 - e) *Whether there are other more suitable avenues to address the amenity impacts, including:*
 - (i) *Whether action has been taken by an Owners Corporation under the Owners Corporations Act 2006 (OCA) in respect of the conduct complained of, or any similar conduct; and whether it was successful; and*
 - (ii) *Other relevant legislation.*
 - f) *Any other matter with the authorised officer considers to be relevant to the particular complaint.”*
- 3.6 Continues its advocacy to State Government for introduction of a consistent, State-wide approach to regulating Short Stay Accommodation.
- 3.7 Notes that Officers will brief Councillors after 12 months’ on how and when clause 59 has been applied in relation to SSA, the actions undertaken and whether its use has been effective.



4. KEY POINTS/ISSUES

4.1 Definition of short stay accommodation

4.2 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.

4.3 Short term accommodation does not refer to properties that are leased as a person's place of residence or abode, whether for short or longer terms.

4.4 Background and scope

4.5 Some members of our community have made representations to Council about the adverse impacts that some SSA properties have upon their amenity.

4.6 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 (section 4.26).

4.7 As the SSA industry has evolved 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.

4.8 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".

4.9 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.

4.10 On 2 August, a report on Options for Regulation and Management of Short Stay Accommodation was presented to Council. Council resolved to adjourn consideration of the Report until 4 October 2023; and requested Officers to clarify legal advice in relation to the applicability of Clause 59 of the Local Law to SSA.

4.11 Legal advice has been obtained and Councillors were briefed on 13 September. The legal advice informs this report and its recommendations.



- 4.12 On 6 September 2023 Council received a petition with 107 signatures via change.org. The petition called on Council to utilise clause 59 of the Local Law 2023 in relation to amenity impacts from SSA.
- 4.13 In preparing this report, benchmarking of SSA regulation was undertaken with a selection of Victorian and Interstate Councils. Refer Attachment 1 - Summary of Benchmarking Findings, Victoria and Interstate.
- 4.14 Current state of short stay accommodation in Port Phillip**
- 4.15 The number of SSA properties in Port Phillip
- 4.16 There are approximately 68,000 residential properties in Port Phillip.
- 4.17 A Council officer review in June 2023 identified 744 short stay accommodation properties in Port Phillip through searches including Booking.com, Stayz and Vrbo (linked), AirBnB, CozyCozy and EasyLivingMelbourne.
- 4.18 The methodology used included:
- Two separate searches of properties listed on the Booking.com, Stayz and Vrbo (linked), AirBnB, CozyCozy and EasyLivingMelbourne platforms.
 - Elimination of duplicate listings and suburb search overlaps in websites and only considered those within the municipal boundaries of the City of Port Phillip. Services apartments, hotels or similar were excluded.
 - Identified properties were individually reviewed and mapped to suburbs as per the ABS census distribution <https://profile.id.com.au/port-phillip> to ensure they were actually in Port Phillip Local Government Area.
 - The data analysis was performed in April and repeated in June 2023.
 - The June review identified 744 short stay accommodation properties in Port Phillip as mapped and charted below.
- 4.19 The data is accurate at a point in time, 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, for example where properties are listed for a major event, or for summer, and then taken off the market).
- 4.20 There have been media reports quoting different numbers (e.g. a Financial Review article on 29 June 2023, stated that AirBnB listings in Port Phillip totalled 2,582). It is possible that these reports may not have involved the same search approach as the one undertaken by Officers, which excluded duplicate listings, overlaps, and mapped every property individually to the ABS defined City of Port Phillip area.
- 4.21 There is also the possibility that some people and reports quote 'scraped' data from websites. Scraped data comes with risk as sites (such as AirDNA) gather up generic information from a range of platforms and do not take into account all the variables

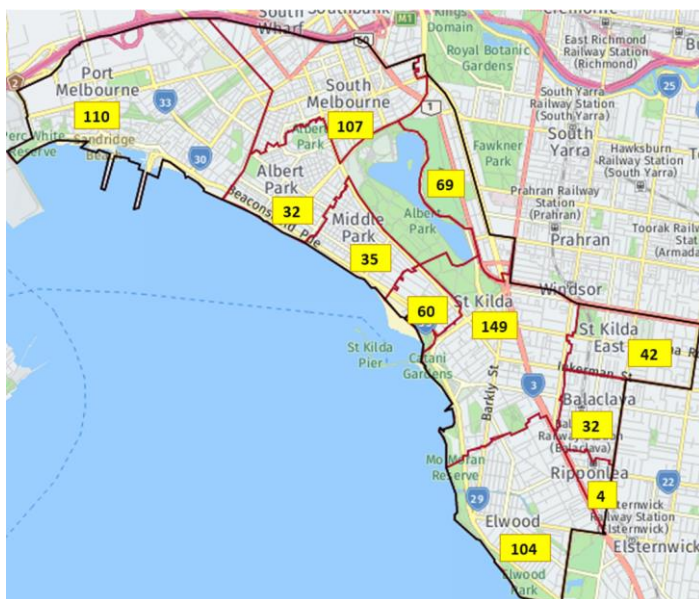
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(such as duplicate listings, the type of property, whether they are located within the Port Phillip LGA boundary etc).

4.22 Distribution of short stay accommodation in City of Port Phillip by suburb, June 2023.

4.23 As indicated on the map below, SSA is distributed across the City, with a concentration in the St Kilda, St Kilda West, St Kilda Road and St Kilda East suburbs.



4.24 Types of Short Stay Accommodation in the City of Port Phillip

4.25 As shown on the table below, the majority of SSA properties in the City are apartments and units at 67%; followed by houses at 20%.

Suburb	Property Type									Room - Share House	Studio Apartment	Private Room	Totals
	Apartment	Cottage	House	Studio	Townhouse	Unit	Villa	Penthouse					
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		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



4.26 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.

Between 27 June and 13 September 2023 an additional 57 complaints were submitted. 24 of these complaints were anonymous.

4.27 Examples of community complaints

4.28 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.*

4.29 Benefits of Short Stay Accommodation in Port Phillip

4.30 Short stay accommodation provides numerous benefits including:

- Short-term accommodation in areas where there may be a shortage of hotel accommodation, 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.

4.31 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.

4.32 Victorian Regulatory Framework

4.33 There is a range of Victorian Government Legislation together with the Council's Local Law 2023 relevant to the regulation of amenity impacts of SSA, (see table below).

Regulation	What it does	Investigation and Enforcement
Environmental Protection Act 2017 and Regulations 2021 (EPA 2017)	EPA2017 noise provisions apply to unreasonable noise.	<ul style="list-style-type: none"> • The EPA 2017 regulates pollution (including residential noise), waste and other environmental issues. Its relevance to SSA is largely around the noise provisions. The

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Regulation	What it does	Investigation and Enforcement
<p>Noise provisions</p>		<p>EPA2017 makes it an offence to create unreasonable noise.</p> <ul style="list-style-type: none"> EPA 2017 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 people/parties. VicPol is equipped, trained and resourced to address these issues. 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 EPA 2017.
<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 amenity 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, to date.

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Regulation	What it does	Investigation and Enforcement
		<ul style="list-style-type: none"> Amenity Management plans could address ongoing issues, although it is not particularly responsive to immediately abate complaints. For example, late night noise, which would need referral to Police.
<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.
<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: <ul style="list-style-type: none"> Official warning (issued under the Infringements Act 2006) Planning infringement notice (alleged offender required to pay penalty and carry out remedial action)



Regulation	What it does	Investigation and Enforcement
		<p>Enforcement order (application to VCAT to achieve compliance)</p> <p>Interim enforcement order (application to VCAT where there is a need for immediate action)</p> <p>Prosecution (Magistrates' Court)</p>
<p>Owners Corporation Act 2006</p> <p>(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> <p>Noise</p> <p>Health, safety & security</p> <p>Damage to property</p>	<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.

4.34 City of Port Phillip Community Amenity Local Law 2023 (Clause 59)

- 4.35 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 situations where a person leased the dwelling, then sub-let the rooms and the use of those rooms impacted on neighbours (through party noise etc).
- 4.36 With the evolution of SSA since 2017, and the increased prevalence of SSA within apartments and units, it is appropriate to apply clause 59 to all SSA properties. This is consistent with legal advice obtained.
- 4.37 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.
- 4.38 The Local Law defines 'commercial premises' as follows:
- 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).
- 4.39 Clause 59 applies to 'accommodation', which is the provision of a place to stay for a period, whether short term or longer, which is not the person's usual place of abode (or residence). Accommodation must be provided for commercial gain.
- 4.40 The concept of 'accommodation' is in contrast to 'abode' which is a dwelling place; a habitation, the continuance in a place with a level of permanency.
- 4.41 Clause 59 does not apply to a premise including flats, units, townhouses or dwellings rented pursuant to a lease agreement.
- 4.42 Where an owner, occupier or person in charge of a commercial premises has allowed the premises to detrimentally affect the amenity of the neighbourhood, Clause 59 allows Council to request Amenity Management Plans (AMP) from the owner or occupier.
- 4.43 An AMP would include conditions aimed at addressing the issues being caused at the property. For behavioural issues, it could be a requirement for the property owner to make their details known to neighbours and to respond directly to amenity complaints at the time. It could also include a restriction on music noise and limits on the number of persons permitted inside the building.
- 4.44 The AMP would be approved by a Council Officer and there are provisions through enforcement and infringement to require a property owner to comply with the AMP.
- 4.45 Proposed new guideline for inclusion in the PPM**
- 4.46 To assist owner/operators, Officers and the community to understand how Council intends to apply Clause 59 in respect of SSA, it is recommended that a guideline (as drafted below) be included into the Local Law Procedures and Protocols Manual (PPM). This guideline will outline the range of considerations an Authorised Officer will consider when responding to a complaint and/or contemplating enforcement action.
- 4.47 Including the guideline in the PPM provides a transparent and clear approach for the community and commercial operators, including those running short stay accommodation premises. The Local Laws section of the Council website will also be updated.
- 4.48 Guideline wording:
- "In considering whether to take enforcement action in response to a complaint about commercial premises being used for short-term or other accommodation for commercial gain, an authorised officer must consider the following guidelines:
- a) The severity of the impact of the conduct complained of on the amenity of the surrounding properties, including history of complaints, number of complainants and the extent of the alleged impacts.
 - b) The prospects of any enforcement action succeeding, including the:
 - (i) Nature and reliability of the evidence available; and
 - (ii) Level of engagement of the complainant in any enforcement action.
 - c) The resources required to investigate and/or pursue enforcement action in respect of the conduct complained of.



- d) Any mitigating circumstances, including factors such as the steps taken by the owner/occupier of the property to minimise the amenity impacts.
- e) Whether there are other more suitable avenues to address the amenity impacts, including:
 - (i) Whether action has been taken by an Owners Corporation under the Owners Corporations Act 2006 (OCA) in respect of the conduct complained of, or any similar conduct; and whether it was successful; and
 - (ii) Other relevant legislation.
- f) Any other matter with the authorised officer considers to be relevant to the particular complaint.”

4.49 Twelve-month review

4.50 It is recommended that, after 12 months, Councillors be briefed on how clause 59 has been applied in relation to SSA, the actions undertaken and whether its use has been effective.

4.51 State Government’s consideration of short stay accommodation regulation

4.52 On 15 September 2023, the State Government announced its intention to introduce a new 7.5% levy on short term accommodation.

4.53 At the time of writing, it is unclear whether the State Government is considering any further levies or regulation of SSA.

4.54 Local Government Advocacy to the State Government

4.55 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 representing the 79 local governments in Victoria. The MAV 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.*

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

4.57 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.

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

4.59 “Places to Live” – Port Phillip Housing Strategy

4.60 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.



- 4.61 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.
- 4.62 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 are impacting the availability of rental properties in specific high-demand areas and can be contributing to the challenges confronted by long-term renters.
- 4.63 On 20 September 2023 the State Government announced a range of initiatives as part of its Housing Package. These included:
- Reform of Victoria’s planning system
 - Land release of State-owned land to build housing;
 - Development of a long term housing plan
 - Reforms to protect tenants
- 4.64 Officers are monitoring these announcements and the implications for Council.
- 4.65 City of Melbourne decision on short stay accommodation**
- 4.66 The City of Melbourne Council (CoM) considered a report proposing a day-per-year cap Local Law on 29 August 2023. The driver for CoM is housing supply shortage, rather than the amenity impacts of short stay accommodation. The report states there are currently 4,100 short stay accommodation properties in CoM.
- 4.67 The Report considers that there is a need to regulate the short stay accommodation via a Local Law to make homes available for people wanting a home in Melbourne.
- 4.68 CoM resolved to:
- Adopt a policy position that identifies that there is a need to track and regulate the short-term rental market by increasing the availability of housing being used for longer term homes for people; and
 - Approve in principle the implementation of a short-term rental accommodation local law by February 2024 inclusive of annual registration fee and day-per-year cap on property.
- 4.69 Development of the CoM draft Local Law is to be informed by community and stakeholder consultation, with a report due back to Council on the consultation outcomes by November 2023.
- 4.70 Summary of options for regulating and managing short stay accommodation**
- 4.71 Each option is summarised in the table below and detailed 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 Utilise existing legislation, controls, and the Local Law (Clause 59) Utilising existing controls, legislation and advocacy.</p>	<ul style="list-style-type: none"> Continue to use existing State legislation to address SSA amenity concerns, where appropriate. Utilise Clause 59 in the Local Law 2023, where appropriate, and add clear guidelines to the Procedures and Protocols Manual. No change to Local Laws Officer service levels. After hours behaviour and noise complaints to be made to VicPol. Continue advocacy to State Government for introduction of a consistent, state-wide approach to regulation of SSA. 	<p>Estimated 0.2 FTE dedicated resource may be required.</p> <p>Aim to absorb within existing budgets /staff resources initially, with close monitoring of complaint numbers and time on investigations/enforcement to inform any future additional resource allocation.</p>
<p>OPTION 2 Develop a 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 3 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 4 Option 3 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>

4.72 Summary and recommended option

4.73 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 low.

4.74 Complaints relating to noise and poor behaviour, particularly out of hours, cannot be adequately addressed by Council without significant additional costs in both resources and equipment.

4.75 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 premises. Investigation of this behaviour should be undertaken by the Victorian Police who have the training, equipment, and legislative powers to stop this behaviour.

4.76 It is recommended that Council utilise Clause 59 of the Local Law, in addition to the continued use of existing State legislation, where appropriate, to address amenity concerns associated with SSA.

4.77 It is recommended that a set of guidelines be incorporated into the PPM Local Law Procedures and Protocols Manual (PPM), to guide Officers in the application of Clause 59 as it relates to SSA.

4.78 It is recommended that Council continue to advocate for consistent, State-wide approach to the regulation of SSA.

5. CONSULTATION AND STAKEHOLDERS

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



6. LEGAL AND RISK IMPLICATIONS

- 6.1 Legal advice has been obtained on Council's options for regulation; the application of clause 59 of the Local Law to SSA and wording for the proposed Guideline. The legal advice has informed the overall report and its recommendations.
- 6.2 Relevant risks of responding to out of hours complaints about short stay accommodation premises have been outlined in the body of the report.

7. FINANCIAL IMPACT

- 7.1 Option 1 - Based on the current, low level of complaints relating to SSA, it is anticipated that an additional 0.2FTE may be required. However, initially, the aim is to absorb the work involved in complaints management and any investigations within existing resources, whilst monitoring the numbers, time spent and impacts on other local laws service levels.
- 7.2 Options 2 and 3 have been forecast to provide a range of financial and resourcing implications, each considering systems, processes, resources and some with potential revenue.
- 7.3 Option 4 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 estimated financial and resourcing impacts are included in the Summary of Options in section 4.71.

8. ENVIRONMENTAL IMPACT

- 8.1 There are no environmental impacts arising as a direct result of this report.

9. COMMUNITY IMPACT

- 9.1 The community has expressed concerns about amenity impacts associated with SSA. Key themes are noise, waste and parking and the data is included in this report.
- 9.2 Our data suggests approximately one per cent of City of Port Phillip's housing stock is currently used for SSA and the number of complaints relating to these are low.
- 9.3 Application of clause 59 of the Local Law is intended to improve amenity where an Amenity Management Plan is required of a property owner. The effectiveness of these measures will be monitored.
- 9.4 Council is committed to supporting the community with information and investigating their complaints, in partnership with Victoria Police.

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.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE/NEXT STEPS

- 11.1.1 Incorporate guidelines into the Local Law Procedures and Protocols Manual to guide Officers in the application of Clause 59 as it relates to short stay accommodation.
- 11.1.2 Apply Clause 59 of the Local Law to address amenity concerns associated with short stay accommodation would potentially require additional resourcing pending number and complexity of complaints, to be monitored.
- 11.1.3 Brief Councillors after 12 months' on how and when clause 59 has been applied in relation to short stay accommodation, the actions undertaken and whether its use has been effective.

11.2 COMMUNICATION

- 11.2.1 The lead petitioners to the Council Meeting on 8 March 2023 and 6 September 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 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 Findings - Victoria and Interstate** [↓](#)
- 2. **Detailed Options for Regulating and Managing Short Stay Accommodation - Oct 2023** [↓](#)