

APPENDIX A

Before operating a Rooming House/Shared Accommodation an operator must meet a number of legal requirements associated with Council. This process generally consists of obtaining approval from a number of areas of Council as detailed in the table below.

WHO AN OPERATOR NEEDS TO CONTACT AT COUNCIL			
Number of Proposed Occupants	Planning	Building	Health
Building will accommodate less than 4 persons	N/A	✓	N/A
Building will accommodate 4 or more persons with 10 or less habitable rooms	N/A*	✓	✓
Building will accommodate 4 or more persons with 11 or more habitable rooms	✓	✓	✓

N/A No Approval Required

✓ Approval may be required, contact relevant service area

* Planning may need to be consulted depending on the planning zone

The following provides an overview of the specific requirements for each Council department that an operator must adhere to prior to obtaining registration for a rooming house.

Public Health requirements

Rooming houses must also comply with the Public Health and Wellbeing Regulations 2009, including having:

Health and Hygiene

Residents have the right to a clean-living environment. The following list includes responsibilities the proprietor must undertake but is not limited to:

- Maintain all bedrooms, toilets, bathrooms, laundries, kitchens, living rooms and any common areas in good working order, and in a clean, sanitary and hygienic condition
- Provide a continuous and adequate supply of hot water to all bathing, laundry and kitchen facilities
- Ensure water intended for drinking is fit for human consumption
- Provide regular rubbish collection
- Ensure that all sewage and water is discharged to a sewerage system or an approved domestic waste water disposal system
- Provide sufficient vermin-proof bins and ensure they are emptied regularly

Toilet and Bathing Facilities

A proprietor must provide:

- At least one toilet, one bath/shower and one wash basin for every 10 people
- A continuous and adequate supply of hot and cold water
- Communal rooms are kept in a clean and hygienic condition with adequate ventilation

Register of Residents

Under Section 26(1), Public Health and Wellbeing Regulations 2009, a proprietor is required to keep a register of all residents, including:

- The names and addresses of any persons occupying the premises
- The dates of their arrival and departure

This information must be kept for a minimum of 12 months after the date of the last entry in the register.

Room Sizes and Duration of Stay

For stays of 31 days or less	For stays of 32 days or more
1 person per room min 7.5m ²	1 person per room min 7.5m ²
2 people per room min 7.5m ²	2 people per room min 12m ²
3 people per room min 10m ²	For more than 2 people: 12m ² & an additional 4m ² of floor space for each additional person
More than 3 people: 10m ² & an additional 2m ² for each additional person	

To be registered, the building must comply with the health regulations, as well building and planning requirements, including obtaining the appropriate occupancy permit. Once registered, Council's will inspect the property annually to ensure standards are maintained.

Local Law Requirements

The owner and occupier of land in a residential area must not park or allow more than one caravan on the land without first obtaining a permit. A person may use a caravan on privately owned land without a permit for sleeping purposes for seven nights in a six month period. This is in place to reduce the impact on the amenity of the area for neighbouring households and properties. This is to ensure sufficient arrangements are in place for the sanitary safeguard to public health and the environment.

Planning requirements

Land use and development is controlled and regulated under the various provisions of the Swan Hill Planning Scheme.

A rooming house is a land use that is defined as 'accommodation' under the definitions contained in the Swan Hill Planning Scheme. A rooming house is a land use that does not meet the requirements specified for 'shared housing'.

Building requirements

The Building Regulations 2006 distinguish between 'small' rooming houses (Class 1b) and 'large' rooming houses (Class 3).

Class 1B – a boarding house

- Total floor area not exceeding 300sqm when measured over the enclosing walls of the building;
- No more than 12 persons would ordinarily be resident, and;
- Cannot be located above or below another dwelling or another class of building other than a private garage

Class 3 – a residential building

- Any other building other than a building of Class 1 or 2, which is a common place of long term or transient living for a number of unrelated persons, including a boarding house, guest house, hostel, lodging house or backpackers accommodation.

You need to obtain a building permit from a registered building surveyor to convert an existing building to either a Class 1B or Class 3 building.

To allow for the lawful use of the building as a rooming or boarding house, the owner of the building must have an occupancy permit suitable for the use of the building.

Unauthorised Conversion of Buildings

Unauthorised conversion of a building (converting a building from Class 1a to Class 1b) may constitute an offence which can be prosecuted by Council or the police.

The following building requirements only cover Class 1b shared accommodation buildings (not including short-term holiday accommodation).

Shared accommodation buildings that do not comply with the Class 1b requirements would most likely be classified as a Class 3 building.

Class 3 buildings have their own specific regulatory requirements; for example, fire separation, exits and fire fighting equipment.

Building Classifications

The National Construction Code (NCC) defines Class 1 buildings as:

- (a) *Class 1a - a single building being*
 - (i) *a detached house; or*
 - (ii) *one of a group of two or more attached dwellings, each being a building, separated by a fire resisting wall, including a row house, terrace house, town house or villa unit; or*
- (b) *Class 1b*
 - (i) *a boarding house, guest house, hostel or the like;*
 - (A) *with a total floor area of all floors not exceeding 300m² measured over the enclosing walls of the Class 1b building; and*
 - (B) *in which not more than 12 persons would ordinarily be resident; or*
 - (ii) *4 or more single dwellings located on one allotment and used for short-term holiday accommodation, which are not located above or below another dwelling or another Class of building other than a private garage.*

Council considers that a Class 1a building is occupied by one family, without regard to the number of occupiers.

In addition to the NCC definition above, Council considers a Class 1b building to be:

- A building that accommodates or is intended to accommodate, on payment of rent, between 2 and 12 people and any of the people being or intended to be accommodated are non-family related and they do not share other verifiable close relationship among them; or
- Where individual or joint residents occupy a room or rooms on payment of rent to the exclusion of any other occupier(s); or
- Council determines that between 2 and 12 unrelated people are being accommodated or are intended to be accommodated, on payment of rent, based on inspection of the building and any other reliable evidence.

Building Permits

A building permit is required for the construction of a new Class 1b building/s.

A building permit is also required to change the use from one building classification to any other building classification.

Building permits are issued by Registered Building Surveyors. An Occupancy Permit or Certificate of Final Inspection is issued by the Building Surveyor after the building work required by the building permit has been inspected and approved.

The Occupancy Permit must always be displayed in the building. The position in which it is displayed is nominated by the Building Surveyor.

Change of Use

Typically Class 1a dwellings are converted (change of use) into Class 1b buildings to provide shared accommodation. The building regulations require that any building changing its use must comply with current building regulations and the current National Construction Code (NCC).

The building regulations allow a Building Surveyor to vary the level of compliance with current building legislation. In determining to vary any level of compliance the Building Surveyor must have regard to the health, safety and amenity of the occupants of the building.

Essential Building Safety Measures

Smoke Alarm Installation Requirements

Owners must install a stand-alone, hard-wired smoke alarm in or near the ceiling in every bedroom and every hallway associated with a bedroom. If there is no corridor or hallway, a smoke alarm must be installed in any area between the bedrooms and the remainder of the building. The smoke alarms must meet the Australian Standard AS 3786 or AS1670.1. The smoke alarm must be connected to the building's 240 volt power mains as well as having a battery back-up.

Smoke alarms should be installed on or near the ceiling with special care being taken to avoid dead air spaces. A dead air space is an area in which trapped hot air will prevent smoke from reaching the alarm. This space generally occurs at the apex of cathedral ceilings, the corner junction of walls and ceilings, between exposed floor joists etc. In normal ceilings, this means locating the smoke alarm at least 300mm from any corner.

Emergency Lighting Requirements

Owners must install smoke alarm activated lighting in accordance with BCA Clause 3.7.2.5 to assist evacuation of occupants in the event of fire. The lighting can be incorporated in the smoke alarm units or activated by operation of nearby smoke alarms.

Fire Extinguisher Requirements

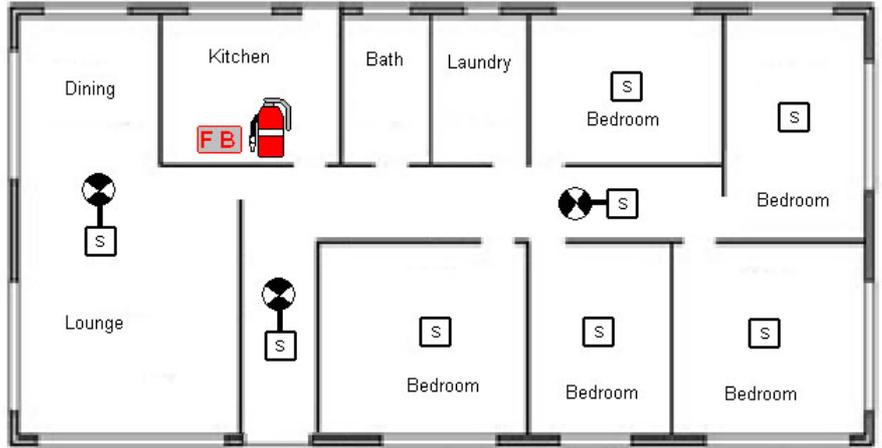
It is recommended that owners install an A 2A:20B:E Dry Chemical fire extinguisher in the kitchen in accordance with AS2444. The fire extinguisher must be placed in an obvious and easy-to-reach position with no obstructions or hazards in the way of occupants. It should be mounted at a height of not more than 1200mm from floor level.

Fire Blanket Requirements

Owners should ensure that a fire blanket is kept in an easy-to-reach location close to the cooking area. Fire blankets are manufactured to AS/NZS 3504 in a rectangular or square shape and are available in sizes between 0.9 m × 0.9 m and 1.8 m × 1.8 m.

Fire safety equipment must be located in appropriate locations with signage and in accordance with relevant standards and clearly detailed in building permit drawings.

	2A:20B:E Dry Chemical Fire Extinguisher.
	Fire Blanket 1.2m x 1.2m complying with AS/NZS 3504
	Hard wired smoke alarm with light incorporated within alarm, complying with AS 3786
OR	
	Hard wired smoke alarm connected to emergency light, so that the emergency light activates upon detection of smoke. Emergency light to comply with AS2293
	Hard wired smoke alarm complying with AS 3786



Exit Doors

Exit doors must be maintained and clear of all obstructions at all times. The paths must be maintained in an efficient condition and kept readily accessible, functional and clear of obstruction to ensure safe and fast exiting from the building in the case of an emergency. Deadlocks are generally prohibited on required exit doors. Consideration may be given to permitting a deadlock if the deadlock installed has no provision for internal locking by a key (see Lockwood 002 Dead latch range or similar). A lever handle is preferable.

NOTE: A Building Surveyor does not have any discretion over the Premises Standards.

Appendix B: Accommodation-related land use analysis of 'prescribed accommodation' – decision matrix

Accommodation Type	Description of Use	Planning permit requirements	Public Health and Wellbeing Registration requirements	Building Requirements
Accommodation	Dependent on more specified use.	Use and development in all circumstances.	Dependent on more specified use.	May apply, depending on use
Backpacker's lodge	<p>Backpacker's lodges provide accommodation away from a person's primary residence.</p> <p>If the facility provides primary residence, it could be operating as another use, such as a rooming house. The use must be changed to accurately reflect the operation of the facility.</p>	<p>All new structures.</p> <p>Existing residential buildings, where:</p> <ul style="list-style-type: none"> • the use will have more than 10 habitable rooms, and/or • the associated buildings and works require a permit (section 2), and/or • the existing use does not have a current permit. 	Registration as 'prescribed accommodation' if able to accommodate 4 or more persons.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Bed and breakfast	<p>Bed and breakfasts provide accommodation away from a person's primary residence.</p> <p>If the facility provides primary residence, it could be operating as another use, such as a rooming house.</p> <p>The use must be changed to accurately reflect the operation of the facility.</p>	<p>Use that can accommodate more than 10 persons.</p> <p>Use seeking dispensation on car parking.</p> <p>Use and Development if over 2 metres at ground floor level in Commercial 1 Zone.</p>	Registration as 'prescribed accommodation' if able to accommodate more than 5 persons other than the family of the proprietor.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Boarding house	Boarding house is not defined in the <i>Public Health and Wellbeing Act 2008</i> and it is considered that the definition of a rooming house is its best fit's.	<p>All new structures (unless meeting 52.22, 52.23 or 52.24).</p> <p>Existing residential buildings, where:</p> <ul style="list-style-type: none"> • the use will have more than 10 habitable rooms, and/or • the associated buildings and works require a permit (section 2), and/or • the existing use does not have a current permit. 	Registration as 'prescribed accommodation' (rooming house) if able to accommodate 4 or more persons.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.

Accommodation Type	Description	Planning permit requirements	Public Health and Wellbeing Registration requirements	Building Requirements
Camping and caravan park	Whilst camping and caravan parks occasionally provide accommodation to the target market segment.	Use and development in all circumstances.	Exempt from registration if land contains moveable dwellings or structures other than a tent, caravan or a vehicle which is designed to be moved from place to place for occupation on payment of consideration.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Caretaker's house	Caretaker's houses are generally self-contained dwellings for the exclusive occupation of the caretaker.	<p>Use and development in all circumstances if located in Low Density Residential Zone (LDRZ).</p> <p>Use and development if there is more than one dwelling on a lot if located in the General Residential 1 Zone (GRZ1) and the Residential Growth Zone (RGZ).</p> <p>Use and Development if over 2 metres at ground floor level in Commercial 1 Zone.</p>	Registration as 'prescribed accommodation' exempt if the building is self-contained and is under the exclusive occupation of the owner/occupier.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Community care unit	Providing that the use is operating in accordance with the permit and registration exemptions.	<p>Only operates within the bounds of Clause 52.24 (permit exemption), whereby:</p> <ul style="list-style-type: none"> • The building or buildings are used for services funded by the Department of Human Services in self-contained accommodation, and • The building or buildings are in an area or zone mainly used for housing and no more than 20 clients plus supervisory staff are accommodated on the site. 	<p>Exempt from registration if:</p> <ul style="list-style-type: none"> • Personal or nursing care is provided, where the care is funded with specified State and Commonwealth funding, or • The use provides an approved mental health service under the <i>Mental Health Act 1986</i>, or • The use provides an approved residential service under the <i>Disability Act 2006</i>, or • The use provides an approved secure welfare service under the <i>Children, Youth and Families Act 2005</i>, or • The use provides support services under the <i>Residential Tenancies Act 1997</i>. 	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.

Accommodation Type	Description	Planning permit requirements	Public Health and Wellbeing Registration requirements	Building requirements
Corrective institution	Corrective institutions are governed by other legislation.	Use and development in all circumstances. Use is prohibited in the Commercial 1 Zone (C1Z).	Use not relevant to the <i>Public Health and Wellbeing Act 2008</i> .	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Crisis accommodation	As the <i>Planning and Environment Act 1987</i> does not state who must provide crisis accommodation, accommodation that is provided by a person or agency not receiving homelessness support funding, or accommodation that is provided for profit will need to be registered as 'prescribed accommodation'	Only operates within the bounds of Clause 52.22 (permit exemption), whereby: <ul style="list-style-type: none"> • The use provides temporary crisis accommodation, and • The building or buildings are in an area or zone mainly used for housing, and • The development provides self-contained accommodation with up to 10 habitable rooms. 	Exempt from registration if accommodation is provided on a non-profit basis by an agency which receives homelessness support funding from the Victorian Government.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Dependent person's unit	Dependent person's units are generally self-contained dwellings for the exclusive occupation of the owner/occupier.	Must be a moveable dwelling. Use and development if located in Mixed Use Zone (MUZ) Use and Development if second unit on the lot in the Residential Growth Zone (RGZ), General Residential 1 Zone (GRZ1) and Low Density Residential Zone (LDRZ). Use and Development if over 2 metres at ground floor level in Commercial 1 Zone.	Registration as 'prescribed accommodation' - exempt if the building is self-contained and is under the exclusive occupation of the owner/occupier.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.

Accommodation Type	Description	Planning permit requirements	Public Health and Wellbeing Registration requirements	Building Requirements
Dwelling	A dwelling must be self-contained and under the exclusive occupation of the owner/occupier.	Use and development if there is more than one dwelling on a lot if located in the General Residential 1 Zone (GRZ1) and the Residential Growth Zone (RGZ).	Registration as 'prescribed accommodation' exempt if the building is self-contained and is under the exclusive occupation of the owner/occupier.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Government funded social housing	Providing that the use is operating in accordance with the permit requirements and registration exemptions	Permit applications for developments funded under the Commonwealth Nation Building Economic Stimulus Plan are to be lodged with the Minister for Planning and must include all application requirements.	Registration exempt if provided by a service agency for the purposes of delivering support services under the <i>Residential Tenancies Act 1997</i> .	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Group accommodation	Group accommodation includes land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence.	Use and development in all circumstances.	Registration as 'prescribed accommodation' exempt if the building is self-contained and is under the exclusive occupation of the owner/occupier.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Hostel	If meeting the planning and health requirements in accordance with the defined use	Use and development in all circumstances.	Registration as 'prescribed accommodation' (hostel) if accommodating 4 or more persons.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Host farm	A host farm is used to provide accommodation for persons away from their usual resident to experience farm living.	Use and development in all circumstances.	Registration as 'prescribed accommodation' if able to accommodate more than 5 persons other than the family of the proprietor.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Hotel	If meeting the planning and health requirements in accordance with the defined use.	Use and development in all circumstances.	If providing accommodation for 4 or more persons, registration as 'prescribed accommodation' (hotel) is required.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.

Accommodation Type	Description	Planning permit requirements	Public Health and Wellbeing Registration requirements	Building requirements
Motel	If meeting the planning and health requirements in accordance with the defined use	Use and development in all circumstances.	Registration as 'prescribed accommodation' (motel) if accommodating 4 or more persons.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Nurses' home	Nurses' homes are generally self-contained dwellings for the exclusive occupation of the owner/occupier.	Use and development in all circumstances.	Registration as 'prescribed accommodation' exempt if the building is self-contained and is under the exclusive occupation of the owner/occupier.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Nursing home	If meeting the planning and health requirements in accordance with the defined use	Use and development only if located in Low Density Residential Zone (LDRZ).	Exempt from registration if provided within the meaning of nursing home under the <i>National Health Act 1953</i> .	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Residential aged care facility	If meeting the planning and health requirements in accordance with the defined use	Use and development only if located in Low Density Residential Zone (LDRZ).	Registration as 'prescribed accommodation' exempt if meeting requirements of exemption for nursing home or retirement village.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Residential building	Dependent on more specified use.	Use and development in all circumstances.	Dependent on more specified use.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Residential college	If registration as 'prescribed accommodation' (rooming house) is required.	Use and development in all circumstances.	Registration as 'prescribed accommodation' (student dormitory) if the use is controlled by or operated under an arrangement with an education institution. If not, registration as 'prescribed accommodation' (rooming house) may apply.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Residential hotel	If meeting the planning and health requirements in accordance with the defined use.	Use and development in all circumstances.	If providing accommodation for 4 or more persons, registration as 'prescribed accommodation' (hotel) is required.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.

Accommodation Type	Description	Planning permit requirements	Public Health and Wellbeing Registration requirements	Building requirements
Residential village	Dependent on more specified use.	Use and development in all circumstances.	Registration is dependent on more specified use.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Retirement village	If meeting the planning and health requirements in accordance with the defined use.	Use and development in all circumstances.	Exempt from registration if retirement village is operating within the meaning of the <i>Retirement Villages Act 1986</i> .	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Rooming house	A building in which there is one or more rooms available for occupancy on payment of rent in which the total number of people who may occupy that room or those rooms is not less than four. Common characteristics of rooming houses include: <ul style="list-style-type: none"> • Primarily single room accommodation; • Shared access to common facilities such as bathrooms, kitchens, laundries and living areas; • No formal supports are present on the premises; • The owner and their family generally do not live on the premises; • Increasingly used by long-term homeless people or those in housing crisis. 	All new structures (unless meeting 52.22, 52.23 or 52.24). Existing residential buildings, where: <ul style="list-style-type: none"> • the use will have more than 10 habitable rooms, and/or • the associated buildings and works require a permit (section 2), and/or • the existing use does not have a current permit. 	Registration as 'prescribed accommodation' (rooming house) if able to accommodate 4 or more persons.	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.
Shared housing	Generally defined as housing where some amenities are shared between unrelated residents, such as rooming houses, emergency/crisis housing, student housing and hostels.	Only operates within the bounds of Clause 52.23 (permit extension), whereby: <ul style="list-style-type: none"> • The use provides a building, including outbuildings normal to a dwelling, to house a person or people and any dependents or 2 or more people, and • The buildings or buildings are in an area mainly used for housing, and • The development provides self-contained accommodation and does not have more than 10 habitable rooms. 	Registration as 'prescribed accommodation' if able to accommodate 4 or more persons, unless meeting exemptions under Regulation 14 of the <i>Public Health and Wellbeing Regulations 2009</i> .	Must comply with standards set out in the Building Act 1993 , Building Regulations 2006 and Building Code of Australia.

Student housing	Housing that is owned and managed by housing associations or providers and is in part funded by Government means and directed towards eligible recipients.	Use and development in all circumstances.	Registration as 'prescribed accommodation' (student dormitory) if the use is controlled by or operated under an arrangement with an education institution. If not, registration as 'prescribed accommodation' (rooming house) may apply.	Must comply with standards set out in the <u>Building Act 1993</u> , <u>Building Regulations 2006</u> and Building Code of Australia.
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