



Submission to: ACT Government – Justice and Community Safety Directorate

Minimum standards for rental properties and occupancy law reform

September 2024

Renew is a national, not-for-profit organisation that inspires, enables and advocates for people to live sustainably in their homes and communities. Established in 1980, Renew advocates in government and industry arenas for policies that promote renewable energy, cut emissions, make our homes healthier, more affordable and climate resilient, and protect consumer rights in our rapidly changing energy markets.

Renew has helped thousands of households save money and reduce their environmental footprint with information on energy efficiency, solar power, rainwater tanks, materials reuse and waste. Our community of climate change action includes readers of our two market-leading sustainability magazines *Renew* and *Sanctuary*, attendees at our Sustainable House Day and other events, users of our online information and calculators, people contacting our advice service, and our research and advocacy partners.

Renew acknowledges the First Nations people as the Traditional Custodians of the lands on which we live and work, and recognise their deep and continuing connection to the land, sea and culture, and their rich contribution to society. We pay our respects to Elders, past and present, and acknowledge that Sovereignty of these lands was never ceded.

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Introduction

Renew welcomes the opportunity to engage in consultation on the Minimum standards for rental properties and occupancy law reform and welcomes the ACT government's proposal to expand minimum energy efficiency standards for renters.

All homes should be healthy and affordable to run. Making homes energy efficient and powering them with renewables reduces bills, improves health, reduces emissions, and makes homes more comfortable during weather extremes.

However, too often renters are locked out of these benefits. Rental homes have worse energy efficiency than owner-occupied homes. Nationally, one study found that poor energy efficiency leaves renters paying 8% more in energy bills compared to owner occupiers in similar homes.¹ A higher proportion of renters experiences energy stress than owner-occupiers.² Renters risk being left behind in the transition to clean, renewable electricity and locked into paying the costs of a declining gas network.

The poor energy efficiency and thermal comfort of rental homes is a structural problem of Australia's rental housing market. Market-based responses to improving energy efficiency for renters are curtailed by the problem of 'split incentives': while landlords are required to pay the upfront cost of energy improvements, energy bills are the responsibility of tenants. As such, while owner-occupiers have a clear financial incentive over time to invest in energy efficiency improvements due to reduced energy bills, there is not a similar direct incentive to drive the behaviour of landlords. Furthermore, renters are not (and should not be) required to pay for the upfront costs of improvements as they would not accrue capital benefits and do not have security of tenure to enjoy the ongoing benefits.

The imperative for bringing rental properties up to higher energy efficiency standards as quickly as possible is strong. Renew's recent study with Sweltering Cities³ investigated the impact of future climate scenarios on heating and cooling loads after 2030. Modelling indicated that even residential properties currently rated 6 and 7 stars will require higher cooling loads than what is currently estimated, while properties that currently have low energy efficiency ratings performed very poorly. While energy stress may switch from winter to summer, the impacts for those living in poorly insulated and inefficient houses will continue to be significant. Therefore, it's critical that the quality of rental properties continues to improve in the coming decades.

Landlord and tenant views

In research undertaken by SEC Newgate for Renew and Energy Consumers Australia in 2022, 70% of respondents indicated that they supported improving the energy efficiency of rental properties.⁴ 63% of landlords agreed that creating a healthy, safe and comfortable home for their tenants is a priority and half agreed that an energy efficient property would be easier to rent out. The majority of landlords were concerned about the cost of upgrades, yet only around 55-60% of landlords were supportive or very supportive on incentive measures that would reduce the costs, and 49% indicated that they would increase rents even with support if they were required to put measures in place.

¹https://ccep.crawford.anu.edu.au/sites/default/files/publication/ccep_crawford_anu_edu_au/2022-05/ccep2202_best_burke.pdf

² <https://www.bsl.org.au/research/publications/power-pain/>

³ Renew and Sweltering Cities (2024) - [Future climate impacts on home energy standards](#)

⁴ SECNewgate (2022) for Energy Consumers Australia and Renew - [What Australians really think about Energy Efficient housing](#)

The survey also showed that 53% of tenants were wary of asking their landlords for improvements because they were concerned that the rent would go up, and 52% said that their landlord did not invest in property improvements. Only 33% of renters thought that their landlords would support them to make energy efficiency improvements. Collectively, this data indicates that renters are often not confident to demand energy efficiency improvements and many landlords will not make improvements unless regulation requires them to do so.

Setting strong minimum standards for energy efficiency in rental homes is a key policy response to the structural barriers to healthy, energy efficient homes faced by renters.

The expanded minimum standards proposed under this consultation are welcomed. The ACT is the only jurisdiction to have already enacted minimum requirements for ceiling insulation and no other jurisdiction has set standards to ensure renters enjoy the benefits of draught sealing, cooling, or efficient electric appliances at the time of replacement. The intention of the ACT Government to strengthen energy efficiency standards further is welcome progression in a national movement that acknowledges that renters currently have limited capacity to influence their energy status, and therefore comfort, of their home.

The Victorian Government recently consulted on the Residential Tenancies and Residential Tenancies (Rooming House Standards) Amendment (Minimum Energy Efficiency and Safety Standards) Regulations 2024. Proposals for regulation on ceiling insulation, cooling and heating, draught proofing and hot water were put forward, with new regulations expected to be announced in October 2024.

Renew analysis

For the purposes of the Victorian consultation process, Renew conducted an independent analysis of benefits to a typical rental household from the measures considered, which delivered key findings which have some relevance to the ACT context:

- Requiring insulation and draught sealing reduced energy loads for heating and cooling by around 60%. (The ACT has already introduced ceiling insulation standards, however heating and cooling loads with and without draught sealing are outlined below.)
- The cost of heating is significantly lower for homes with reverse cycle air conditioners, insulation, and draught sealing. In a Melbourne climate a home using reverse cycle air conditioning for heating and cooling spends less on energy than a home using gas for heating only.
- Emissions from electric appliances are declining rapidly and will result in lower emissions than gas appliances. (In the ACT, emissions from electrical appliances are zero, due to the ACT's 100% renewable energy target that is delivered through power purchase agreements for wind and solar.)
- Well-installed insulation leads to more moderate temperatures in conditions of extreme weather.

Thermal efficiency

To consider the impact of minimum energy standards including insulation and draught sealing on rental homes, Renew modelled a 3 bedroom (BR) detached brick veneer house, based on floor plans representative of many older homes in Melbourne. The baseline scenario had no insulation, basic windows and doors with no specific sealing. The home was approximately 130m² with 90m² of conditioned space.

We used FirstRate5 energy modelling software to assess thermal efficiency, including NatHERS ratings, heating loads, cooling loads, and total energy loads.

Because this software is primarily designed for new homes, additional considerations needed to be made to incorporate the effects of draughts, gaps and cracks found in older homes that are proposed to be subject to draught sealing requirements. For this reason, our analysis incorporates the additional losses from gaps and cracks assumed in the Victorian Government's Regulatory Impact Statement (RIS).

Heating loads, cooling loads, and total energy loads are provided in MJ/M² per year, in line with standard NatHERS practice.

Results

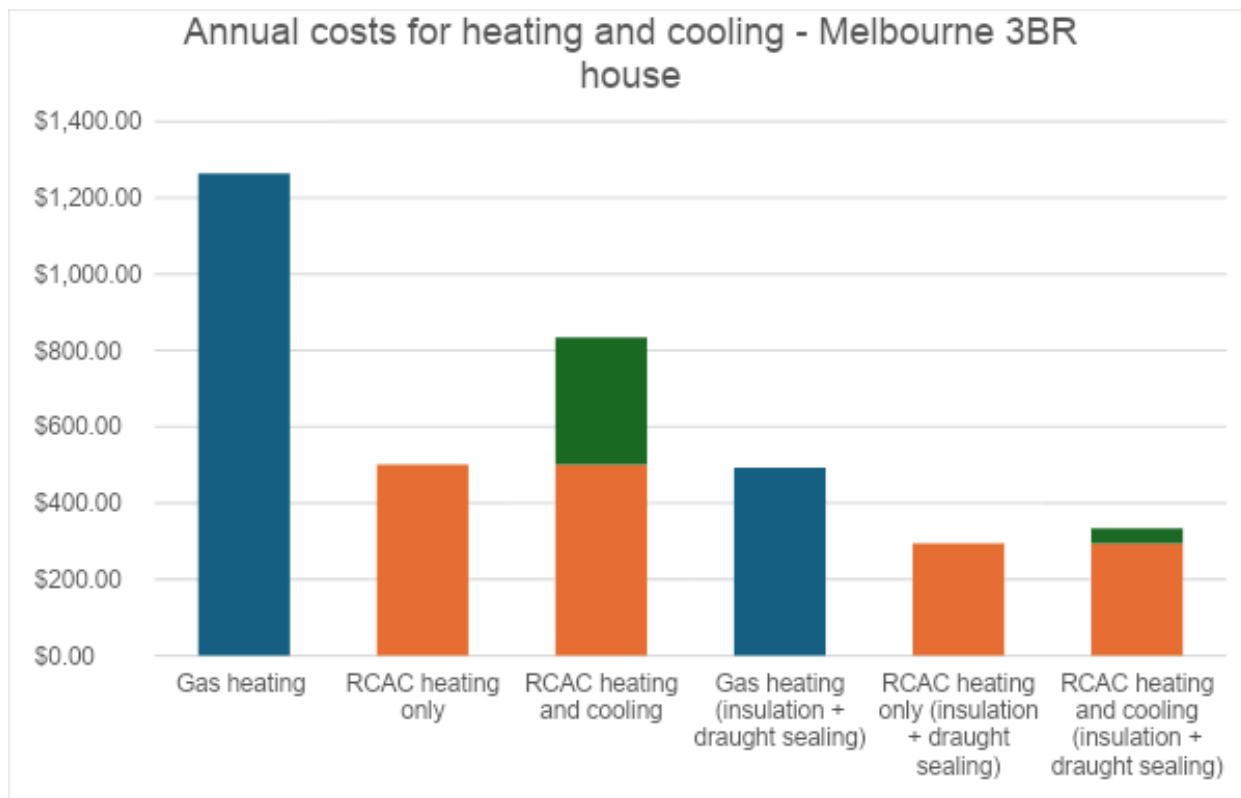
Without draught sealing

	Heating	Cooling	Total	NatHERS rating
Zero insulation	310.1	67	377.1	1.3
R1	186.6	31.1	217.7	2.8
R2	169.9	27	196.9	3
R5	157.3	23.5	180.8	3.3

With draught sealing

	Heating	Cooling	Total	NatHERS rating
Zero insulation	285.1	62	347.1	1.5
R1	161.6	26.1	187.7	3.2
R2	144.9	22	166.9	3.5
R5	132.3	18.5	150.8	3.8

Heating and cooling costs - 3BR Melbourne house



Recommendations on proposals for minimum energy standards

Recommendation 1: Implement standards for draught proofing, ventilation and flyscreens

Renew supports the requirement of flyscreens on all opening windows and ensuring that all rental homes have good ventilation. It is important the house occupants can have control over ventilation to open and close doors and windows to minimise using heating and cooling appliances, and prevent build up of mould in the home. Fly screens are a low cost action that also improves liveability of a home.

Renew welcomes the proposal to require draught sealing as a minimum standard for rental homes. As highlighted in our analysis, this measure can result in improvements to comfort, health, and reduced energy use.

We support an option that includes the full breadth of what is outlined in the Consultation paper as being a comprehensive list of cost effective options. One additional consideration would be the sealing of chimney flues from open fires etc that are no longer in use.

Because of the varied nature of draughts and gaps, in our view renters would benefit from the complementary measure of independent guidance, advice and resources alongside the introduction of the minimum standard. We note that the varied nature of draughts and the definition of 'unreasonable' in the regulations may result in compliance challenges, which should be considered and monitored.

We support the proposed approach to exemptions for homes with flueless or open flued gas appliances as an important safety measure, however would recommend that it is a requirement to meet the standard once all flueless or open flued gas appliances are removed.

We would recommend that Owners Corporations should not be able to veto the fitting of external fittings without a good reason, and that the burden of proof is on the Owners Corporation to provide a reason and/or an alternate solution for the building.

Recommendation 2: Set minimum 3 star electric standard for heating and cooling

Renew strongly supports heating and cooling being required as a minimum standard, and that appliances should be replaced at the end of life.

The requirements for cooling and electric heating are highly complementary as both can be achieved at low cost with a reverse cycle air conditioner. Subject to installation costs, new reverse cycle air conditioners are typically cheaper to purchase than fixed gas wall heaters, meaning that the measure provides straightforward benefits.

Our analysis finds that using reverse cycle air conditioners for heating and cooling leads to significantly lower energy bills than a gas wall heater. Renters should not be locked in to gas use in a declining gas network, and particularly when the ACT has a clear policy for phasing out gas. Renew would suggest a two prong timed approach:

1. to immediately require gas appliances to be replaced with energy efficient electric appliances at end of life;
2. set a date by which gas appliances are required to be irrespective of end of life, and aligned with associated regulations applied to the wider ACT community.

Requiring cooling improves health outcomes and keeps homes safer under conditions of extreme heat. Supplementary measures beyond air conditioning can also make a significant improvement in resident comfort, including ceiling fans and passive features such as external shading and fly screens allowing for open windows. We recommend inclusion of these simple and low cost features within minimum standards.

We recommend the adoption of a 3 star minimum heating energy efficiency standard. As identified in the consultation RIS, benefits to renters in avoided energy costs are increased under this option. Renew analysis conducted in 2019 found that 4-star heaters are between 29-39% cheaper to run than a 2-star heater and that renters with a 4-star heater in a typical open-plan setting would save over \$100 a year relative to a 2-star heater. There is only a modest cost difference in purchase and installation between 2-star and higher efficiency heaters, with savings by renters from higher efficiency units outweighing costs to landlords over a period of 4-9 years.

Recommendation 3: Require solar electric or heat pump replacements for hot water systems at end of life

Renew supports requiring the replacement of low running cost electric replacements for hot water systems at end of life to reduce usage costs for renters, and again avoid locking renters into the gas network for the lifespan of new appliances.

Exemptions might include where costs are significantly higher than average, and in apartments and units with shared centralised services. While we understand the rationale for exemptions based on unusually high costs, clarification and definition of these costs would provide greater certainty for tenants, for example in homes with limited space for heat pump storage tanks.

Recommendation 4: Require replacement of gas cooktops with electric cooktops at end of life

Renew supports the replacement of gas cooktops with electric cooktops at end of life, and then, consistent with provisions for the wider community, for all rental homes.

While cooking typically uses significantly less energy than other major fixed appliances, homes using gas stoves or ovens remain connected to the gas network and are liable for daily connection fees currently costing over \$300 per year. As renters do not have agency over the choice of replacement appliances, we are concerned that without regulations requiring electric replacements many renters will be left paying the costs of a declining gas network.

Recommendation 5: Shift the responsibility for gas supply charges from tenants to landlords

A major strategic theme of the proposed minimum standards is ensuring that renters are included in the broader shift towards residential electrification and are not left paying the costs of a declining gas network. In our view, an important complementary systemic measure is shifting the responsibility to pay daily gas connection fees from tenants to landlords, while usage costs would continue to be paid by tenants. This approach already exists for water billing.

Renters are unable to respond to financial incentives to replace fixed gas appliances. Placing the onus for gas connection fees on landlords would substantially shift incentives when making decisions for replacement appliances, including accelerating the replacement of ageing appliances, encouraging full abolishment, and providing an incentive to electrify even in cases where exemptions exist.

Renew recommends that the ACT Government considers setting a date by which network costs become the responsibility of the landlord. This would act as an additional incentive to transition homes off gas completely and prevent landlords leaving tenants paying expensive connection fees for just one residual appliance such as a cooktop or a hot water system.

Recommendation 6: Signpost future integration of performance-based ratings in minimum energy efficiency standards

The ACT should plan for future measures to integrate performance-based home energy efficiency ratings into minimum energy efficiency standards for renters. The ACT's initial regulations minimum standards followed a 'features-based' approach, which could be continued as regulations are set for a range of specific energy features (e.g. insulation, heating, cooling, hot water systems, etc). However, an alternative approach that has been successfully implemented internationally is a 'performance-based' approach, in which a

minimum energy efficiency rating using an agreed ratings system is set below which a home cannot be leased.

This approach would be highly consistent with current policy development of a national framework for home energy ratings disclosure, a version of which already operates in the ACT. Alignment between the mandatory disclosure scheme, using NatHERS whole-of-home ratings, or other consistently applied ratings frameworks, could support renters to access energy ratings and ensure that newly leased homes would undergo an energy assessment.

This approach has clear benefits. Energy assessments would provide clear information to renters and allow for the assessment of existing features that are difficult for renters to verify alone, such as identifying gaps in insulation. In-home assessments can also provide clear information on measures that can be taken to improve efficiency. Mandatory minimum ratings would allow for simplified compliance pathways, independently verified. A minimum acceptable rating can also be ratcheted up over time with clear signposting, ensuring the energy performance of rental homes is improved over time in line with emissions commitments and community needs in the energy transition.

We recommend that the ACT Government enables future implementation of a ratings-based minimum standard for rental homes, and clearly communicates this future approach to ensure certainty for landlords and renters.

In the short term, we would also recommend that the ACT enforces the provisions at 11A of the *Residential Tenancies Act 1997* to require current energy efficiency assessments to be published, or if they are not available, for there to be a statement to this effect when houses are leased. This is a strict liability offence, and yet one need look no further than online real estate sites to find evidence that the provisions of the Act are not being complied with.

In addition, the implementation of minimum energy efficiency standards and the requirements to state on advertisements that these are met (or not) is even more confusing when energy assessments are not listed, as prospective tenants may think that the house is “energy efficient” when in fact the only EE feature referred to is ceiling insulation.

Recommendation 7: Ensure clear and effective compliance mechanisms

A significant concern is the degree to which compliance will be enforced for any expanded minimum standards.

A general principle in ensuring compliance is that enforcement should not depend on complaints from renters exclusively. While some renters may be in a position to request upgrades – and will be placed in an improved position to do so with clear minimum legal standards – the power differential between renters and landlords means that many renters will be unable or unwilling to request compliance.

Independent verification through checks or real estate agent verification for new leases provide key opportunities for improved compliance. Further opportunities to strengthen compliance may become available in future with a framework for energy ratings disclosure.

The ACT government should continue to engage and consult with renter advocacy groups to identify approaches to enforcement and compliance. Ongoing monitoring of compliance following the introduction of new minimum standards should be undertaken.