



**CONSERVATION
COUNCIL** ACT REGION

Submission to EPSDD: Minimum energy efficiency standards for rental homes in the ACT

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The Conservation Council ACT Region is the peak non-government environment organisation for the Canberra region. Since 1981, we have spoken up for a healthy environment and a sustainable future for our region. We harness the collective energy, expertise and experience of our more than 40 member groups to promote sound policy and action on the environment.

We campaign for a safe climate, to protect biodiversity in our urban and natural areas, to protect and enhance our waterways, reduce waste, and promote sustainable transport and planning for our city. Working in the ACT and region to influence governments and build widespread support within the community and business, we put forward evidence-based solutions and innovative ideas for how we can live sustainably.

At a time when we need to reimagine a better future, the changes we need will only happen with the collective support of our community.

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Minimum energy efficiency standards benefit people and planet

The Conservation Council ACT region welcomes the opportunity to provide input to the ACT Government's proposed minimum energy efficiency standards for rental homes.¹

Intervention in the form of mandatory standards for energy efficiency in rental homes under the *Residential Tenancies Act 1997* is long overdue. In 2009, the Conservation Council stated *“Mandating for rental properties to meet at least 2 star energy efficiency, and providing ceiling insulation to low-income home owners (the majority of whom are old age pensioners) increases the ‘live-ability’ of a house as well as reducing electricity bills.”*²

The ACIL Allen Regulation Impact Statement (RIS) identifies that approximately 41% of Canberra's housing stock has ceiling insulation under R2. We understand this corresponds to around 18,500 private rental and public housing homes with R0 or R1 ceiling insulation in Canberra, contributing to high energy bills and energy poverty, and poor thermal comfort and illness for occupants, who are often some of our city's most vulnerable residents.^{3,4,5,6} A perceived (but false) split incentive between property owners being responsible for the costs of property upgrades and the benefits accruing only to the occupants has led to a market failure and a widening gap between the energy efficient homes that our climate and social equity demand and the reality for renters. In the past, even when financial incentives have been offered to landlords to undertake ceiling insulation upgrades, the uptake of incentives was low⁷, identified as partly due to the split incentive as well as the need for landlords to consent. This highlights the need for regulation to drive uptake of programs.

The ACT Government needs to maximise this opportunity of implementing legislation to ensure that emission reductions are real and measurable, and that tenants experience verifiable improvements in quality of life, a reduction in the use and cost of energy, and an improvement in the ACT's housing stock, including public housing.

¹ ACT Government, 2021, [Minimum energy efficiency standards for rental homes](#)

²https://www.parliament.act.gov.au/__data/assets/pdf_file/0004/372271/04_Conservation_Council_ACT_Region.pdf

³ Philippa Howden-Chapman et al., 2007, [Effect of insulating existing houses on health inequality: cluster randomised study in the community](#), BMJ 334, no. 7591 : 460

⁴ Better Renting, 2019, [Unsafe as houses: cold-housing deaths in the ACT](#)

⁵ ACOSS, 2018, [Energy Stressed in Australia](#)

⁶ Abderrezak Bouchama et al., 2012, [Prognostic factors in heat wave – related deaths](#), Archives of Internal Medicine 167, no. 20, pp 2170–76

⁷ Home Insulation Program, The Auditor-General Audit Report No.12 2010–11 Performance Audi https://www.anao.gov.au/sites/default/files/ANAO_Report_2010-2011_12.pdf at page 28.

Introduction

Climate change, emissions and energy efficient homes

Buildings are responsible for both direct greenhouse gas emissions during operation and embodied scope 3 emissions during construction. In the ACT, stationary energy is responsible for 22% of direct emissions through consumption of fossil gas for heating, hot water and cooking.⁸ As the ACT is purchasing 100% renewable electricity for all properties, and have committed to expanding this purchase into the future⁹, it could well be argued that energy efficiency measures impacting on electricity consumption are redundant in terms of reducing emissions reductions. However, a unit of energy saved is cheaper than a unit of energy generated, and in addition, improved energy efficiency leads to better building operation and higher levels of comfort for residents. In addition, to support reaching climate change objectives, the policy of setting minimum standards for rentals should be established with consideration of the ACT's ambition to phase out gas.

The experience of families trying to keep smoke out of their homes during the 2019–20 bushfires and stay cool during record heat waves demonstrates the very real and direct impact that poor quality housing has, and will continue to have, on human health and the liveability of our cities.¹⁰ Climate-resilient buildings will become more and more sought after as the impacts of climate change increase.

Ensuring that the AC's building stock is both energy efficient as well as resilient to other climate challenges, such as extreme heat and bushfire smoke, will be important. The ACT Government must set as high a level of ambition as possible for good design, quality construction and energy efficiency of *all* current and future housing stock, and this includes the significant portion of housing that makes up the rental market.

Research by Renew,¹¹ ClimateWorks Australia and ASBEC,¹² Rewiring Australia,¹³ Beyond Zero Emissions and Melbourne Energy Institute,¹⁴ Alternative Technology Association¹⁵ and other institutions amply demonstrate the net cost savings that highly efficient homes can return to

⁸ ACT Government, 2019, [ACT Climate Change Strategy](#)

⁹ ACT Sustainable Energy Policy 2020-2025 Discussion Paper: https://www.google.com/url?q=https://www.environment.act.gov.au/_data/assets/pdf_file/0007/1411567/act-sustainable-energy-policy-discussion-paper.pdf&sa=D&source=docs&ust=1639713619779000&usg=AOvVaw0cQMlmnX_bHb9qHVDwUYoa

¹⁰ NSW Government Office of Environment and Heritage, 2015, [Heatwaves: climate change impact snapshot](#)

¹¹ Renew, 2021, [Households better off: lowering energy bills with the 2022 National Construction Code](#)

¹² ClimateWorks Australia & Australian Sustainable Built Environment Council, 2018, [Built to perform: an industry-led pathway to a zero carbon ready building code](#)

¹³ Rewiring Australia, 2021, [Castles & cars: savings in the suburbs through electrifying everything](#)

¹⁴ Beyond Zero Emissions & Melbourne Energy Institute, 2013, [Zero Carbon Australia: Buildings plan](#)

¹⁵ Alternative Technology Association, 2018, [Household fuel choice in the National Energy Market](#)

their occupants compared to the small increase in construction or renovation costs, but there is a persistent perception that these homes are too expensive to build.

There is also an apparent split incentive where builders and investor landlords seek to minimise construction costs while the occupant bears the costs of operation. The people who can least afford higher energy costs have the least capacity to pay extra upfront for more efficient construction, or to influence upgrades in their homes, condemning our most vulnerable citizens to enduring energy poverty.¹⁶ This split is exacerbated for rental properties where landlords believe it is not worth investing in energy efficiency because only the tenants reap the benefits.

The proposed standard

Strengthen the ceiling insulation standard

The Conservation Council welcomes the proposal to introduce a minimum standard through the setting of ceiling insulation standards as a practical step that will have, in most situations, a meaningful outcome. However we don't believe that this standard alone is sufficient, nor that its implementation is ambitious enough to mitigate the climate emergency and equip families with cost-effective homes that are able to be kept warm in winter, cool in summer and resilient to future climate conditions.

The proposal to require R0 and R1 properties to R5 is a useful place to start, but it is clear that a ceiling insulation standard of R2 is not an acceptable minimum standard for Canberra houses. Houses in Canberra, located in a cool temperate climate zone¹⁷, are recommended to have a minimum of R5 ceiling insulation.¹⁸ By setting the minimum standard at R2 for ceiling insulation, the government risks communicating that R2 is an acceptable standard for ceiling insulation, which delivers the required benefits for residents, when in fact it is unlikely to do so. We would urge the government to consider an initial policy setting that captures houses that are "R2 and below" rather than "below R2" as an initial starting point.

From there, it would be helpful to outline a pathway by which the regulation will capture all other houses that do not meet an R5 ceiling insulation standard. Cognisant that the government is concerned that setting the standard too high will drive demand for insulation upgrades to a level that will place a strain on industry to deliver safely and effectively, we support that there is an initial high level of ambition communicated in advance of higher standards being fully implemented. That is, the Government should consider a detailed implementation pathway that provides early information to landlords and tenants, and potentially includes trigger points to expand or contract the program based on the capacity of industry to safely deliver.

Given that the minimum standard for new buildings has been R5 since 2003, we would urge the ACT Government to lay out a pathway now to trigger the upgrade of R2, R3 and R4 insulation levels so that all rental homes are upgraded to minimum R5 by 2035 at the latest. This would provide more than a decade of certainty for the insulation industry to build the capacity and accreditation of the workforce and for landlords to plan ahead for upgrades to their properties.

¹⁶ Australian Council of Social Services, 2018, [Energy stressed in Australia](#)

¹⁷ <https://www.yourhome.gov.au/passive-design/design-climate>

¹⁸ <https://www.actsmart.act.gov.au/energy-saving/insulation>

We understand that there is a diminishing net benefit and return on investment from houses that already have R2, R3 and particularly R4, however, if a minimum standard is justified for new homes, it should apply equally to all homes. In addition, it is noteworthy that as insulation ages, so does its benefit, and that insulation rated R3 or R4 when it was installed may well not hold that same rating after 15-20 years.

The Council strongly supports the inclusion of ACT Housing Properties in the minimum standard given the number of properties for which they are the landlord.

Energy efficiency heating

The standard should also include a requirement for energy efficient (heat pump) heating appliances in rental properties, known as reverse-cycle air conditioners. RCAC systems are the most efficient heating available, and provide the additional benefit of being able to be used for cooling, something that is becoming increasingly important in Canberra. Currently many rental properties would utilise inefficient portable electric heaters. Alternatively tenants may find themselves relying on gas heating, which can be expensive to run and requires good maintenance to ensure efficiency. Not only would RCACs provide tenants with energy efficiency savings on fuel and connections costs, but they would also help advance the ACT Government's objective of transitioning off fossil gas.

In the same way that the mandatory information session for applicants to the Sustainable Households Scheme mentions switching from gas to electric appliances, communications material accompanying this standard should recommend that landlords take the initiative when upgrading insulation to also replace gas and wood heaters with reverse-cycle heat pumps for energy-efficient heating and cooling (as explored in the RIS), gas water heaters with electric heat pumps and gas stoves and ovens with efficient induction cooktops and electric ovens. Such advice now could help fill the gap in action until specific gas phase-out legislation is implemented. The policy target of phasing out gas by 2045 has already been determined and the benefits for occupants are well recognised, yet there are no commitments yet by the Government to phase out gas in existing housing. Promoting that the SHS is available to landlords might increase the number of rental properties that make the switch.

The Conservation Council would support a higher appliance standard for RCAC heating / cooling systems that has been identified in the Discussion Paper as an option. While acknowledging that all heat pump heating / cooling systems are generally efficient, and more efficient than other forms of electric heating, the upfront costs of RCAC systems with higher energy efficiency ratings are not always significantly greater than those rated at 1.5. Further analysis of this might be required to determine the efficiency rating of appliances that would deliver the best cost efficiency over time.

Complementary measures

The standard should require landlords to commission an independent comprehensive energy efficiency audit of their properties and strongly encourage them to implement recommended upgrades, particularly low-cost draught-proofing, under-floor and wall insulation, properly fitted window coverings and/or secondary/double glazing.

The ACT Government could deliver complementary measures, as much through existing programs as practicable, and through mandatory standards or other regulatory measures where the market fails to deliver improvement as discussed previously.

Complementary measures should be included at least as recommendations and in communications material, but should not delay the implementation of the standard.

Implementation

Phase in period (2–5 years)

The Conservation Council recommends the shortest phase-in period that is consistent with the capacity of the industry to meet demand in a responsible and sustained way (ie. not a boom and bust cycle). The roll out of the scheme should be cognisant of the small number of installers in the ACT and the suitable certification of installers. It is estimated that 18,500 homes will be affected by the proposal to mandate ceiling insulation in properties that have less than R2, requiring approximately 100 installations per week to achieve compliance within a 4-year phase-in period. Roughly half of those homes are public housing so ACT Government procurement could provide steady employment for the early part of the phase-in period as industry capacity is gradually increased to take on private rentals.

For landlords in financial stress, a financial assistance package and specific date extensions are preferred over a general longer phase-in period.

The start or renewal of a lease may provide an opportunity to develop rolling demand for insulation upgrades, to smooth demand over the phase-in period rather than risk an unmeetable glut of demand as the deadline approaches. However, deadlines will ensure that those properties on extended or open-ended leases that haven't come up for renewal within the phase-in period are identified. The Council also remains open to an implementation timeline, as described by Better Renting, connected to the age of the house and which may better reflect the quality of the insulation in the house, reflecting both what was initially installed as well as the quality of insulation after a certain number of years. This proposal would provide a clear timeline to landlords and might correlate with the housing stock categorisation on page C-5 of the RIS.

A grace period would allow for flexibility according to the availability of installers and material supply and to fit the work in around other maintenance and tenant preferences. However, the

landlord should be required to show evidence of an installation date being booked at the time of the lease being commenced. This would avoid properties sitting vacant between leases.

The same grace period should apply regarding the end date of the phase-in period – ie that landlords must have evidence that installation is booked.

Exemptions

The exemptions outlined in the Discussion Paper appear valid. Where an exemption is granted regarding ceiling insulation upgrade, the landlord should be required to identify other means of improving energy efficiency and thermal comfort.

For the exemption when the “tenant strongly objects”, this should only be valid only for the duration of the existing lease. Communication materials should clearly enumerate the benefits for tenants, particularly that the likely energy cost savings should outweigh any cost pass-through from the installation.

The evidence required for an exemption might depend on the type of exemption being sought:

- For given exemptions, a building report and installation quote;
- For demolition/rebuild, a DA; and
- For other temporary exemptions, a statutory declaration.

Rental providers should be required to formally apply for an exemption and have it verified – applying this administrative burden will make it less likely that providers will falsely claim exemptions that might otherwise mislead prospective tenants.

Compliance and quality assurance

Compliance

For the effective implementation of the minimum standard for rental properties, strong compliance and auditing requirements are recommended. Otherwise the scheme will become a burden for tenants, who will not be able to easily rely on rental properties meeting the standard.

Independent evidence from an accredited installer, would be suitable and it would be helpful if it was required that rental properties put onto the housing market declare they have met the standard.

The suggestions in the consultation document for non-compliance seem reasonable, namely that the landlord should be required to remedy the breach within the grace period of starting or renewing a lease, with financial penalties commensurate with the cost of upgrade plus damages in the event of failure to remedy. This would allow the tenant or the ACT Government on behalf of the tenant to pursue installation at the landlord’s expense. In such a tight and competitive rental market, the onus must fall on the landlord to comply rather than putting the tenant in the position of cancelling the lease or living in the deficient house.

Effective enforcement requires adequate ongoing funding, and independence from installers, landlords and property managers. It requires timely verification of installation or non-compliance and visible, rapid response to and resolution of complaints and non-compliance to act as deterrence. Voluntary or poorly enforced schemes are rarely uniformly effective.¹⁹

The standard also needs to be supported by well-resourced independent compliance authorities and training for all construction industry professionals and associated trades, as well as public engagement through real estate agents and property managers to overcome the perception that sustainability upgrades are too expensive or that only tenants benefit.

Safety and quality assurance

The Conservation Council is keen to see the minimum rental standard succeed and for ceiling insulation to be considered a valuable option for all homeowners and landlords to widely utilise so as reduce their energy consumption and cut emissions. The insulation industry has arguably been setback a decade or more as a result of the Commonwealth Government's Home Insulation Program in 2009. As such, we support a scheme that has strong safety and quality measures. We would suggest that this means not allowing unaccredited or DIY installations, and that measures such as independent inspections of randomly-selected installations could assist to provide assurance that the standard has been met and that fire risks have been minimised.

Other issues

Assistance to support vulnerable and low-income renters

Financial assistance to landlords should be based on their own financial circumstances, not those of the tenants. This assistance should be provided, as far as practicable, through existing schemes. Promoting that the Sustainable Households Scheme is available to landlords might increase the number of rental properties that make further upgrades such as switching from gas to electric appliances.

Review

As indicated earlier, the primary concern is that there is a lack of long term direction and ambition in ramping up the standards required over time. Setting one standard and reviewing it risks a slow scheme that requires bureaucratic review in order to be extended, when it might be possible to set a implementation plan that is sped up or slowed down depending on the capacity of industry to deliver/

As such, regular reviewing of installation data and consulting with industry should occur (at least annually) to iteratively evaluate the effectiveness of the implementation of the standard and any revisions or assistance measures that might be required to meet the target. However, once the long term direction of the standard has been set, the policy setting might only require review after 3-5 years.

¹⁹ Moore, Berry & Ambrose, 2019, [Aiming for mediocrity: The case of Australian housing thermal performance](#), Energy Policy vol 132, pp 602–610.

Conclusion

Government and community responses to the COVID-19 pandemic demonstrate that we can make rapid and previously unthinkable changes when the need is considered sufficiently important. The introduction of minimum energy efficiency standards for rental properties is a key tool to abate emissions and build resilience for the future. The Conservation Council urges the ACT Government to act with ambition and urgency right across the implementation of the Climate Change strategy, proportionate to the climate emergency, including through the implementation of minimum rental standards.

The Regulatory Impact Statement notes that “a minimum energy efficiency standard could potentially impose significant costs on rental providers, with possible broader rental property market implications.” This may well be true, but there is a responsibility on landlords to ensure that they are putting safe properties into the rental market, not homes that leave people cold in winter, hot in summer, and impact negatively on their health, wellbeing and energy costs.

We support the linking of incentives and means-tested support for landlords to drive action, and importantly additional targeted support for tenants who might be vulnerable to energy poverty.

Supporting those who are both adversely impacted by the costs of adapting to climate change, as well as materially affected by the climate impacts themselves, such as through smoke or high temperatures, is an important way to support climate justice as we transition to a carbon-free society.

Recommendations

- Strengthen the minimum standard by:
 - widening the scope of the initial standard to R2 and below;
 - Identifying the trigger points to upgrade of all rental homes with R2, R3 and R4 to R5 (end date in consultation with industry regarding capacity building); and
 - Including energy efficient heating - even if with a delayed start time - to allow landlords to plan and also consider replacement heating opportunities.
- Require landlords to commission an energy efficiency audit and consider implementing complementary energy efficiency measures such as draught-proofing, underfloor and wall insulation and window coverings or secondary/double glazing.
- Ensure landlords are encouraged to switch gas and woodburning appliances to efficient electric appliances.
- Ensure a strong compliance and auditing regime that ensures the integrity of the standard, and that additional burdens are not placed on tenants.
- Conduct annual evaluations to ensure that the standard is effective and industry capacity is sustainable.