



**CONSERVATION  
COUNCIL** ACT REGION

Submission to ACT Government Justice and  
Community Safety Directorate

## Minimum standards for rental properties and occupancy law reform

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August 2024

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, we understand that the changes we need will only happen with the collective support of our community.

### **For further information please contact:**

Simon Copland, Executive Director, [director@conservationcouncil.org.au](mailto:director@conservationcouncil.org.au).

## Introduction

The Conservation Council ACT Region appreciates the opportunity to provide comments to the ACT Government regarding the reform of the *Residential Tenancies Act 1997*. The Council supports the introduction of minimum quality standards for rental properties to improve the health and wellbeing of rental tenants and the energy efficiency of Canberra's rental housing stock.

The ACT Government's 2023 introduction of a minimum standard for ceiling insulation in rental properties provides an excellent framework for expansion to other home efficiency measures. Reform of the Residential Tenancies Act is an appropriate vehicle for applying the Government's commitment to phasing out fossil gas, consistent with the Sustainable Household Scheme and improvements to public housing. Creating suitable legislative requirements for landlords to comply with will bridge the perceived split-incentive barrier and protect tenants.

The Council agrees that "a more detailed standard would be preferred as it provides greater clarity for tenants and landlords alike"<sup>1</sup>. The Council also recommends the ACT Government be guided by ACOSS's 'Blueprint framework for fair, fast and inclusive climate change action' which seeks to "accelerate action on climate change, reduce poverty and inequality, and create a more sustainable and equitable society"<sup>2</sup>.

With rental housing constituting some 30% of Canberra's housing stock, eliminating fossil gas and improving energy efficiency in this sector is a significant means of reducing the Territory's remaining greenhouse gas emissions from stationary energy as per the urgency demanded by the IPCC<sup>3</sup> whilst providing the co-benefits of improving Canberrans' wellbeing and climate resilience as per the ACT's Wellbeing Framework.

As noted in our submission regarding minimum standard for ceiling insulation<sup>4</sup>, ensuring that the ACT'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. Upgrading existing buildings in a planned approach should be generally faster, lower cost and a better use of resources and labour than knocking down and rebuilding, although the Council recognises that replacement of poor quality low-density dwellings with efficient multi-unit buildings can have multiple benefits.

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<sup>1</sup> ACT Government, 2024, Consultation Paper: Minimum standards for rental properties and occupancy law reform - Proposed reforms to the *Residential Tenancies Act 1997*, [https://hdp-au-prod-app-act-yoursay-files.s3.ap-southeast-2.amazonaws.com/6417/2137/2159/Consultation\\_paper\\_on\\_minimum\\_standards\\_for\\_rental\\_properties\\_and\\_occupancy\\_law\\_reform\\_-\\_final.pdf](https://hdp-au-prod-app-act-yoursay-files.s3.ap-southeast-2.amazonaws.com/6417/2137/2159/Consultation_paper_on_minimum_standards_for_rental_properties_and_occupancy_law_reform_-_final.pdf)

<sup>2</sup> Australian Council of Social Services, 2024, Blueprint framework for fair, fast and inclusive climate change action', <https://www.fairfastclimateaction.org.au/resources>

<sup>3</sup> IPCC, 2023, 'Urgent climate action can secure a liveable future for all', Press release, 20 March, [https://www.ipcc.ch/report/ar6/syr/downloads/press/IPCC\\_AR6\\_SYR\\_PressRelease\\_en.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/press/IPCC_AR6_SYR_PressRelease_en.pdf)

<sup>4</sup> Conservation Council ACT Region, 2021, 'Submission to EPSDD: Minimum energy efficiency standards for rental homes in the ACT', [https://conservationcouncil.org.au/wp-content/uploads/SUBMISSION\\_MinStandardsInsulationRental-Dec2021.pdf](https://conservationcouncil.org.au/wp-content/uploads/SUBMISSION_MinStandardsInsulationRental-Dec2021.pdf)

Research by Renew<sup>5</sup>, ClimateWorks Australia and ASBEC<sup>6</sup>, Rewiring Australia<sup>7</sup>, Beyond Zero Emissions and Melbourne Energy Institute<sup>8</sup>, Alternative Technology Association<sup>9</sup> and other institutions amply demonstrate the net cost savings that highly efficient homes can return to 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 or to bear an apparent split incentive between landlords and tenants.

This submission has been prepared in consultation with Better Renting and ACTCOSS, but may vary in content, position and recommendations.

The ACT has some catching up to do, but has the opportunity to raise the bar on rental housing standards. The Council exhorts the ACT Government to legislate for best practice, exceeding the standards legislated by other Australian jurisdictions, drawing from and improving upon their frameworks and experiences.

## Responses to selected questions in the Consultation Paper

### Proposed standards

#### *Window coverings*

In addition to privacy, all windows should have coverings that provide an effective thermal insulation barrier against heat and cold.

#### *Ventilation and Draught-proofing*

Exhaust ventilation from heaters, kitchens and wet areas should not become sources of draughts.

Recommend requiring the landlord to commission a blower door test to identify leaks for rectification.

#### *Kitchen*

Include the requirement to replace gas stoves and ovens with induction cooktops and electric ovens.

Change “burners” to “hotplates”, noting the imperative to replace gas stoves with electric induction cooktops.

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<sup>5</sup> Renew, 2021, Households better off: lowering energy bills with the 2022 National Construction Code, <https://renew.org.au/wp-content/uploads/2021/09/Households-Better-Off-full-report-2.pdf>

<sup>6</sup> ClimateWorks Australia & Australian Sustainable Built Environment Council, 2018, Built to perform: an industry-led pathway to a zero carbon ready building code, <https://www.climateworksaustralia.org/resource/built-to-perform/>

<sup>7</sup> Rewiring Australia, 2021, Castles & cars: savings in the suburbs through electrifying everything, [https://global-uploads.webflow.com/612b0b172765f9c62c1c20c9/615a513770739cc6477e67f4\\_Castles%20and%20Cars%20Rewiring%20Australia%20Discussion%20Paper.pdf](https://global-uploads.webflow.com/612b0b172765f9c62c1c20c9/615a513770739cc6477e67f4_Castles%20and%20Cars%20Rewiring%20Australia%20Discussion%20Paper.pdf)

<sup>8</sup> Beyond Zero Emissions & Melbourne Energy Institute, 2013, Zero Carbon Australia: Buildings plan, <https://www.bze.org.au/research/report/energy-efficient-buildings-plan>

<sup>9</sup> Alternative Technology Association, 2018, Household fuel choice in the National Energy Market, [https://renew.org.au/wp-content/uploads/2018/08/Household\\_fuel\\_choice\\_in\\_the\\_NEM\\_Revised\\_June\\_2018.pdf](https://renew.org.au/wp-content/uploads/2018/08/Household_fuel_choice_in_the_NEM_Revised_June_2018.pdf)

## Phase-in periods (compliance timeframes)

The design of phase-in periods and compliance timeframes should be guided by the experience of the introduction of the ceiling insulation standard, ie considering the volumes of work, supply chains for appliances and materials, and availability of qualified tradespeople. However, timeframes should be commensurate with the IPCC's call for urgency in climate action<sup>10</sup> and the accelerating pace and intensity of climate change impacts<sup>11</sup>.

With respect to all electrification standards, these replacements should be pursued with urgency, requiring all free-standing/duplex rental housing to electrify by 2030, and all multi-unit apartments to electrify by 2035, so that rental tenants are not disadvantaged in the transition off gas. This would be consistent with the ACT Government's commitment "to electrify all feasible public and community housing by 2030".

## Exemptions

Exemptions should be very limited and only granted on application, jointly by landlord and tenant.

## Water efficiency

The Council supports requiring an appropriate minimum standard of efficiency for all appliances and fittings for water (and energy) consumption, to exceed the best standard currently required in other Australian jurisdictions, and consistent with the NCC 7-star standard for new buildings.

Include the requirement to replace gas water heaters with electric (preferably heat pump or electric-boosted solar) alternatives, to supply kitchen, bathroom and laundry facilities.

## Heating and cooling

Include the requirement to replace gas and woodfired heating with electric alternatives.

Include the requirement for all properties to be fitted with energy-efficient, climate-zone-appropriate, electric heating and cooling appliances to provide controllable comfort for residents, preferably reverse-cycle air conditioning (heat pump) for living areas. Consider also requiring heat pumps, or other fixed electric heating plus ceiling fans, for other rooms.

(Note that evaporative cooling systems are generally not suitable for controlling air quality in the event of bushfire smoke and other particulate air pollution events.<sup>12</sup>)

## Energy efficiency standards

The Council recommends requiring all rental homes to meet, ideally, the 7-star standards for energy efficiency by 2035 (ie match the NCC standard for new buildings). At the least, require all rental homes to meet at least 4-star standard by 2030, primarily through insulation measures (prioritise draught-proofing and window coverings) and replacing gas, with a plan for upgrade to

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<sup>10</sup> IPCC, 2023, 'Urgent climate action can secure a liveable future for all', Press release, 20 March, [https://www.ipcc.ch/report/ar6/syr/downloads/press/IPCC\\_AR6\\_SYR\\_PressRelease\\_en.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/press/IPCC_AR6_SYR_PressRelease_en.pdf)

<sup>11</sup> King, A, 2024, '40°C in August? A climate expert explains why Australia is ridiculously hot right now', The Conversation, <https://theconversation.com/40-c-in-august-a-climate-expert-explains-why-australia-is-ridiculously-hot-right-now-237398>

<sup>12</sup> Landmark Air, 2021, 'Landmark Air Guide: Evaporative vs. AC during bushfire smoke', <https://landmarkair.com.au/evaporative-vs-ac-during-bushfire-smoke/>

7-star standard by 2035. Everyone benefits from greater efficiency; no-one wins from installing inefficient, cheap rubbish.

A firm end date is clearer for everyone to comply with and facilitates effective enforcement. That an appliance “still has useful life” is a weak and subjective argument — there are measurable benefits to everyone –including the environment– from upgrading to energy-efficient electric appliances sooner rather than later.

The Government needs to provide clear information for households and directions for tradespeople removing old appliances to deliver them into appropriate resource recovery and recycling schemes, to assure landlords and residents that “useful” appliances –and their embodied energy and materials– are not being dumped in landfill.

## **Transition off gas**

End-of-life replacement of gas appliances is too slow and arbitrary (many appliances continue to function for (many!) years beyond the manufacturer’s recommended lifespan) and carries the high likelihood that renters will be burdened with expensive, inefficient gas far longer than the average homeowner. Open gas flames (in gas stove burners and many gas heaters), particularly in ageing or poorly maintained appliances, release toxic fumes that are implicated in respiratory health illnesses and pose a fire risk. With the ready availability of safe, clean, efficient electric alternatives, there is a strong moral imperative for landlords to be required to proactively remove all gas.

We recommend the Government immediately prohibit installation of new gas appliances or like-for-like replacement of existing gas appliances.

In addition, the Government should require the replacement of all gas appliances by 2030 (consistent with the ACT Government’s target for public and social housing) for duplex, freestanding and simple homes, and by 2035 for complex multi-unit apartments. We recommend prioritising replacement of gas hot water - this would enable renters to close their gas accounts sooner, because they could choose to use portable electric appliances for heating and cooking while waiting for the landlord to replace those.<sup>13</sup> Perhaps allow an extension of the compliance date to 2035, only by joint application, for gas appliances installed since 2020.

The new regulation should also include the requirement for landlords to complete the removal of gas meters and supply pipes to the property within 12 months of the final gas appliance being replaced, to avoid the risk of gas leaks.

## **Window coverings, shading and glazing**

In the short term, the standard should require thermally efficient window coverings in (minimum) living spaces and bedrooms. If a landlord has to install them for privacy, they might as well serve the double purpose of insulation and provide the greater benefit for the cost of installation.

We recommend the Government add a requirement that west-facing (as a minimum) windows must have (adjustable) external shading installed.

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<sup>13</sup> Conservation Council ACT Region, 2024, ‘Rental homes and apartments can make the switch too!’, Make the Switch, <https://maketheswitch.org.au/rental-homes-and-apartments/>

Additionally, the Government should ideally pursue introducing a minimum standard for thermally efficient glazing and window framing in the next review of the Act if not this one, perhaps with a compliance date by 2045. Supported by financial assistance such as the Sustainable Household Scheme zero-interest loans, this upgrade would be an investment in long-term climate resilience. Too many houses in Canberra have 3mm glass in aluminium frames which are next to useless as thermal barriers in Canberra's freezing winters and scorching summers. European standards for double-glazing would be far more appropriate for Canberra homes.

### **Safety checks and repairs**

Landlords should be required to conduct inspections regularly (the Council defers to electrical experts on timing) and conduct repairs with expediency.

### **Caravan parks**

Caravan park owners/managers should be required to provide adequate electrical power for all fixed and visiting dwellings/caravans/campers to use electric appliances instead of bottled gas (and EV charging).

All stationary cabins, caravans and dwellings should be transitioned off gas appliances by 2030.

### **Occupancy laws**

The Council defers to ACTCOSS, Better Renting, Tenants Union ACT, Legal Aid ACT and strata organisations for expertise on questions of occupancy laws.

## **Other matters**

### **Rooftop solar power and electric vehicles**

Notwithstanding existing schemes for rooftop solar power (with batteries and smart meters) and electric vehicle uptake (with home charging infrastructure), the Government should consider incorporating minimum standards for these into the *Residential Tenancies Act* for the same reasons of enabling fair tenant access to these technologies and overcoming landlord reluctance to outlay the installation costs. The Council recommends that all simple/free-standing/duplex rental housing should have solar power systems and EV charging by 2030, and all multi-unit apartments by 2035, so that rental tenants are not disadvantaged relative to homeowners.

### **Housing availability**

The Council generally supports other reforms such as increasing infill densification (subdivisions for additional small homes, knockdowns rebuilt as modest multi-unit dwellings, ie the "missing middle") in "well-located areas close to existing public transport connections, amenities and

employment” to “support the rapid delivery of social and affordable housing” as per the National Planning Reform Blueprint outlined by the Prime Minister in 2023<sup>14</sup>.

The ACT Government should develop a strategy to identify and call properties with long-term vacancy (“inactive” or “ghost” homes) back into occupation<sup>15 16 17 18</sup>. Notwithstanding the ACT Government’s submission to the ACT Legislative Assembly Inquiry into Housing and Rental Affordability<sup>19</sup>, even if the number of suitable homes is relatively small, making vacant homes available to renters would surely be more economically and environmentally efficient than continued expansion of new suburbs.

Both of these approaches would facilitate containing urban sprawl and further encroachment of Canberra’s urban footprint into the surrounding natural landscape, protecting habitat and biodiversity from the threat of clearing and invasive species.

## Communication campaign

The Government should collaborate with real estate agencies and tenant organisations to develop a communication campaign to inform tenants and landlords of their updated responsibilities and emphasise the benefits to all stakeholders from upgrading the energy efficiency of rental properties. These materials should also remind landlords about relevant Government programs and the Australian Taxation Office’s rental properties guides.

## Summary and Recommendations

The Conservation Council supports updating the *Residential Tenancies Act 1997* to include the introduction of minimum standards for energy efficiency of rental properties, particularly:

- Requiring all rental homes to meet the 7-star standards for energy efficiency by 2035
- Replacing all gas appliances by 2030 in simple dwellings and 2035 in multi-unit buildings
- Limiting exemptions to be by joint application
- Extending the standard to include rooftop solar power systems and electric vehicle charging facilities.

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<sup>14</sup> Prime Minister of Australia, 2023, ‘Meeting of National Cabinet - Working together to deliver better housing outcomes’, Media release 16 August 2023, <https://www.pm.gov.au/media/meeting-national-cabinet-working-together-deliver-better-housing-outcomes>

<sup>15</sup> Pawson, H, 2017, ‘Taxing empty homes: a step towards affordable housing, but much more can be done’, The Conversation, <https://theconversation.com/taxing-empty-homes-a-step-towards-affordable-housing-but-much-more-can-be-done-80742>

<sup>16</sup> Baker, E, Beer, A, & Blake, M, 2022, ‘Look where Australia’s ‘1 million empty homes’ are and why they’re vacant - they’re not a simple solution to housing need’, The Conversation, <https://theconversation.com/look-where-australias-1-million-empty-homes-are-and-why-theyre-vacant-theyre-not-a-simple-solution-to-housing-need-189067>

<sup>17</sup> Greenbank, A, 2024, ‘We tracked down the owners of empty Sydney homes to try and find out why they’ve been left vacant’, ABC News, <https://www.abc.net.au/news/2024-07-22/sydney-ghost-homes-vacant-houses/104076682>

<sup>18</sup> Thomas, B, 2022, ‘Growing call to impose vacant property tax on owners of ‘ghost homes’ to ease affordability pressures’, RealEstate.com.au, <https://www.realestate.com.au/news/growing-calls-to-impose-vacant-property-tax-on-owners-of-ghost-homes-to-ease-affordability-pr-essures/>

<sup>19</sup> Legislative Assembly for the Australian Capital Territory Standing Committee on Economy and Gender and Economic Equality, 2023, Inquiry into Housing and Rental Affordability: Report 8, [https://www.parliament.act.gov.au/\\_data/assets/pdf\\_file/0007/2244796/EGEE-Report-8-Inquiry-into-Housing-and-Rental-affordability.pdf](https://www.parliament.act.gov.au/_data/assets/pdf_file/0007/2244796/EGEE-Report-8-Inquiry-into-Housing-and-Rental-affordability.pdf)