

**HEALTHY
HOMES FOR
RENTERS**



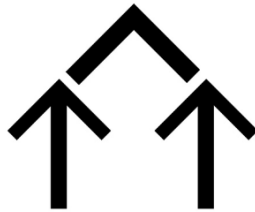
Community Sector Blueprint:

National Framework for
Minimum Energy Efficiency
Rental Requirements

Supporters









Tenants Queensland



Tenants' Union of Tasmania





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We respectfully acknowledge the traditional owners and custodians of the country on which we live and work. We pay our respects to elders past and present and recognise the right of all First Peoples around the country to self-determination.

Executive summary

This community sector blueprint provides an outline of key characteristics that should be present in the forthcoming National Framework for Minimum Energy Efficiency Rental Requirements being produced by federal, state and territory governments as part of the Trajectory for Low Energy Buildings. Drawing upon the expertise of member organisations from the Healthy Homes for Renters collaboration, the Blueprint takes a principles-based approach to key elements that should be in the government Framework and offers suggestions to meet these principles. In some cases the blueprint endorses specific approaches.

The government Framework is intended to guide the implementation of minimum rental standards in Australian states and territories. This is a critical step to meet net-zero emissions targets, lower energy bills, and improve the health and wellbeing of renters.

The Framework responds to the unique situation that renters face. Unlike owner-occupiers, people who rent cannot make structural changes to their homes. As a result millions of renters are living in homes that are too hot in summer and too cold in winter and are making them sick. There is no price signal, incentive, or requirement on landlords to raise the standard of their properties. If governments are to meet emission reduction targets and improve outcomes for renters, improving the energy performance of rental properties needs a tailored approach.

The Framework must have a long-term implementation trajectory that is scalable at the outset. This provides certainty to landlords, suppliers and renters, allowing them to plan accordingly and incentivises early movers. It will also ensure systematic improvement in our housing stock in line with achieving zero-emissions homes as intended by the Trajectory.

The Framework should apply to all homes where the occupant is not the owner, including private, public, community and Aboriginal and Torres Strait Islander housing. While the Framework may initially be more targeted to where assessment tools or legislative mechanisms are available, the vision from the outset should be to include and raise the standard of all such dwellings.

The Framework should be designed to provide confidence and trust that objectives are being met, and not rely on renters to enforce compliance.

The Framework should aim to legislate 'modelled performance' standards by 2025 in all jurisdictions, providing 3-4 years for full compliance. This should provide time for appropriate assessment tools to be finalised, an assessor workforce to be developed, and landlords to comply. In the meantime, we urge states and territories to implement geographically appropriate energy efficiency measures or 'essential-features based' standards, that can quickly bring all rental

properties up to a certain standard (i.e. all home are insulated, or electric reverse cycle air conditioner/heater, or electric hot water heat-pump).

Although there are advantages and disadvantages to either 'modelled performance' or 'essential-features based', our analysis is that the 'modelled performance' standard will allow greater responsiveness to climatic and building variation, enables the achievement of higher efficiency ratings, provides landlords with more flexibility on how they meet the standards and enables property investors to go further faster. Critically, a 'modelled performance' standard supports a more effective enforcement and compliance system, that does not rely on the renter for compliance, creating trust and confidence.

Based on contemporary experience in international jurisdictions, we should eventually transition to 'tested performance' standards.

We imagine a 'modelled performance' standard would require landlords to obtain an external assessment of their rental property that either verifies that the property complies with the standard or makes recommendations on how to comply or go beyond compliance. This would generate a certificate that the owner lodges online with an authority, the rental agency and/or renter, to demonstrate compliance. For those landlords that are required to make upgrades, they can either obtain another external assessment to verify compliance or could provide proof of purchase and installation via an online system to obtain certification. This system would be robust at establishing transparency and compliance. In contrast, a system that relies on 'self certification' or solely on renters' reporting of non-compliance will see lower rates of compliance, may take longer to achieve its goals, and result in negative outcomes for tenants.

Regarding the position of renters, members of Healthy Homes for Renters are unequivocal in our wariness about an enforcement system that relies on renter initiative. Such a system puts further pressure on a relationship which is already subject to a power imbalance and requires renters to put their tenancy at risk (ie, to retaliation) in order to secure a home that meets the standard. More vulnerable tenants are unlikely to take this risk (or perhaps even be aware of standards) and may well miss out on the benefits of a property that meets requirements. Importantly, this also puts the wider objective of the Trajectory, to improve the energy efficiency of all buildings, at risk. As such, while renter identification of non-compliance may be part of a compliance system, it should not be the foundation. Tenancy reform is likely also necessary to protect renters from retaliation, in particular through ending no-cause terminations.

Another key question the Blueprint explores is how rental standards could be implemented at law. Thus far, jurisdictions such as Victoria and the ACT have amended their tenancy acts and established corresponding regulations. This blueprint considers two approaches to implementations, and reviews the advantages and disadvantages of each approach. Our strong preference is for the implementation framework to be as nationally consistent and ambitious as

possible to ensure equity and achieve stated objectives, while allowing states and territories who want to go further faster to be able to do so.

The introduction of minimum rental standards is a significant reform that has the potential to realise immense benefits for our community: cutting emissions, lowering the cost of living, improving public health and helping to reduce poverty and inequality. The sooner we can achieve these benefits, the better. However, “they stumble that run too fast”. As jurisdictions begin implementing standards, planning for the long-term and establishing effective systems will lead to greater efficacy and impact, helping to secure diverse benefits for generations of renters to come.

1. Purpose of the Blueprint

This blueprint has been prepared by community sector organisations who advocate on behalf of renters and people on low incomes. It provides an outline of the key characteristics our organisations would like to see in a national framework for the implementation of mandatory minimum energy efficiency requirements for rental homes (private, public and community housing).

This blueprint has been developed by a working group of organisations from Healthy Homes for Renters, a collaboration of over 100 organisations pushing for minimum energy efficiency standards for rental homes. It draws upon the expertise of key supporters and consultation within this broad community. The blueprint provides an outline of the key characteristics that the Healthy Homes for Renters collaboration would like to see in a National Framework for minimum energy efficiency requirements for rental properties.

2. Why we need comprehensive mandatory minimum energy efficiency rental standards

All Australian governments have committed to reducing greenhouse gas emissions to at least net zero by 2050 and have committed to implementing a national plan that aims to achieve zero energy and carbon-ready residential buildings, including existing buildings.

In addition to achieving the above goal, Governments are also seeking to develop policies that achieve the following:

- lower energy bills
- contribute to energy security and affordability
- improve people’s health and wellbeing
- greater resilience to climate impacts including natural disasters and heatwaves

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- contribute to Closing the Gap in First Nations Communities
- reduce wastage for the wider economy
- assist in lowering peak demand

Further, improving the energy efficiency of homes is a crucial part of ensuring an equitable transition to zero emissions.

There are significant challenges to achieving the above goals and outcomes. There are more than 9.7 million existing homes in Australia. Many of these homes have poor energy performance. It is estimated that existing homes in Australia average a 1.7 star rating compared to 6.1 stars for new homes.

As a result of poor efficiency, the majority of existing homes are expensive to power and make it difficult to maintain a healthy environment. In fact, many homes in Australia are making people sick because they are too hot in summer and too cold in winter and are costly to keep at healthy and comfortable temperatures year-round.¹ Every year, the deaths of 10,000 Australians are attributable to cold² and heatwaves are responsible for more deaths than all other extreme weather events combined³, with an estimated 36,000 deaths associated with the heat between 2006 and 2017.⁴ Lack of access to energy efficient homes is considered a primary factor.⁵

These homes are wasting energy to operate, contributing to increased individual and governmental health costs and unaffordable energy bills. These impacts are being amplified as a result of the energy crisis which will see higher energy prices over the medium term.

Improving the energy efficiency of private, public and community rental properties is critical to achieving the stated goals above and improved outcomes for renters, as well as reducing poverty and inequality. Currently, 1 in 3 households is renting. More people are renting for over 10 years. There are more renting households with children, and the number of renters aged over 55 continues to increase. People on low incomes are more likely to be renters (40%), as are Indigenous Australian adults (68%) and Indigenous Australians living in remote and very remote

¹ DELWP, "Research Report on Energy Efficiency in Rental Properties".

https://www.energy.vic.gov.au/data/assets/pdf_file/0021/451335/NGR-1708010-DELWP-Energy-Efficiency_Full-FinalReport.pdf

² Gasparrini, Antonio, Yuming Guo, Masahiro Hashizume, Eric Lavigne, Antonella Zanobetti, Joel Schwartz, Aurelio Tobias, et al. "Mortality Risk Attributable to High and Low Ambient Temperature: A Multicountry Observational Study." *The Lancet* 386, no. 9991 (2015): 369–75. [http://dx.doi.org/10.1016/S0140-6736\(14\)62114-0](http://dx.doi.org/10.1016/S0140-6736(14)62114-0)

³ L Coates et al., 'Exploring 167 years of vulnerability: an examination of extreme heat events in Australia 1844–2010', in *Environmental Science & Policy*, vol. 42, 2014, 33–44

⁴<https://iced.su.se/research/research-stories/we-know-heat-kills-accurately-measuring-these-deaths-will-help-us-assess>

⁵ Bouchama, Abderrezak, Mohammed Dehbi, Gamal Mohamed, Franziska Matthies, Mohamed Shoukri, and Bettina Menne. "Prognostic Factors in Heat Wave – Related Deaths." *Archives of Internal Medicine* 167, no. 20 (2012): 2170–76.

areas (89%).⁶ Low-income households are more likely to live in the most inefficient houses and spend a greater proportion of their income on utility bills compared to owner occupiers.

Renters are rarely able to influence the energy efficiency of the homes they live in. Currently, they have little or no reliable information regarding the performance of their property. They have no security of tenure and limited rights to make changes to improve the thermal and energy performance of the rental house. Renters must live with the health and economic consequences, and face the threat of eviction or punitive rent rises if they raise issues with the property. People on low incomes have fewer choices, and are living in housing that is the least efficient and often unfit to support their health and wellbeing.

Landlords have no price signal, incentive, or requirement to raise the standard of their properties. Current tax rebates for replacing appliances require 'like for like replacement'. There is overwhelming evidence that market forces are not capable of encouraging landlords to improve rental properties' efficiency. Even when landlords have been offered free energy efficiency upgrades, many have declined.

The best way to address this market failure and improve the efficiency of rental properties is to require properties to meet mandatory minimum energy efficiency standards.

Improving the energy efficiency of rental properties should be communicated as a responsibility of the owner as part of their wider responsibility as a service provider to provide a safe, healthy, efficient and decent home. In this context, minimum energy efficiency standards are simply an updated determination of what is an acceptable standard of housing to ensure the increasing proportion of people renting - and often for life - have a home that can sustainably and affordably support their health and wellbeing.

⁶ <https://www.aihw.gov.au/reports/australias-welfare/indigenous-housing>

3. The objective of mandatory minimum energy efficiency standards

As an overarching objective, minimum energy efficiency standards for rentals should improve the thermal comfort and minimise the energy consumption of rental homes to reduce energy bills and support the health and wellbeing of people who rent, as well as contribute to a zero-emissions energy sector in line with limiting warming to 1.5°C.

This will require a mix of measures including:

1. maximising the thermal efficiency of a building as far as reasonably possible first;
2. efficient electric appliances like hot water, heating and cooling, fridges, washers, and dryers; and
3. renewable energy production and storage

4. Overarching Principles to guide development and implementation of mandatory minimum energy efficiency standards

The framework adopted to deliver minimum energy efficiency standards should:

- Contribute to the goals of:
 - Creating homes consistent with achieving zero emissions in the energy sector, in line with what is required to limit warming to 1.5°C;
 - Reducing household energy demand and the size of energy bills, making operating a home inexpensive; and
 - Ensuring homes are safe and healthy to live in now and in the future, preventing and reducing poor health, and improving wellbeing
- Aim to be nationally consistent and ambitious as possible to ensure equity and achieve stated objectives, while enabling states and territories who want to go further faster to be able to do so.
- Should ensure continued security of tenure of renters and ensure that renters are better off as a result.

- Cover any residential property that is the principal place of residence where the resident is not the owner or does not have the rights, controls and protections of ownership is included, unless there is demonstrated reasoning why it should be exempt
- Be delivered as a long-term, scalable, systemic policy solution
- Pursue a standards model that will achieve the goals, account for different climate zones and building types; be timely, easily communicated and transparent to the renter and the landlord; and support certification and compliance
- Include a certification system to support transparency, assurance, compliance and data gathering
- Include mechanisms to ensure compliance with standards. The mechanisms should not rely on renters to enforce, but should include verification and penalties for non-compliance
- Carefully consider the use of incentives, ensuring that any incentives are targeted and equitable and used to encourage compliance and greater ambition. Where incentives are used, they should be conditional on limiting rent increases
- Encourage governments to show leadership by:
 - prioritising public and community housing, including Aboriginal and Torres Strait Islander housing.
 - including financial support for community housing providers, including Aboriginal and Torres Strait Islander housing providers, so they can meet standards without compromising their ability to provide housing for people in need
 - ensuring energy efficiency retrofits for public housing are enabled through additional funding, not a reduction in present or future stock

5. Scope of minimum standards

5.1 Principles

- The standard should cover any residential property, or part thereof, that is the principal place of residence where the resident is not the owner or does not have the rights, controls and protections of ownership, unless there is demonstrated reasoning why it should be exempt. Any exemption should be time-limited.
- Standards could be staged, allowing different timeframes for some types of accommodation or classes of building, where a clear pathway and timeframe for staging is established at the outset.

5.2 Considerations

To achieve the objectives stated above - rapidly reducing emissions, reducing energy bills, and improving the health and wellbeing of renters - mandatory minimum energy efficiency standards should apply to all rental properties, including:

- private residential rental
- public housing
- community housing, including Aboriginal and Torres Strait Islander housing
- boarding and rooming houses
- land lease communities, including residential parks, mobile homes
- premises on the campus of or owned by educational institutions
- employer provided housing
- retirement villages
- aged care accommodation
- transitional and emergency accommodation

We recognise some challenges may exist in applying mandatory minimum energy efficiency rental standards across all properties in the same way or time frame. Challenges include:

- energy efficiency rating tools like the Residential Efficiency Scorecard and NatHERS⁷ for existing homes (In Home) do not yet apply to all classes or types of buildings, for example mobile homes
- not all rental properties are covered by jurisdictional Rental Tenancies Acts or other tenancy laws, which is currently being considered as the delivery vehicle for the

⁷ NatHERS is the Nationwide House Energy Rating Scheme and uses a 10 star rating system to assess the thermal performance of dwellings across Australia. <https://www.nathers.gov.au/>

implementation of mandatory minimum energy efficiency rental standards (Noting standalone legislation to implement mandatory energy efficiency standards may overcome this problem)

To avoid delaying the implementation of mandatory minimum energy efficiency rental standards, the introduction could be phased. A clear pathway and timeframes for phasing should be established at the outset. Activities to implement phases 2 and 3 should begin immediately to avoid delays in implementation. For example:

- Phase 1: all rental property classes that are covered by NatHERs (or agreed rating tool) and an Act that facilitates compliance and enforcement such as the Residential Tenancies Act
- Phase 2: all rental property classes that are covered by NatHERs (or agreed rating tool) and Retirement Villages Act, Aged Care Act and others
- Phase 3:
 - all rental property classes that are covered by NatHERs (or agreed rating tool) need to be brought in under an Act that facilitates compliance and enforcement
 - all rental property classes that need NatHERs or similar rating tool to be adapted and are already covered by a suitable Act or must be brought in under a suitable Act

We note that public and community housing, caravan and residential park accommodation, specialist disability accommodation, boarding or rooming houses, nursing homes, and retirement villages are home to some of the more vulnerable members of our society, who would benefit the most from energy efficiency reforms. Lengthy delays should therefore be avoided.

6. Standards Model and Assessment

6.1 Principles

- The framework must outline a long-term implementation trajectory to achieve the objectives set out above, at the outset. This provides certainty to landlords, suppliers and renters and allows them to plan accordingly. It also provides an incentive for early adoption whereby landlords have the opportunity to implement future mandatory steps in advance, creating greater confidence the objectives will be achieved more efficiently and within the set timeframes.
- The standards should be rolled out in a staged approach that is scalable (i.e. increasing star rating) and increases in ambition over time, consistent with the long-term implementation trajectory and limiting warming to 1.5°C and improving the health and wellbeing of renters. This will spread the costs over a period of time helping to minimise costs for some property owners, while leaving others the opportunity to move more rapidly. This should facilitate greater compliance and reduce any potential risks of rent increases.
- The staged approach should not prevent initial and transitional standards from being exceeded. An alternative staged approach may be appropriate for community housing where there are advantages and efficiencies of accelerating through stages.
- Standards should take into account climate zone and building type differences.
- Standards should be timely, easily communicated and transparent to renters with respect to what is required of the landlord, the process, and the energy efficiency rating.
- The design of standards should take into account the importance of compliance and the need for a system that supports independent third party and independent verification and the possibility of renter verification.

6.2 Considerations

As outlined in the principles above any mandatory energy efficiency rental framework should communicate from the outset the intent that all rental properties will be required to achieve certain rating levels, that will be staged and will increase overtime.

An alternative staged approach may be appropriate for community housing where there are advantages and efficiencies of accelerating through stages i.e. doing a major upgrade at once.

Table 1 below outlines three options for implementing standards, 'Modelled-performance only', Features-based to modelled-performance, and a Hybrid model - landlords can choose features or modelled-performance, and their pros and cons.

Our preference is for the framework to implement a 'modelled performance' standard that requires an assessor to model what features could be implemented to achieve a required rating level, and for there to be a transparent certification process. Our preference is for the 'modelled performance' standards to be legislated by 2025 in all jurisdictions, providing 3-4 years for full compliance. This should provide time for appropriate assessment tools to be finalised, an assessor workforce to be developed and landlords to comply.

In the meantime, we urge states and territories to implement geographically appropriate energy efficiency measures or an 'essential-features based' standard, that can quickly bring all rental properties up to a certain standard (i.e. all home are insulated, or electric reverse cycle air conditioner/heater, or electric hot water heat-pump).

While the onus should not be placed on renters to ensure compliance, where renters are in a position to enforce minimum standards the framework should ensure that their position is strengthened.

Table 1 - Options to implement energy efficiency upgrades to rental properties over time.

Approaches for standards model <i>(in all approaches Improvements to the energy rating of the home would be done in stages.)</i>	Pros	Cons
<p>Modelled-performance only</p> <p><i>Utilises an assessment tool that predicts the energy performance of the home and recommends a range of measures that can be taken to improve the energy performance of the home. improvements to the energy rating of the home would be done in stages.</i></p> <p>Engage an assessor to undertake a modelled performance audit to provide advice on whether the property is already compliant or if not how to meet the required rating level set out at the various stages.</p> <p>The initial rating could still be aimed at the worst performing houses (i.e. 0-2 star equivalent houses) and allow rating levels to increase in a staged way.</p> <p>The assessor could also verify and certify the final rating (or could be done through a registration process, see compliance section).</p>	<p>Better assessment of carbon intensity and savings from the outset.</p> <p>Provides greater flexibility for investors on how they choose to meet a required rating. Enables the achievement of higher efficiency ratings. Better at taking into account property features and climate zones.</p> <p>Better verification and clearer enforcement, meaning more rental properties will be compliant with the law.</p> <p>Assessors could be trained to check other minimum standards while they're there, e.g. locks, smoke alarm, ventilation.</p>	<p>Greater upfront cost to the landlord of having to pay for an assessor (the assessment could be paid for by the government as part of incentive).</p> <p>Currently not enough assessors, but could be addressed as an industry development strategy.</p>

<p>Features to modelled-performance</p> <p><i>Begins with essential features-based and transitions to modelled-performance. Improvements to the energy rating of the home would be done in stages.</i></p> <ul style="list-style-type: none"> ● Initial essential features-based standard <ul style="list-style-type: none"> ○ would provide a feature (i.e. insulation or efficient heating) or a list of cost-effective high impact energy improvements tailored to geographical climate zones ○ the features would not require an energy audit at the outset to identify required features but would need to be verifiable upon completion (see compliance section) ○ ideally, features requirements would correspond to a NatHERS (in-home) rating, which would enable the home to achieve a star rating for ease of communicating ● Move to performance-based standards at some point <ul style="list-style-type: none"> ○ after some years, the framework shifts to a performance-based standard using NatHERS (in-home) ○ properties would be assessed by trained third-party assessors who would advise on retrofits needed to meet the required rating 	<p>Initial lower costs due to less need for external assessment.</p> <p>Might be quicker as an appropriate assessment tool is not yet available and there are not enough trained assessors in the workforce.</p> <p>Shift to performance-based then provides all benefits listed in the first row.</p> <p>May be useful in regional areas with less access to trained assessors.</p>	<p>Starting with features may not be enough to lift a home to a decent energy efficiency rating. I.e. There is significantly less value just installing insulation if there are holes in doors, windows or walls.</p> <p>The feature may not suit the house or geographical zone.</p> <p>Compliance is more challenging under a features-based system especially if reliant on self-assessment or renter assessment. Starting with features may miss out on the benefits of performance model and a third party assessor.</p>
<p>Hybrid model</p> <p><i>Two pathways, landlords could choose either modelled-performance or features-based. Improvements to the energy rating would be done in stages.</i></p> <p>A landlord could choose to utilise an essential features-based list or engage an auditor to provide advice based on a modelled</p>	<p>Creates choice for the landlord to take an initial least cost approach by not using an assessor, especially if the potential improvements to the property are straight</p>	<p>May be more complex initially compared with an initial features-based approach (i.e. making sure the features correspond</p>

<p>performance audit to meet the required rating level set out at the various stages.</p> <p>The hybrid model would require the essential features-based standards to be interchangeable with a NatHERS in-home star rating.</p> <p>Would need to be verifiable that required features identified in the essential features list or the modelled performance energy audit have been installed (this could be done by an auditor or a registration process, see compliance section).</p>	<p>forward, or outsourcing to someone else especially as decision making may get harder when higher rating levels are required.</p>	<p>to modelled performance rating).</p> <p>Features may not be enough to lift a home to a decent energy efficiency rating. I.e. insulation alone may be less effective if a property is draughty.</p>
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7. Certification and Compliance

7.1 Principles

- A certification system should be established to support transparency, assurance, compliance and data gathering.
- Mechanisms should be implemented to ensure compliance with standards, including verification and penalties for non-compliance.
- Compliance mechanisms can not rely upon renters and should not place additional responsibility on the renter.
- Independent monitoring and enforcement mechanisms must be established and ensure non-compliant landlords face meaningful likelihood of being discovered and penalised.
- Renters in non-compliant properties should have avenues to flag non-compliance and pursue their lessor and/or initiate processes of enforcement.
- Compliance action should adopt a 'pyramid' approach that begins with smaller, educational interventions, but includes the potential to escalate towards substantial penalties and inability to lease the property out.

7.2 Considerations

The introduction of minimum rental standards will not improve substandard rental properties simply by decree. To provide confidence in the standards and support compliance and data gathering a certification system must be applied. For regulations to have an impact, rental providers must comply with them. For providers to comply with regulations, governments must enforce their regulations. While enforcement need not be punitive, it is an essential part of the framework that will contribute to the efficacy of standards, ensure emission reductions are being

achieved, and avoid a situation where disadvantaged renters continue to be exploited and denied the benefits of healthier, more efficient homes.

7.2.1 Certification

Any framework must consider how regulators can verify compliance. Compliance mechanisms can not be reliant upon renters and should not place additional responsibility on the renter, however, it may be desirable for renters themselves to have a means to verify compliance with a standard.

Obtaining certification

An effective framework for minimum rental requirements will require lessors to demonstrate that their properties meet the standard. Regardless of the type of standard (features or performance), lessors should be required to demonstrate compliance to a government regulator and in leasing the property. This could be done by:

1. Obtaining an energy efficiency assessment by a trained assessor that demonstrates the property already meets the standard.
2. Obtaining an energy efficiency assessment by a trained assessor that demonstrates that the property would meet the standard with certain changes, along with evidence that those changes have been implemented.
3. Obtaining an energy efficiency assessment by a trained assessor, who returns to the property once the upgrades are made and provides an updated assessment.
4. In lieu of an external assessment, submitting evidence that the property meets the standard (this would apply only in the case of an essential-features model).

These models would require establishing a certification system and committing resources to administer the system (although it would be possible to recover costs from lessors, e.g. through a registration fee).

Benefits of this system are creating more transparency and confidence in the system, providing a pathway for accessing subsidies, and dramatically reducing the opportunity for non-compliance or misrepresentation.

An alternative model is effectively self-certification, in which there is no external assessment or requirement for evidence that the new standards have been met. This model is likely to be ineffective at driving compliance and may see disadvantaged renters miss out in particular. This is similar to the system currently in place in Victoria; anecdotally, non-compliant properties are still being advertised for rent, and we have heard from renters whose properties still lack heater systems (despite having been leased since March 2022). Because of the widespread risk of

non-compliance and the likelihood of disadvantaged renters missing out, we are opposed to a self-certification model.

Certification would only need to be obtained once, until a new standard is required and the property is not certified to have met the new standard.

Registering certification

We recommend a registration system be created **to provide transparency and to collect data.**

In the case of the above having a **qualified assessor**, either the assessor or the landlord could register the certificate on a website run by the federal government, or each jurisdiction, or qualified third parties.

In the case of online **registered certification the landlord would register proof of purchase and installation** on a website run by the federal government, or each jurisdiction, or qualified third parties.

In addition to applying for a rating certificate an online registration process **could** also provide a one-stop shop to:

- communicate what is required to meet mandatory energy efficiency standards
- provide information on the features list and/or energy audit requirements
- potentially access rebate/subsidy
- enable a cost effective way for landlord to obtain a energy rating certificate (landlords could be charged a small fee or it could be free as part of incentives)
- if rebates/subsidies are being provided the registration process acts as a way to verify to access the funds
- provide transparency and confidence
- registration service can also be utilised to issue energy efficiency rating certificates for voluntary and mandatory disclosure
- enable collection of data on energy efficiency rating of housing in Australia
- enable collection of data on emissions savings

Re-certification

To ensure certification is still compliant, certification would need to be updated every five years or at change of standards. This could possibly be done through self assessment via online registration or through a qualified assessor.

7.2.2 Disclosure

While mandatory disclosure on its own will not drive improvements in the efficiency of rental housing stock, it is a prudent compliance measure that will assist the implementation of mandatory standards.

Once standards are introduced, lessors are required to affirm compliance in rental advertising or state what exemption exists. Rental ads should include a link to the energy efficiency certification with its star rating and a certification statement should also be included as part of the rental contract.

It would also be ideal if energy efficiency certificates are centrally registered and made publicly accessible, as is the case in the UK.

7.2.3 Compliance timeframe

Landlords should be given a reasonable amount of time to meet the required rating level: long enough to be given time to prepare and meet the standard and not place a burden on trades and supply chains, but short enough to ensure objectives are being met. Milestones such as a new or renewing tenancy and an end date should be included. We propose:

- once regulations are established, there is a 12 month period before they will come into effect
- once in effect, landlords with new or renewing tenancies must comply
- regulations should include a deadline (3 years) after which all relevant properties must be compliant. This ensures that people don't miss out due to their tenancy situation, such as renters on rolling (periodic) tenancies, or those in a long fixed-term tenancy
- following the deadline, landlords would not be allowed to rent out a non-compliant property (as occurs in the UK), and real estate agencies would not be allowed to have a non-compliant property on their books. (This could include a grace period in which a lessor could retrofit a property to meet standards within a short period of establishing a new tenancy.)

Note the compliance timeframe may need to be different for public and community housing, aged care facilities etc.

7.2.4 Auditing

An audit body should be established, to complete random audits as well as reactive audits based upon reports of non-compliance. The rate of audits could be initially high and then decrease over time as compliance rates increase, with the potential to scale up as needed. This would also

provide a way for renters to flag a potentially non-compliant property without having to expose themselves directly to potential retaliation.

This would be particularly important if a self-certification model were adopted instead of an external certification model.

7.2.5 Penalties

To encourage compliance, a framework for minimum rental requirements should include penalties for non-compliance. For example, the New Zealand “Healthy Homes Standards” includes the potential to award exemplary damages of up to \$7200. Effective standards will include penalties that are applied in practice. This will deter landlords from ignoring regulation. Penalties would be particularly important if features-based performance standards were introduced, to encourage greater compliance.

Penalties could apply for various infractions:

- a landlord could be penalised for renting out a non-compliant property
- a landlord could be penalised for failure to comply with disclosure requirements, either through non-disclosure or misleading/inaccurate disclosure
- real estate agencies could be required to ensure that properties on their books are compliant and to disclose certification when advertising, and penalised for failing to do so

Penalties for such infractions could include:

- exemplary damages to deter non-compliance. This could apply to landlords &/or real estate agencies
- financial compensation paid to the affected renters. This could include rent abatement for the period that the property was non-compliant, and tribunal orders for a property owner to rectify a substandard property
- renters have the option to terminate a tenancy for a non-compliant property without penalty and with minimal notice (however, a lease agreement should not be terminated where a property is found to be non-compliant, unless this is sought by the renters)
- loss of tax privileges or subsidies associated with the rental property

In our experience, Tribunals can be reluctant to levy fines even for unambiguous and repeated violations of tenancy law. When compensation is awarded to renters, sums are often tokenistic and not in proportion to the harm suffered. A penalty framework around minimum rental requirements should have minimum penalties with clear triggers for their application.

8. Incentives

8.1 Principles

- Incentives should be targeted and equitable.
- Incentives for privately owned rental properties should be carefully considered and could be more acceptable if they encouraged greater ambition and compliance.
- Financial support will be needed for community housing providers.
- Governments need to budget for upgrades or replacement of stock, enabled through additional funding, so as to ensure there is not a reduction in present or future stock.

8.2 Considerations

Property investors already receive generous tax concessions and incentives as part of owning a rental property, and therefore additional incentives should be carefully considered.

However, governments could introduce incentives (or leverage existing schemes) to support more ambitious standards and encourage compliance. Such incentives should be targeted and equitable and not disproportionately benefit higher income earners.

Options for financial incentives or supports include:

- **A flat rebate or subsidy** (such as [Victoria's subsidy for landlords who install reverse cycle air conditioners](#)). Such a subsidy could decrease over time, incentivising early movers, or landlords that go further faster and avoid a boom in demand in the lead-up to an enforcement deadline.
- **Subsidised finance** (such as [ACT's sustainable household loan scheme](#)). This could be a reduced-interest or no-interest loan. It could also include rates-based financing that ties repayments to the property address, and could, in practice, allow a landlord to shift their compliance cost to a future owner who would also benefit from the investment.
- **Free or subsidised energy assessments and certification.** Governments could subsidise the cost of energy assessments and certification. This would reduce compliance costs and encourage lessors to establish a connection with an expert who knows their property and can advise on suitable retrofits.

9. Renter protections

9.1 Principles

- Compliance mechanisms can not be reliant upon renters and should not place additional responsibility on the renter.
- Financial subsidies should be conditional on limiting rent increases.
- End no cause terminations to prevent retaliatory evictions.
- Renters are better off as a result.

9.2 Consideration

Overwhelmingly, people who rent are better off following the introduction of minimum energy efficiency standards. The ability of landlords' to increase rents is limited by market dynamics, such as vacancy rates and the balance of supply and demand. If anything, energy efficiency standards will make features such as reverse-cycle air conditioning more common in the rental market, reducing the premium they attract.

Nonetheless, jurisdictions should consider measures to smooth the transition and avoid perverse outcomes, especially where financial incentives are provided.

In addition, jurisdictions must protect renters against potential retaliation for self-advocacy around rental standards.

Financial subsidies should be conditional on limiting rent increases

A clear option here is to limit rent increases around the introduction of minimum energy efficiency standards. In particular, this should apply to any rental properties where the owner received a subsidy or financial incentive to reduce their compliance costs. This could be done by restricting the level of rent on the property for two-three years at either a) rent at the time of accepting the grant + CPI or b) an assessed market rent for the property, whichever is lower.

End no-cause terminations to prevent retaliatory evictions

Jurisdictions must also prevent retaliatory evictions by ending no cause terminations (including at the end of a fixed-term tenancy), and requiring a reasonable ground (a good reason) for a tenancy to be terminated. This will help to prevent landlord retaliation against people who report their rental home for non-compliance. It would also protect renters who oppose an excessive rent increase. If minimum standards are to be effective, people who rent must have the option to

pursue remedies and compensation for non-compliant properties or excessive rent increases, and this requires protections against retaliatory eviction.

10. Governance

10.1 Principles

- All jurisdictions legislate mandatory minimum energy efficiency standards by 2025.
- The implementation framework should be as nationally consistent and ambitious as possible to ensure equity and achieve stated objectives, while enabling states and territories who want to go further faster to be able to do so.

10.2 Considerations

Our strong preference is for the implementation framework to be as nationally consistent and ambitious as possible to ensure equity and achieve stated objectives, while enabling states and territories who want to go further faster to be able to do so. The below outlines two potential options for legislating mandatory minimum energy efficiency standards. Phased and staged approaches from property type and standards can be built into all options.

Option A One Framework and separate jurisdictional legislation

A nationally consistent mandatory minimum energy efficiency standard and implementation framework is agreed and developed (this can be done **by a national Agreement between jurisdictions**) and **jurisdictions legislate separately** either as a separate Act like in the UK or through existing Acts like Tenancy Act and Aged Care Act.

Flexibility could be built into the national agreement to accommodate/integrate existing jurisdictional energy efficiency programs and enable states and territories that want to go further faster to be able to do so.

Pros

- The standards would have some degree of national consistency leading to greater ambition, equity and efficiencies.
- If jurisdiction implemented a separate Act rather than amend tenancy legislation etc, it would apply to all relevant rental property classes and not require large and wholesale changes to multiple jurisdictional Acts.

Cons

- jurisdiction would need to provide resources to oversee the legislation, enforce compliance and fund incentives that could have potentially been shared with the Commonwealth or other jurisdictions if a national legislative framework was implemented.

Option B: Jurisdictional flexibility and legislation

Each jurisdiction would choose how to implement minimum energy efficiency requirements for rental properties. Jurisdictions could move at different rates and may choose different approaches with respect to scope, design, staging, certification, compliance, etc.

Pros

- more ambitious jurisdictions could act earlier and go further
- jurisdictions would have more flexibility to adapt to their local context, including the political context
- less need for coordination between jurisdictions

Cons

- some jurisdictions do not implement standards at all, or implement weaker standards that fall short of achieving the objectives
- there are inequitable differences between jurisdictions, creating arbitrary differences in the protections available to people who rent
- each implementing jurisdiction needs to develop resources to oversee the legislation and enforce compliance, potentially wasting resources and avoiding the efficiency of a shared approach.

11. Other

11.1 Consultation, Communications, and Community Education

Consultation

Successful implementation of a national framework of minimum standards whether via Option A or B as set out above will require openness, accountability and public consultation. Consideration should be given to adoption of co-design methodology and/or a citizen assembly model for consultation regarding implementation, alongside current/traditional government consultation practice.

We respectfully acknowledge the traditional owners and custodians of the country on which we live and work. We pay our respects to elders past and present and recognise the right of all First Peoples around the country to self-determination.

Communications

Government should develop, in consultation, clear, accessible communication materials for landlords, real estate agents and renters about what the standards require, who is affected, when changes need to be made and how to access advice and assistance.

For example, governments should utilise contact information for landlords and renters held by government rental bond agencies or authorities in each state and territory where this is available.

Resourcing for community education

Adequate resourcing of non-government agencies including tenant advocacy services and organisations, energy consumer advocates, and other appropriate community organisations, is required to ensure they are able to undertake appropriate community education and outreach with stakeholders to build awareness and understanding of their rights and obligations in relation to introduced minimum energy efficiency standards and the timeframe for implementation.

11.2 Supply chain development

Government should work with industry to undertake and invest in workforce planning and skills training for example for assessors, certifiers, and installers, to ensure adequate capacity to deliver high quality services across the efficiency sector, to create jobs, and to keep workers safe.

Add resourcing, training and accreditation pathways for NatHERS in-home assessors. Workforce currently not developed or on track, but vital to make it work.

Additional effort and resources will be needed to address the limitation of qualified trades in regional and remote areas.

Development of climate zone training material to inform trades on the importance of energy efficiency and how it can be applied to most houses

Through targeted program and/or incentives, governments could kick start supply chain development by:

- co-fund energy efficiency upgrades of all public housing (see for example the [NLEPP proposal](#))
- co-fund upgrade of all community housing (see for example the [NLEPP proposal](#))
- provide first mover incentives for private rental landlords, ideally targeted at the worst performing houses rented to people on low-incomes (see for example the [NLEPP proposal](#))

Appendix:

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Private residential rental	<p>ACT: Residential Tenancies Act 1997</p> <p>NSW: Residential Tenancies Act 2010</p> <p>Northern Territory: Residential Tenancies Act 1999</p> <p>Queensland: Residential Tenancies and Rooming Accommodation Act 2008</p> <p>South Australia: Residential Tenancies Act 1995; Housing Improvement Act 2016</p> <p>Tasmania: Residential Tenancies Act 1997</p> <p>Victoria: Residential Tenancies Act 1997</p> <p>Western Australia: Residential Tenancies Act 1987</p>	<p>NatHERS In Home Assessment:</p> <p>Houses: Available</p> <p>Apartments: Available</p>	Phase 1

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Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Public & community housing	<p>ACT: Residential Tenancies Act 1997 Note: Community housing providers can apply to the Attorney-General for a Residential Tenancies (Crisis Accommodation Provider) Declaration. As such renters are occupants and the standard terms do not apply, as well as many other elements of the RTA</p> <p>NSW: Residential Tenancies Act 2010; Housing Act 2001</p> <p>Northern Territory: Residential Tenancies Act 1999 - noting there are no specific provisions for CH and an exclusion clause for housing provided 'for the use of homeless, unemployed or disadvantaged persons for charitable purposes' (s 6).</p> <p>Queensland: Residential Tenancies and Rooming Accommodation Act 2008</p> <p>South Australia: Residential Tenancies Act 1995; Housing Improvement Act 2016</p> <p>Tasmania: Residential Tenancies Act 1997</p> <p>Victoria: Residential Tenancies Act 1997</p> <p>Western Australia: Residential Tenancies Act 1987</p>	<p>NatHERS In Home Assessment:</p> <p>Houses: Available</p> <p>Apartments: Available</p>	Phase 1

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Boarding and rooming houses	<p>ACT: Boarding and rooming houses - no regulation, although a recent Legislative Assembly Committee has recommended reform. Boarders and lodgers - Residential Tenancies Act 1997, but only as occupants</p> <p>NSW: Registrable Boarding houses - Boarding House Act 2012, Boarders and lodgers - No coverage, reform anticipated coming out of recent statutory review.</p> <p>NT: Residential Tenancies Act 1999 - limited coverage which only applies in certain circumstances.</p> <p>Queensland: Boarding and rooming houses - Residential Tenancies and Rooming Accommodation Act 2008; Boarders and lodgers - common law coverage except for bonds which are covered under tenancy laws</p> <p>South Australia: Residential Tenancies Act 1995; Housing Improvement Act 2016</p> <p>Tasmania: Where owner does not live in premises - Residential Tenancies Act 1997; Where owner lives in premises and less than three rented rooms - no coverage.</p>	Under development, may need to be adapted.	Phase 2

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
	<p>Victoria: Boarding and rooming houses - Residential Tenancies Act 1997; Boarders and lodgers - also RTA but if arrangement not covered by RTA likely covered by the <i>Public Health and Wellbeing Act 2008</i> & <i>Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020</i> e.g. Homestays not considered to be rooming houses</p> <p>Western Australia: None, although the Health (Miscellaneous Provisions) Act 1911 (WA) and related local laws regulate the public health aspect of boarding houses in WA).</p>		
Specialist disability accommodation	<p>ACT: Residential Tenancies Act 1997, but only as occupants</p> <p>NSW: Can be covered by Retirement Villages Act 1999, Boarding Houses Act 2012, or Residential Tenancies Act 2010 depending on the nature of arrangement entered into.</p> <p>Queensland: Residential Tenancies and Rooming Accommodation Act 2008</p> <p>Northern Territory: No specific coverage in RTA.</p> <p>South Australia: Can be covered by Supported Residential</p>	Under development, may need to be adapted.	Phase 2

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
	<p>Facilities Act 1992</p> <p>Tasmania: Residential Tenancies Act 1997</p> <p>Victoria: Specialist Disability Accommodation - Residential Tenancies Act 1997 (Part 12A of RTA – recently inserted across from the Disability Act); Supported Residential Services (Private Proprietors) Act 2010.</p> <p>WA: Residential Tenancies Act 1987,</p> <p>Note: National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020 applies to the providers</p>		

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Residential parks communities, including residential parks, mobile homes	<p>ACT - Residential Tenancies Act 1997, but only as occupants, and also Residential Parks provisions (Part 5B)</p> <p>NSW: Homeowners (rent site) - Residential Land Lease Communities Act 2013; Renters (rent premises and site) - Residential Tenancies Act 2010</p> <p>Northern Territory: Caravan Parks Act 2012</p> <p>Queensland: Residential Tenancies and Rooming Accommodation Act 2008 and the Manufactured Homes (Residential Parkes) Act 2003</p> <p>South Australia: Residential Parks Act 2007; Housing Improvement Act 2016</p> <p>Tasmania: Not covered</p> <p>Victoria: Residential Tenancies Act 1997</p> <p>Western Australia: Residential Parks (Long Stay Tenants) Act</p>	Need to be developed	Phase 2

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
<p>Student accommodation (Premises on the campus of or owned by education institutions)</p>	<p>ACT: Residential Tenancies Act 1997, but only as occupants</p> <p>NSW: Some covered under RTA, but if accommodation on campus or affiliated with the education provider it may be exempt from the RTA. Residents can seek some protections through Australian Consumer Law.</p> <p>Northern Territory: Residential Tenancies Act 1999 but does not include on campus accommodation at Charles Darwin University or student accommodation at boarding schools.</p> <p>Queensland: Bonds only are covered by Residential Tenancies and Rooming Accommodation Act 2008</p> <p>South Australia: Some covered under RTA, but if accommodation on campus or affiliated with the education provider it may be exempt from the RTA. Residents can seek some protections through Australian Consumer Law.</p> <p>Tasmania: Not covered, except a small number of properties under NRAS. These fall under the RTA until NRAS lapses.</p> <p>Victoria: Some covered by the RTA, but if on campus or affiliated with the educational provider it may be exempt from</p>	<p>Under development, may need to be adapted.</p>	<p>For those outside of RTA coverage - Phase 3</p>

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
	<p>the RTA. In those circumstances the agreement is likely to be covered by the PH&W Act & PH&W(Prescribed Accom) Regs and residents can seek some protections through Australian Consumer Law.</p> <p>Western Australia: None, Australian Consumer Law</p>		
Employer provided housing, including Defence Housing	<p>All jurisdictions - relevant Residential Tenancies Act</p> <p>Note: Some special exemptions in Victoria may apply, and generally specific provisions can apply re termination and some variation in practice (though not in legal rights/obligations) regarding repairs and maintenance obligations.</p>	<p>NatHERS In Home Assessment:</p> <p>Houses: Available</p> <p>Apartments: Available</p>	Phase 1

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Retirement villages	<p>ACT: Retirement Villages Act 2012</p> <p>NSW: Retirement Villages Act 1999, though some residents of retirement villages may be tenants and fall under the RTA</p> <p>Northern Territory: Retirement Villages Act 1995</p> <p>Queensland: Retirement Villages Act 1999</p> <p>South Australia: Retirement Villages Act 2016</p> <p>Tasmania: Retirement Villages Act 2004</p> <p>Victoria: Retirement Villages Act 1986 unless run like a Part 4A/moveable dwelling setup then under the RTA</p> <p>Western Australia: Retirement Villages Act 1992</p>	Under development, may need to be adapted.	Phase 2

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Aged care accommodation	All jurisdictions - Aged Care Act 1997 (Commonwealth)	Under development, may need to be adapted.	Phase 2

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Temporary crisis accommodation	<p>ACT: Residential Tenancies Act 1997, but only as occupants</p> <p>NSW: None</p> <p>Northern Territory: None, excluded under s6 RTA.</p> <p>Queensland: Over 13 weeks Residential Tenancies and Rooming Accommodation Act 2008</p> <p>South Australia: None</p> <p>Tasmania: None</p> <p>Victoria: Established under the Housing Act 1983, and would likely need to comply with the Public Health & Wellbeing Act 2008 & Public Health & Wellbeing (Prescribed Accommodation) Regulations 201</p> <p>Western Australia: None</p>	Under development, may need to be adapted.	Phase 3

Renting type	Relevant legislation	Availability of rating tool (NatHERS In Home Assessment)	Implementation phase (Suggested, see Section 5)
Other	<p>Victoria: Public Health & Wellbeing (Prescribed Accommodation) Regulations 2020 provide ‘prescribed accommodation’ includes the below, so would capture most accommodation types if not covered under other laws:</p> <ul style="list-style-type: none"> (a) residential accommodation; (b) hotels and motels; (c) hostels; (d) student dormitories; (e) holiday camps; (f) rooming houses. 		