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Environment, Planning and Sustainable Development Directorate
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Via email: EPSDDComms@act.gov.au

Submission: Minimum energy efficiency standards for rental homes in the ACT consultation paper

The ACT Council of Social Service (ACTCOSS) welcomes the opportunity to respond to the consultation paper on minimum energy efficiency standards for rental homes in the ACT.¹ This submission outlines our view of why the establishment of minimum standards is an important social justice measure and provides our responses to each of the issues raised in the consultation paper: the proposed standard; support for introduction of the standard; implementation issues; and evaluation and review.

In summary, our submission:

- supports the initial adoption of a ceiling insulation standard of R2 as a bare minimum
- recommends that the ACT Government include complementary measures as part of the initial regulation
- recommends that the ACT Government provide a clear pathway to a more ambitious minimum standard over the next 5-10 years that includes:
 - Gradually raising the minimum ceiling insulation standard
 - Adding energy efficient electric heating and/or reverse-cycle air conditioning

¹ Environment, Planning and Sustainable Development Directorate, [Consultation paper: minimum energy efficiency standards for rental homes in the ACT](#) [pdf], ACT Government, Canberra, 2021, accessed 16 December 2021.

- Adding energy efficient electric hot water
- Further consideration of a performance-based standard
- recommends tailoring financial supports for rental providers through the Vulnerable Household Energy Support Scheme and the Sustainable Household Scheme which recognises rental providers' contributions to social benefit through the provision of affordable housing
- recommends ACT Government take an active approach to safety, quality assurance, and monitoring and enforcement
- suggests a range of evaluation and review options to track progress towards compliance and the impact of the regulation.

About ACTCOSS

ACTCOSS advocates for social justice in the ACT and represents not-for-profit community organisations. In partnership with Care, ACTCOSS leads the ACT Energised Consumers Project which is co-funded by Energy Consumers Australia (ECA) and the ACT Government. Through this project ACTCOSS advocates for residential, not-for-profit, and small business energy consumers in the ACT. Through this project, ACTCOSS also advocates for a just transition to net zero greenhouse gas emissions in the ACT and fair and just outcomes for low-income households in relation to energy more broadly. ACTCOSS is also a [Healthy Homes for Renters](#) campaign partner, supporting the national call for legally enforceable energy efficiency standards that require property investors to make their rental properties safe.

Minimum energy efficiency standards for rental homes and social justice

ACTCOSS welcomes this initial step by the ACT Government in delivering on its commitments in the [ACT Climate Change Strategy 2019-25](#) and in the [2020 Parliamentary and Governing Agreement](#) to:

- by 2021, introduce legislation for staged minimum energy performance requirements for rental properties to come into force in 2022–23; and
- implement a five-year, \$50 million program to improve building efficiency and sustainability for social and public housing, low-income owner-occupiers, and the lowest performing rental properties; this includes upgrades to government housing, and financial incentives to implement minimum energy efficiency standards in rental properties.

ACTCOSS has long advocated for the introduction of minimum energy efficiency standards, including when they were proposed a decade ago under the Residential Tenancies (Minimum Housing Standards) Amendment Bill 2011.² As we noted then:

Poor property standards without appropriate energy efficiency can result in crippling bills, discomfort and often health related problems – especially in cold jurisdictions such as Canberra. The most inefficient properties are likely to be the properties rented by people on limited incomes, who have the least capacity to pay for higher ongoing energy costs.³

Establishing minimum energy efficiency standards for rental homes in the ACT is an important social justice measure. It addresses a market failure and a power imbalance that results in inequitable social, economic and health outcomes for over one-third of Canberra's households who rent their home. Adequate minimum energy efficiency standards will contribute to improved individual and household wellbeing by reducing energy costs and financial stress and by improving thermal comfort and health outcomes. These standards will also contribute to community wellbeing by reducing greenhouse gas emissions and enhancing climate resilience.

Rental households in Canberra are paying the highest house and unit rents of any Australian capital city, and the ACT has the highest rate of low-income private rental households experiencing rental stress at 73%.⁴ In March 2021, Anglicare Australia's Rental Affordability Snapshot found that out of 1,002 private rental properties advertised in Canberra none were affordable for households on working-age social security payments such as JobSeeker, Youth Allowance, and the Disability Support Pension. An extremely small proportion were affordable for households receiving the age pension or on the minimum wage.⁵ In November 2021, the Rental Affordability Index found that Canberra is the least affordable city for low-income renters, being extremely or severely unaffordable for a person on JobSeeker Payment, an age pensioner, a part-time worker parent on benefits, and a hospitality worker.⁶

ACT's rental households have been hit hardest by rising housing and energy costs. Over the past five years Canberra rents have increased by 10%, while electricity and

² See ACTCOSS, [Submission: Residential Tenancies \(Minimum Housing Standards\) Amendment Bill 2011](#), ACTCOSS, Canberra, 2011, accessed 14 December 2021.

³ ACTCOSS, *Submission: Residential Tenancies (Minimum Housing Standards) Amendment Bill 2011*, p. 3.

⁴ ACTCOSS, [2021 ACT Cost of Living Report](#), ACTCOSS, 2021, accessed 14 December 2021.

⁵ Anglicare NSW South, NSW West and ACT, [Anglicare Research: Rental Affordability forcing more Canberrans into financial hardship](#) [media release], Anglicare NSW South, NSW West and ACT, 29 April 2021, accessed 22 June 2021.

⁶ SGS Economics and Planning, [Rental Affordability Index: November 2021 key findings](#) [pdf], SGS Economics and Planning, Canberra, 2021, accessed 14 December 2021.

gas prices have increased by 28% and 26% respectively.⁷ In 2021-22 regulated retail electricity prices for the average ACT household will increase by almost 12%.⁸ The ACT is the only jurisdiction where electricity prices are forecast to increase in the period from 2020-21 to 2023-24.⁹ The 2021 Energy Consumer Sentiment Survey found that electricity (65%) and housing costs (57%) were the two most concerning costs for ACT households, while the national figures show that electricity (72%) and housing costs (64%) were far more concerning for renters than for households with a mortgage (55% and 33%).¹⁰

The 2018 ACT Longitudinal Survey on Climate Change found that low financial resilience was most common among rental households (33%).¹¹ The survey also found that more than one-third of ACT region residents (35.9%) live in homes that perform poorly in heatwaves: they heat up quickly, cool down slowly, and high costs are incurred to cool them during extended heatwaves.¹² Among these households, 'renters were more likely than those with mortgages or who owned their home outright to report experiencing all heatwave-related health and social problems' – overall, rental households were found to have the lowest resilience to heatwaves.¹³

Research by Better Renting has found:

- two in five rental properties in the ACT are advertised with the lowest energy-efficiency rating¹⁴

⁷ ACTCOSS, *2021 ACT Cost of Living Report*.

⁸ Independent Competition and Regulatory Commission (ICRC), [Retail electricity price recalibration 2021–22: standing offer prices for the supply of electricity to small customers](#), Report 11 of 2021, ICRC, 2021, accessed 12 July 2021.

⁹ Australian Energy Market Commission, [2021 Residential electricity price trends report](#), AEMC, Sydney, 2021, accessed 14 December 2021.

¹⁰ Energy Consumers Australia, [Sentiment Survey December 2021](#), Energy Consumer Sentiment & Behaviour Surveys, Sentiment Survey December 2021, ECA website, accessed 14 December 2021.

¹¹ J Schirmer & B Yabsley, [Living well with a changing climate: findings of the 2018 ACT Longitudinal Survey on Climate Change](#) [pdf], Health Research Institute, University of Canberra, Canberra, July 2018, p. 33, accessed 14 December 2021.

¹² Schirmer & Yabsley, *Living well with a changing climate: findings of the 2018 ACT Longitudinal Survey on Climate Change*, p. 49.

¹³ Schirmer & Yabsley, *Living well with a changing climate: findings of the 2018 ACT Longitudinal Survey on Climate Change*, p. 50.

¹⁴ Better Renting, [Baby it's cold inside: energy efficiency ratings in the ACT](#), Better Renting, Canberra, 2019, accessed 14 December 2021.

- inefficient rental properties deny ACT renters annual benefits worth almost \$40 million¹⁵
- around 40 deaths per year in the ACT can be attributed to cold homes.¹⁶

Minimum energy efficiency standards for rental homes clearly have a critical role to play in reducing inequality and improving wellbeing in our community through better social, economic and health outcomes for rental households.

Proposed standard

The ACT Government is proposing the following as an initial minimum energy efficiency standard for rental homes in the ACT:

Rental homes with less than R2 ceiling insulation are required to install or upgrade to a minimum of R5.

ACTCOSS supports the initial adoption of a ceiling insulation standard, with R2 being the bare minimum.¹⁷

We recommend that the ACT Government include complementary measures as part of the initial regulation (e.g., requiring draught proofing and/or curtain hanging where needed).

The ACT Government is well-positioned to support the delivery of these complementary measures at low or no cost and in partnership with not-for-profit community organisations through the extension of existing Actsmart programs such as the Low-Income Household Program (delivered by St Vincent de Paul Canberra/Goulburn) and the Renters' Home Energy Assessments (delivered by Australian Energy Foundation).

We welcome the ACT Government's emphasis that the R2 ceiling insulation standard is being proposed as an **initial** minimum energy efficiency standard. ACTCOSS recommends that the regulation provides a clear indication of, and demonstrates a greater ambition for, the further development of the minimum standard over the next 5-10 years. We recommend that the ACT Government sets out a pathway that includes:

¹⁵ Better Renting, [Frozen out: the burden of energy deficiency on people who rent](#), Better Renting, Canberra, 2018, accessed 14 December 2021.

¹⁶ Better Renting, [Unsafe as houses: cold-housing deaths in the ACT](#), Better Renting, Canberra, 2019, accessed 14 December 2021.

¹⁷ ACIL Allen's Regulatory Impact Statement notes that: 'The R-value of ceiling insulation is a measure of the ability of insulation to resist heat flow. R5 is a grade of roof insulation commonly used in new builds and considered a cost-effective option in the Canberra climate'.

- Gradually raising the minimum ceiling insulation standard to R3 and R4 over time and/or gradually adjusting a threshold based on the year of a home's construction (as proposed in the submission by Better Renting)
- Adding energy efficient electric heating and/or reverse-cycle air conditioning to the minimum energy efficiency standard
- Adding energy efficient electric hot water to the minimum energy efficiency standard
- Further consideration of a performance-based standard informed by the ACT trial of the Victorian/National Residential Scorecard.

Supporting the transition of rental homes to energy efficient electric heating/cooling and hot water will be a critical task under the ACT Government's commitment to phase out fossil-fuel gas. Renters are among those most at risk of being stranded on an increasingly expensive gas network through this transition.

We would be keen to see the addition of energy efficient heating/cooling to the minimum standard by 1 July 2025. The Regulatory Impact Statement did not assess the combined impact of having both a ceiling insulation and heater standard. We would expect that combining ceiling insulation, draught-proofing, and heating in a minimum standard would result in significant synergy, producing a greater impact in combination than that found when assessing them separately.

Support for introduction of the standard

ACTCOSS has welcomed the ACT Government's commitment to support the introduction of minimum energy efficiency standards for rental properties by allocating \$50m over five years for the Vulnerable Household Energy Support Scheme (VHESS).

We recommend that the ACT Government:

- design the VHESS in consultation with key stakeholders, including tenant and community advocates, social housing providers, and private rental sector representatives
- conduct an energy efficiency audit of all social housing stock in the ACT to identify which properties do not meet minimum energy efficiency standards
- apply VHESS funds to ensure that all Housing ACT social housing stock meets the minimum standard
- give Housing ACT responsibility for ensuring housing managed by community housing providers under a head lease meets the minimum standard

- that beyond supporting upgrades to Housing ACT's social housing stock, the VHESS should:
 - be targeted at addressing the need for energy efficiency improvements in community housing, private rental, and low-income owner-occupied dwellings
 - provide funding to community housing providers to meet minimum standards
 - restrict private rental provider eligibility for funding to those participating in the affordable community housing land tax exemption scheme
 - provide a partial rebate and access to zero-interest loans to private rental providers who can demonstrate financial hardship and/or are charging rent below a designated affordability threshold
 - in the absence of a minimum heater standard, provide rebates and/or zero-interest loans to tenants to upgrade to more energy efficient portable heating appliances
- focus on providing financing rather than grant funding for those private rental providers who are not providing affordable housing – this could be achieved by actively encouraging private rental providers to apply to the Sustainable Household Scheme to access zero-interest loans for energy efficiency improvements for private rental properties.

Overall, any financial support for rental providers should recognise and reflect the social benefit contributed by community and affordable housing providers by providing funding or partial rebates combined with zero-interest loans. Support provided to private rental providers through either the VHESS or the Sustainable Household Scheme should be conditional upon agreement not to increase rent and not to pursue a no-cause eviction within a designated period (e.g., 12 months). Care needs to be taken to avoid any loss of security or affordability for tenants.

ACTCOSS is keen to maximise energy efficiency improvement benefits delivered to renters by linking with and building upon existing supports for low-income and otherwise vulnerable households. These include:

- Low Income Household Program (delivered by St Vincent de Paul)
- Solar for Low Income Program
- Renters' Home Energy Assessments
- Energy Efficiency Improvement Scheme (which includes a priority household target)
- a forthcoming co-governed energy literacy and education program with the community sector.

Implementation issues

Exemptions

The consultation paper states that:

the proposed regulation will not apply to lower floor units in apartment blocks, where it is usually not physically feasible to install ceiling insulation and where upper units effectively provide insulation from outside temperatures.¹⁸

Any additional reasons for exemption – e.g., installation of ceiling insulation is not financially viable or physically impossible – should be specific and limited, with onus on the rental provider to apply for an exemption and providing proof they qualify. We support a temporary exemption where a tenant objects to work being undertaken with the exemption lapsing when that tenant vacates the property or otherwise consents to work being undertaken.

Where an exemption exists due to financial cost or physical structure, we support the view shared with us by St Vincent de Paul Canberra/Goulburn, that other options should be explored to improve the energy efficiency and thermal comfort of the rental home through alternative measures such as floor or wall insulation or energy efficient electric heating.

Compliance

ACTCOSS supports a phase-in period for rental providers to comply with the minimum standard that balances the need for a timely roll out with industry capacity and the need to ensure safety and quality. As a Healthy Homes for Renters campaign partner, we recently signed on to a national call for all rental properties to meet basic minimum energy efficiency standards by 2025.¹⁹ In line with this call, we agree with the view presented by Better Renting in their submission that a phase-in period of around three years would be sufficient, with the initial regulation to come into effect from 1 July 2022 and compliance to be required by 1 July 2025.

Complementary measures

As noted above, we recommend that the ACT Government include complementary measures as part of the initial regulation we see the ACT Government as being well-placed to deliver complimentary measures through existing programs, in partnership with not-for-profit community organisations.

¹⁸ EPSDD, *Consultation paper: minimum energy efficiency standards for rental homes in the ACT*, p. 11.

¹⁹ <https://www.healthyhomes.org.au/news/open-letter-minimum-standards>

Safety measures

It is critical to ensure that the introduction of the initial ceiling insulation standard is safe for all involved, especially for installers and tenants. We support the ACT Government's proposal to manage safety risks by:

- coordinating with CIT and relevant industry organisations to provide training and accreditation for insulation installers
- requiring similar safety standards as to those put in place for insulation installation activities under the Energy Efficiency Improvement Scheme (EEIS)
- tying any financial assistance to using accredited installers and the required safety standards
- an education campaign to discourage "DIY" installation
- allowing sufficient time for implementation so as not to put excessive capacity demand on the industry.
- commissioning independent audits of insulation installations completed under the regulation
- maintaining a list of products that have been verified to meet the current version of the relevant Australian Standard
- maintaining a list of companies that are pre-approved to retrofit insulation.

ACTCOSS strongly recommends that "DIY" or use of unaccredited installers in rental properties be disallowed under the regulation. Installation of ceiling insulation to meet the minimum standard should only be undertaken by accredited installers using an accredited product, with appropriate training and safety measures in place.

While "DIY" installation of complementary measures such as draught sealing and curtain hanging comes with significantly less risk of injury, death, or property damage, we recommend education tools and support programs be available to rental providers and tenants.

Quality assurance

In discussions with staff from St Vincent de Paul's Home Energy Efficiency Program, the following quality assurance measures were identified which ACTCOSS would also recommend:

- accredited service providers
- proof of installation from accredited service providers including:

- certificate confirming installation date
- photographic evidence of installation
- penalties for service providers failing in their compliance
- randomised, independent auditing throughout installation phase.

Monitoring and enforcement

It will be impossible for tenants to determine whether their current or prospective rental home meets the minimum ceiling insulation standard, and the onus should certainly not be on them to do so. ACTCOSS would welcome both of the following measures presented in the consultation paper:

- incorporating compliance with the minimum standard into the Standard Tenancy Terms in Schedule 1 of the Residential Tenancies Act such that it becomes a condition of the tenancy agreement. This would place a positive obligation on the rental provider to ensure the property meets the standard and, on the tenant, to report anything that requires maintenance or repair; and
- mandatory disclosure statements by the rental provider could be required in rental advertisements and to be provided to the tenant before a tenancy agreement begins to indicate whether the property meets the minimum standard, or if there is a valid exemption.

The ACT Government's preference is to take a 'light-handed' approach to monitoring and enforcing compliance to the regulation in the first instance. ACTCOSS recommends the ACT Government take a more active approach from the outset which would include:

- education and awareness raising for rental providers of the minimum standard and their responsibilities (and for tenants of their rights)
- establishing a system to record ACT rental properties, rental providers, and their compliance with (or exemption from) the minimum standard
- random audits to assess compliance
- financial penalties for non-compliance – ensuring that these are higher than the cost of compliance and recurring (e.g., every 6-12 months) until compliance is achieved.

As proposed by Better Renting, Access Canberra could be enabled through funding and legislation to support monitoring and enforcement of compliance through the keeping and checking of rental property records.

Evaluation and review

To track progress towards compliance and the impact of the regulation, we suggest that the ACT Government's evaluation and review could include:

- tracking of the number of compliant and non-compliant rental homes over time – in comparison to the known or estimated number of non-compliant rental homes prior to commencement of the regulation
- tracking of demand for ceiling insulation installation over time – checking against industry capacity and progress towards compliance deadline
- regular reporting on safety and quality over course of the phase-in period
- an additional action under the goal 3 of the ACT Housing Strategy aimed at achieving minimum energy efficiency standards in all social housing and report annually on progress against this – to provide a baseline against which to measure progress, the ACT Government should fund an energy efficiency audit of all social housing stock in the ACT to identify which properties currently meet or exceed minimum standards and which do not
- tracking private rental providers' uptake of financial support to meet the minimum standard through the VHESS and Sustainable Household Scheme
- monitoring impact on tenant's energy bills – before and after minimum standard was met, plus comparison to energy bills for tenants in properties with R2-R4 insulation
- surveys of tenants regarding their thermal comfort, health status, energy usage, and energy costs – before and after minimum standard was met
- National Residential Scorecard assessments of sample of rental homes – before and after minimum standard was met
- monitoring impact on rental prices – before, during, and after phase-in period for compliance (noting challenge of identifying causation) – using rental bond data linked to compliance data
- assessment of the distributional impact and social equity outcomes of minimum standards, focusing on low-income rental households as well as other key demographic characteristics where possible
- assessment of contributions to improved individual, household, and community outcomes against relevant ACT Wellbeing Framework indicators.

Further engagement and development

ACTCOSS welcomes the ACT Government's proposed initial minimum energy efficiency standard based on a ceiling insulation option, but this needs to be accompanied by complementary measures and a pathway to a more ambitious minimum standards in the next 5-10 years.

The establishment of adequate minimum energy efficiency standards for rental homes is an important social justice measure that will help to reduce inequality and improve wellbeing in our community. In assessing the effectiveness of this and any future regulation, greater importance needs to be placed on the distributional and non-monetary impacts of existing and proposed minimum energy efficiency standards. This must include analysis of the impacts across household income levels. Low-income households spend a much greater proportion of their incomes on housing and energy costs than higher income households. As a result, changes in housing and energy costs will have a disproportionate impact on these households which can either reduce or exacerbate inequality in our community.

ACTCOSS is keen to continue engage with the ACT Government and other stakeholders to guide the implementation, monitoring, evaluation, and further development of minimum energy efficiency standards for rental homes in the ACT. If you would like to follow up on any of the issues raised in this submission, please contact Mr Geoff Buchanan, Senior Policy Officer, ACTCOSS on 0415 082 701 or geoff.buchanan@actcoss.org.au

Thank you for considering our feedback on this important issue.

Yours sincerely,

A handwritten signature in black ink that reads "Emma Campbell." The signature is written in a cursive, flowing style.

Dr Emma Campbell
CEO

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