



ENERGETIC COMMUNITIES
SOWING A COMMON THREAD

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Stage 2 Rental Law Reform Submission

We Need Energy Efficiency in Rental Properties.

Introduction

We are writing to ask the Queensland Government to address the current imbalance of power and agency between tenants and the owners and managers of their homes, to improve rental protections, and join other states in introducing mandatory energy efficiency minimum standards and disclosure into rental tenancy regulations as part of its reforms to the Residential Tenancy and Rooming Accommodation Act (2008) (RTRAA). It was made clear at the recent Energy Efficiency Council annual conference that there is significant support from government, industry, and household sectors for improving equity in housing and energy, especially as education and incentives are proving inadequate. Energy efficiency is a real opportunity to improve people's homes, affordability, and action on climate change! Renters should be able to access these opportunities too. Mandating energy efficiency minimum standards and disclosure is increasingly seen as the only realistic option to get over the reality of the private residential housing market.

Renters are currently missing out on energy efficiency opportunities, paying too much for electricity in often poor-quality homes, and lack practical rental protections and therefore the agency to ensure the rights they do have are acted on. There may in theory be opportunities to improve homes, but in reality renters are increasingly less likely to assert their rights for fear of eviction (including via fixed term leases not being renewed), or exorbitant rent increases (in the absence of caps on rental increases).

Over a third of Queenslanders rent and many people are renting for longer. Renters often face higher relative energy costs to run their homes. Furthermore, many rental households are low-income households and often forced to rent poorer quality homes, particularly in remote and Indigenous communities, yet current rental laws mean renters have no power to improve their homes.

Energy efficiency can also improve resilience to heatwaves of residential buildings. Heatwaves are predicted to become the leading cause of death in Queensland this century, but unlike fire and flood, there is no statewide disaster plan for them. Previously published research from Macquarie University linked 354 deaths in Australia to heatwave conditions between 2001 and 2018.¹

It is often suggested that regulation impacts both rental prices and leads to property investors leaving the market, reducing rental housing availability. As noted in the consultation paper, research published by the Australian Housing and Urban Research Institute in November 2022 however, found little evidence that residential tenancy law has impacted investment in private rental housing.² This argument should clearly be removed from the narrative unless evidence is provided, and we encourage the Queensland Government to actively present this conclusion when confronted with this disinformation. As AHURI concludes, "the agenda should centre housing rights and reject the disinvestment threat: if landlords were to leave the sector because they cannot meet standards, it is a good outcome",³ and may create a low cost home for home ownership for someone else to invest the labor to improve its condition.

¹ <https://www.sciencedirect.com/science/article/pii/S2212420921006324>

² <https://www.ahuri.edu.au/research/final-reports/391>

³ <https://www.ahuri.edu.au/sites/default/files/documents/2022-11/Executive-Summary-FR391-Regulation-of-residential-tenancies-and-impacts-on-investment.pdf>

While this submission focuses on mandatory energy efficiency minimum standards and disclosure into rental tenancy regulations, Energetic Communities Association strongly endorses the submissions of both Tenants Queensland⁴ and Make Renting Fair Queensland,⁵ of which we are a supporting organisation.

Key Recommendations:

Recommendation 1: The Queensland Government implement mandatory energy efficiency minimum standards and disclosure into rental tenancy regulations as part of its reforms to the Residential Tenancy and Rooming Accommodation Act (2008) (RTRAA).

Recommendation 2: The Queensland Government initially implements features based mandatory energy efficiency minimum standards, with a view to continual improvement to performance based mandatory energy efficiency minimum standards.

Recommendation 3: The Queensland Government bases mandatory energy efficiency minimum standards and disclosure on the Community Sector Blueprint.

Recommendation 4: Class the temperature range of a home due to its energy efficiency as a safety and wellbeing issue.

Recommendation 5: Allow minor modifications to include reasonable energy efficiency upgrades, such as insulation, shading, draft reduction, and efficient fixed appliances (at time of replacement).

Recommendation 6: Implement financial or other mechanisms for landlords to undertake energy efficiency upgrades.

Recommendation 7: Mandatory disclosure should initially be at the point of advertisement, and later also included in the condition report and lease agreement.

Recommendation 8: Introduce rent caps limited to CPI regardless of the number of annual rent increases.

Recommendation 9: Undertake significant renters rights education program (for tenants and landlords).

Recommendation 10: Remove end of a fixed term agreement as a reason for property managers to evict tenants without cause.

Recommendation 11: Landlords and agents should be required to go to court to tarnish the tenant's record and justify their reason for the request.

Stage One Rental Reforms

The Stage One rental reforms in 2019 acknowledged the role energy efficiency plays in housing and energy affordability, health and emission reduction, yet we are still waiting for the Queensland government to provide an equal playing field. The reasons previously given for rejecting mandatory energy efficiency minimum standards and disclosure do not stand up to scrutiny. Community expectations have also changed to increasingly support equity, affordable homes for all, improved agency of tenants, improved climate resilience of everybody's home, and mandatory energy efficiency minimum standards and disclosure.

The main reason given for excluding mandatory efficiency minimum standards with disclosure was that “the cost of re-engineering older dwellings may be significantly greater than the cost of integrating energy efficient features at the design stage in new constructions...”, and “Requiring existing rental properties to meet current new dwelling standards may therefore be cost-prohibitive for rental property owners.” Energetic Communities is unaware of any justification for comparing costs to National Construction Code standards. Few, if any, submissions were recommending “existing rental properties to meet current new dwelling standards”. Other options exist, including setting a performance standard lower than that for new homes, such as 5-star for example, or requiring features-based standards, such as insulation. That is, improvements do not have to be cost prohibitive.

Furthermore, homes do not necessarily need to be “re-engineered”, only upgraded (acknowledging some may need significant upgrades). Immediacy and priority should be given for the lowest rating homes, such as those up

⁴ <https://tenantsqld.org.au/initial-response-to-the-queensland-governments-stage-two-rental-reform-consultation-paper-april-2023/>

⁵ <https://makerentingfairqld.org.au/>

to a 2-star NatHERs rating. The cost of upgrading old dwellings should not leave renters living in poorer quality homes, especially if many of these poorer quality homes are rented by lower income families and tenants.

The Decision Regulatory Impact Statement (DRIS) for Stage 1 acknowledges the role of weatherproofing and sealing gaps and drafts for example, including 25 per cent of heat loss or gain in a property, minimising the requirements for air conditioning and climate control, cost savings on household utilities, as well as environmental benefit through reduced greenhouse gas emissions. The DRIS further acknowledges the role of window coverings to improve climate control and energy efficiency (reducing reliance on active heating and cooling, reducing wear and tear, and with up to 40 per cent of a home's heating energy being lost through windows, contributing to lower utility bills and improving the overall comfort of the rental property).

These measures alone could be introduced as minimum standards for providing a comfortable and affordable home. The RTRAA could be amended to require property managers to justify refusal for such energy efficiency upgrades by tenants themselves. Some landlords suggest that only qualified tradespeople should be used for such work. It is unfair for them to demand this if they themselves don't need to abide by the same standards of installation. As such, laws could be implemented to allow tenants to take affirmative action, often improving the properties livability.

Mandatory Energy Efficiency Standards

Recommendation 1: The Queensland Government implement mandatory energy efficiency minimum standards and disclosure into rental tenancy regulations as part of its reforms to the Residential Tenancy and Rooming Accommodation Act (2008) (RTRAA).

Recommendation 2: The Queensland Government initially implements features based mandatory energy efficiency minimum standards, with a view to continual improvement to performance based mandatory energy efficiency minimum standards.

Queensland needs to catch up with other states and countries and mandate energy efficiency in rental properties, like they do in the ACT, Vic, NZ and the UK (where the poorest quality homes are not allowed to be rented out). Mandatory energy efficiency standards could be a whole of home performance-based standards (e.g., 5-star homes), or specific features-based standards (e.g., insulation or draught sealing). From a holistic sustainability, equity, health and affordability point of view, Energetic Communities supports a performance-based energy efficiency minimum standard of 5 stars. We do nonetheless encourage the Queensland government to start with features, such as insulation, which will of course contribute to performance standards. Beyond providing privacy, simple features like window shading can provide energy efficiency and thermal comfort and reduce air conditioner use.

Renew⁶ analysed the annual cost of cooling and heating a 50m² living space in a typical Brisbane rental home with and without insulation (Figure 1), clearly demonstrating what renters are currently missing out on with this simple measure (insulation was assumed to increase NatHERs ratings from 1 Star to 3.5 Stars). This is using today's electricity prices, meaning that future expected higher electricity prices would exacerbate the impact. Requiring insulation as a minimum standard was found to save Brisbane renters around \$450 a year on energy bills. Rising energy prices mean that insulation was found to save Brisbane renters \$545 a year on cooling and heating costs from July 2023.

We ask the Queensland government to include energy efficiency minimum standards provisions in regulations to the Residential Tenancy and Rooming Accommodation Act (2008) to:

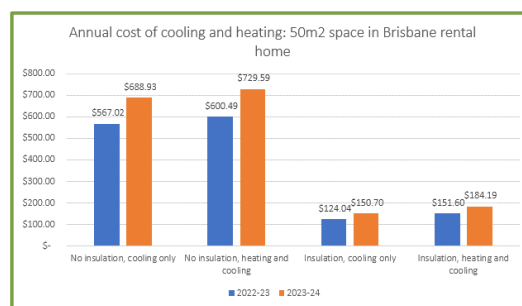


Figure 1: Impact of energy efficiency upgrades in a rental home (impacts that renters currently miss out on).

⁶ Personal communication.

- initially require the energy efficiency features of a home to be disclosed at the point of advertisement, and eventually that the energy efficiency rating be disclosed on Entry Condition Reports;
- require lessors to consent to energy performance improvements to the property if there is no cost to them;
- initially introduce energy efficiency features, such as insulation, shading and reducing gaps and drafts; and
- eventually implementing performance-based standards, raising homes to a minimum 4-star rating.

We congratulate the Queensland Government for including energy efficiency actions under the Queensland Energy and Jobs Plan,⁷ but those actions alone are inadequate, and likely to only assist around 2000 of Queensland's 632,000⁸ rental households. This is not simply an issue that can be addressed through education. There are no price signals, incentives, or requirement on landlords to raise the standard of their properties. Owner-occupiers have a clear financial incentive over time to invest in energy efficiency improvements due to reduced energy bills, whereas there is not a similar direct incentive to drive the behaviour of landlords to support tenants' wellbeing. Further, many householders have competing priorities and motivations when finding a home, more so for renters with less agency and opportunities. This is exacerbated by an average tenure of around 13 months, and therefore the need to regularly find a new home, sometimes within 6 or 12 months. Finding an affordable rental, or a rental in your existing community are examples. Energy efficiency minimum standards and disclosure need to be mandated and systematic to work effectively and fairly.

Furthermore, landlords usually don't undertake energy efficiency upgrades, even if funded, and even if it's of no cost to themselves. This has been the experience in NSW, Vic and QLD. The NSW Home Power Savings Program cited by QCOSS, for example, showed that only 10 percent of private landlords gave permission for small improvements such as free efficient showerheads and draught strips to be installed under the program.⁹ At a landlord focus group conducted by Energetic Communities in early May 2023, the reasons given by the sample group of landlords was that to reduce any additional investment (time or money) they put into the property, many only respond to mandatory upgrades and direct requests for repairs.

Regulating mandatory energy efficiency minimum standards and disclosure is therefore required.

Community Sector Blueprint

Recommendation 3: The Queensland Government bases mandatory energy efficiency minimum standards and disclosure on the Community Sector Blueprint.

The Community Sector Blueprint (the blueprint),¹⁰ is in response to the Victorian government leading a process to develop a National Framework for Minimum Energy Efficiency Requirements. The blueprint provides an outline of key characteristics that should be present in state-based mandatory energy efficiency minimum standards and disclosure as part of the Trajectory for Low Energy Buildings, to which the Queensland Government has signed up to. The blueprint offers implementation suggestions for policy and program design and principles.

Poor quality homes

Recommendation 4: Class the temperature range of a home due to its energy efficiency as a safety and wellbeing issue.

Recommendation 5: Allow minor modifications to include reasonable energy efficiency upgrades, such as insulation, shading, draft reduction, and efficient fixed appliances (at time of replacement).

⁷ <https://www.epw.qld.gov.au/energyandjobsplan>

⁸ <https://profile.id.com.au/australia/tenure?WebID=120>

⁹ <https://www.qcoss.org.au/wp-content/uploads/2019/05/QCOSS-Choice-and-Control-the-experience-of-renters-in-the-energy-market.pdf>

¹⁰

<https://static1.squarespace.com/static/602f0d14c4c0a77efc25e152/t/638400e8ae6155000101c616/1669595383325/Final+Community+Sector+Blueprint+-+Mandatory+Minimum+Rental+Standards.pdf>

Renters often live in the poorest quality homes, yet have the least agency to improve their home. The failure to include mandatory energy efficiency minimum standards and disclosure in these reforms will mean many rental properties will remain way too hot to be healthy in summer¹¹ and too cold in winter.¹²

The temperature range of a home due to its energy efficiency needs to be classed as a safety and wellbeing issue. The temperature of people's homes being too hot or too cold can cause health problems,¹³ and this can be worse in poorer quality homes, often rented by lower income households.

While the cost to owners and risk of damage were often cited in stage 1 rental reforms as an impact of such measures, not allowing such upgrades transfers health and financial costs onto tenants. The health and wellbeing of tenants should take precedence over the return of investment to property owners. Housing is an essential service. If investors cannot supply adequate quality housing, they should leave the market.

Support for upgrades

Recommendation 6: Implement financial or other mechanisms for landlords to undertake energy efficiency upgrades.

Minimum standards and disclosure may be supported by co-beneficial programs such as grants or other support for home retrofits, improving the outcomes of some existing announcements at the state and federal levels, that are likely to remain ineffective for renters without landlords being mandated to take action. Victoria for example, has implemented direct grants for low-income households through the Home Heating and Cooling Upgrades program to support its mandated minimum standards for heaters.

Property investors will soon be able to access low-cost finance through the federal government's *new Household Energy Upgrades Fund*¹⁴ announced in the recent federal budget, as well as some limited actions under the Queensland Government's Energy and Jobs Plan, which will only help with education, maybe some appliances, but not the energy efficiency or thermal comfort of the home itself. Property owners are unlikely to take up these opportunities, however, without mandatory energy efficiency minimum standards.

We ask the Queensland Government to review the QCROSS implementation framework in their Shifting Power¹⁵ report to ensure property owners have the time and support to implement these changes.

Significant upgrades of the poorest quality homes are needed. This will only occur if the regulations are updated to mandate energy efficiency minimum standards and disclosure of rental properties.

Mandatory Disclosure

Recommendation 7: Mandatory disclosure should initially be at the point of advertisement, and later also included in the condition report and lease agreement.

Renters should be able to know the efficiency rating or features of any house they're applying for or even already rent in, and that this should be as easy and clear as knowing the efficiency rating of their fridge. Even renters who may be in a position to choose a higher-performing home typically do not receive information such as energy ratings. Without effective consumer labelling requirements on the energy performance of homes for lease, renters can't know what impacts will be like on their bills, comfort or health.

¹¹ https://www.betterrenting.org.au/renter_researchers_summer_23

¹² <https://www.abc.net.au/news/2022-06-01/how-to-keep-brisbane-queenslander-home-warm-during-winter/101113820>

¹³

<https://www.energy.gov.au/sites/default/files/BEET%2010%20Minimum%20Energy%20Standards%20for%20Rented%20Properties%20-%20An%20International%20Review.pdf>

¹⁴ [https://budget.gov.au/content/01-col-](https://budget.gov.au/content/01-col-relief.htm#:~:text=Household%20Energy%20Upgrades%20Fund,housing%20to%20improve%20energy%20performance.)

[relief.htm#:~:text=Household%20Energy%20Upgrades%20Fund,housing%20to%20improve%20energy%20performance.](https://budget.gov.au/content/01-col-relief.htm#:~:text=Household%20Energy%20Upgrades%20Fund,housing%20to%20improve%20energy%20performance.)

¹⁵ https://www.qcross.org.au/wp-content/uploads/2019/05/20181128_RPT_Energy_Efficient_Min_Standards_0.pdf

The updated RTRAA should mandate disclosure of what the energy efficiency features of rentals are at the point of advertising. These can easily be listed on both real estate company and industry websites like realestate.com or any other advertising. Disclosure should be presented to prospective tenants at the point of advertising, the entry condition report and lease agreements. Lessors should also be required to affirm compliance in rental advertising or state what exemption exists.

Why now

In addition to the reasons given in this document and the attached issues register, in 2019, all Commonwealth, state and territory energy ministers, including Queensland, agreed to the Trajectory for Low Energy Buildings and its Addendum (the Trajectory)¹⁶ to develop and expand target building policies, including:

- disclosure of energy performance
- minimum energy efficiency standards for rental properties

The RTRAA was updated in 2017 to give power to the Minister to regulate for energy efficiency minimum standards, yet against significant justification, and social, environmental, economic and equity drivers, and greater ambition from other Australian jurisdictions, Queensland has not taken up this opportunity.

We call on the Queensland Government to fulfill its promise under The Trajectory to implement mandatory and enforceable features-based (e.g., insulation), with progressive improvement to performance-based (e.g., 5-star homes) energy efficiency minimum standards for rental properties in line with the **Community Sector Blueprint: A National Framework for Minimum Energy Efficiency Rental Requirements**.

Integration and compliance with other rental reforms

Recent improvements to rental protections only go so far and have had minimal impact regarding improving tenant rights. The recent limiting of the number of increases to one increase annually is irrelevant and cynical as a measure of rental protection.

Recommendation 8: Introduce rent caps limited to CPI regardless of the number of annual rent increases.

Most renters understand that rents go up with inflation. The ongoing ability of property managers to raise rents and not renew fixed term leases, however, are both cause for considerable concern. The rent rises in recent years demonstrate this. The recent federal budget increase in rent assistance, while welcome, is less than the artificial rent increases experienced by many tenants. Interest rate increases are not a justification for property managers to increase rents significantly, especially not at much larger increases of 20% or more in a housing crisis,¹⁷ let alone 60% or 385%,¹⁸ which are clearly opportunistic price-gouging and demonstrate the urgent need for significant strengthening of rental controls.

Recommendation 9: Undertake significant renters rights education program (for tenants and landlords).

Many renters do not fully understand their own rights, while many landlords take advantage of their position of power. The intention of a community education program is not just to inform, but to change the culture of the sector to recognise that rental properties are in fact people's homes. This includes cultural, universal design, locational and social dimensions. The right to quiet enjoyment is often not been respected.

While we are not suggesting all tenants are perfect, and all landlords are not, the disparity of power means we are seeing significant injustice in the rental sector.

¹⁶ <https://www.energy.gov.au/government-priorities/buildings/trajectory-low-energy-buildings>

¹⁷ <https://www.theguardian.com/australia-news/2022/oct/17/brisbane-real-estate-agency-advises-landlords-to-increase-rents-by-over-20-amid-housing-crisis>

¹⁸ <https://www.theguardian.com/australia-news/2022/nov/03/landlord-demands-60-increase-in-rent-from-brisbane-tenant-amid-queensland-housing-crisis>

Recommendation 10: Remove end of a fixed term agreement as a reason for property managers to evict tenants without cause.

To ensure energy efficiency in rental housing becomes the norm, we need rental protections. When renters are struggling to find a roof over their heads and fear unreasonable price increases or eviction - they do not ask for energy efficiency even when they understand its importance. That is one reason why we support the full range of reforms for renters that Make Renting Fair¹⁹ call for. Capping rent increases at CPI and removing no cause evictions (including the end of a fixed term lease) will have an important impact in the roll out of mandatory energy efficiency minimum standards and disclosure to ensure rents remain affordable.

Recommendation 11: Landlords and agents should be required to go to court to tarnish the tenant's record and justify their reason for the request.

The current power imbalance between renters and landlords, and more so renters and real estate agents, stems from the ability of landlords and agents to make executive decisions in tarnishing the record of tenants on various lists. While unregulated, many of these lists are considered more or less official or legal with minimum resources for tenants, who have minimal ability to defend themselves against false or misleading information, and are potentially penalised in future rentals.

Such imbalance prevents renters from exercising their current and future rights.

Contribution of wider government objectives.

The Queensland Government also has broader sustainability objectives. Early emission reductions are needed to achieve the state government's own climate targets. While not science-based targets (which would require being net zero by 2035). Implementing mandatory energy efficiency for rentals (and greater energy efficiency ambition across all sectors) would nonetheless help the Queensland Government achieve early greenhouse gas emission reductions, to reduce the need for transmission and distribution build out, and reduce the required installed capacity to reach Queensland's renewable energy target.

We look forward to a future where all rental homes are healthy, and the energy required to keep them at a comfortable temperature in summer and winter is not excessive. We invite you to talk to us regarding program design and implementation of mandatory energy efficiency minimum standards and disclosure into rental tenancy regulations.

Attachments:

- Community Sector Blueprint
- Energetic Communities Issues Register (of broader issues and suggestions to make renting fairer and fit for purpose).

ENERGETIC COMMUNITIES ASSOCIATION

29 MAY 2023

¹⁹ <https://makerentingfairqld.org.au/>