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To Whom It May Concern:

Submission to Prime Minister's Task Group on Energy Efficiency

The Tenants Union of Victoria welcomes the opportunity to make a submission to the Prime Minister's Task Group on Energy Efficiency. This submission will focus on options for improving the energy efficiency of rental housing, with a particular focus on housing at the middle to lower end of the rental market. We apologise for making a late submission and hope our views are still able to be taking into consideration.

The TUV was established in 1975 as an advocacy organisation and specialist community legal centre, providing information and advice to residential tenants, rooming house and caravan park residents across the state. We assist about 18,000 private and public renters in Victoria each year. Our purpose is to improve the status, rights and conditions of all tenants in Victoria.

Energy efficiency in the residential sector

The residential sector has been identified as both a major contributor to greenhouse gas emissions in Victoria and a significant potential source of

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greenhouse gas emission abatement.¹ The introduction of minimum energy efficiency standards in building regulations since 2005 is having a clear and measurable impact on new housing construction and renovations. Existing housing stock however is not required to comply with any minimum energy efficiency standards, despite being identified as having the largest potential for greenhouse gas emission reduction in the residential sector and which includes the bulk of rental housing in Victoria.² Since the Housing (Standards of Habitation) Regulations were allowed to lapse in the 1990s there has been no legal requirement for rental properties to meet a number of basic dwelling standards. The result of this lack of regulation of standards of housing is that rental properties constructed prior to 2005 are not required to;

- be insulated
- have energy efficient space or water heating
- have energy efficient cooking and washing facilities
- be fitted with window coverings of any sort
- be free of cracks, gaps or other structural defects that directly impact on energy efficiency.

Condition of rental housing

While there is widespread recognition that existing housing stock represents the largest potential for greenhouse reduction in the residential sector there is still a significant lack of research and data showing the actual condition and levels of energy efficiency of existing housing stock, either owner-occupied or tenanted.

TUV's work with tenants over several decades has produced some valuable data on the condition of rental properties. Information gathered through our advice service as well as a number of research projects indicate that rental stock tends to be older, in poorer repair and of lower thermal quality than the owner occupied

¹ Sustainability Victoria, On-Ground Assessment of the Energy Efficiency Potential of Victorian Homes: Report on Pilot Study, Prepared by Moreland Energy Foundation Limited for Sustainability Victoria, March, 2010, p.6

² Ibid, p.3

segment of the housing system.³ Anecdotal evidence also suggests that the shortage of affordable rental housing has resulted in an increasing number of substandard dwellings entering the market and a growth in marginal forms of housing tenure such as informal rooming houses and long stay caravan parks. Another indication of the probable energy efficiency levels of existing rental housing stock can be gleaned from a recent survey by Moreland Energy Foundation of 15 existing houses selected to represent a cross-section of suburban Melbourne homes which found that the average house energy rating was 1.3 stars. Four houses had star ratings between 0 and 1 and only two houses had a star rating of above 2.⁴

The TUV endorses the Task Force's views that a strong base of evidence and information is needed to effectively monitor, evaluate and improve energy efficiency initiatives across the economy. We strongly recommend that the rental sector is identified as a category for research and data collection. Accurate data on, for example, the energy efficiency of existing rental housing stock, the take-up rates by landlords of current and recent energy efficiency schemes and information on energy efficiency initiatives undertaken by tenants would provide an invaluable evidence base on which to develop more effective policy, information and initiatives which will effectively improve the energy efficiency of rental housing.

The rental market in context

Historically, the Australian housing system has been based on majority home ownership, long term public rental housing for low income households and transitional private rental. This structure has shifted considerably in the past two decades. Declining home ownership rates for younger households, rapidly

³ Tenants Union of Victoria, Submission to Residential Tenancies Act 1997 Review, Melbourne 1994. Research into the amenities of Victorian rental properties was undertaken on behalf of the TUV by the Australian Community Research Company.

⁴ Sustainability Victoria, On-Ground Assessment of the Energy Efficiency Potential of Victorian Homes: Report on Pilot Study, Prepared by Moreland Energy Foundation Limited for Sustainability Victoria, March, 2010, p.6

declining investment in social housing and an overall decline in housing affordability have driven a substantial growth in the private rental market.⁵ In Victoria, about 370,000 households are living in the private rental market in Victoria.⁶ That is about 21% of all households.⁷ The current rental market is also characterised by low vacancy rates and significant annual median rent movements. These characteristics produce a climate in which landlords have little incentive to voluntarily improve properties. And tenants, particularly at the lower end of the market have little choice but to accept the poor quality properties on offer.

Energy efficiency programs and schemes

Measures to improve the energy efficiency of existing housing have focussed on market based incentives and rebates as well as information and education campaigns aimed at behavioural change. The Tenants Union contends that recent and current energy efficiency initiatives aimed at existing housing have been developed with a primary focus on owner-occupiers and have failed to make any significant impact on rental housing. We argue that available data as well as anecdotal evidence indicates that there has been a very low take-up of energy efficiency initiatives in rental housing and that this low take-up stems from an ongoing failure to consider rental housing as a distinct market within the residential sector. The TUV contends that improving energy efficiency in the rental sector requires policies and initiatives that are tailored to address the specific characteristics of the sector and that can deal effectively with the barriers which have been identified as impeding the take-up of energy efficiency improvements by landlords and tenants.

5 Home ownership fell from 65 per cent in 1981 to 57 per cent in 2006 for people aged 25 to 39, with the 25 to 34 age group falling from 61 percent to just over 50 per cent. See J Yates, H Kendig et al (2008) Sustaining fair shares: the Australian housing system and intergenerational sustainability, Australian Housing and Urban Research Institute.

6 ABS 2006 Census

7 ABS 2006 Census

Insulation

The installation of ceiling insulation has been a major focus of retro-fitting programs for existing housing stock and a number of schemes have attempted to target landlords and tenants. The TUV supports the rationale for focussing on installing insulation in existing housing as the thermal quality of the building shell has been identified as a major source of energy consumption in low-income rental housing.

While data is not available on the take up by landlords of the recently disbanded Federal Government's Energy Efficient Homes Package and Low Emissions Assistance Plan for Renters, the TUV has compiled some figures on the take-up by landlords of previous schemes aimed at installing insulation in existing housing. The Low Emission Assistance Plan for Renters displayed very poor performance with a ratio of one rental property accessing this scheme to every 14 accessing the equivalent scheme for owner occupiers.⁸ A survey of insulation recipients of the insulation rebate scheme run by Sustainability Victoria from 2008 showed only 12 per cent of those surveyed were tenant households.⁹ Further evidence of the difficulties faced by tenants in persuading landlords to participate in the insulation schemes has been gathered through the TUV's phone advice service which has received a large number of calls over the life of the various schemes from tenants with various queries including; how to approach landlords about the scheme, whether a tenant had the right to compel a landlord to participate and whether there were any standards that required a house to be insulated.

While there have clearly been problems with the design and operation of the Home Insulation Program in general the TUV believes that the installation of insulation remains one of the most effective and efficient measures to improve thermal efficiency in rental properties. We argue that rather than discontinuing the insulation scheme, a reassessment of the scheme could provide an opportunity to

⁸ K. Keffe, DEWHA Stakeholder Meeting, 13 July 2009.

⁹ K Woods, Working Together Forum, 5 March 2009

redesign the scheme in order to more effectively target potential participants – including the landlords and tenants in the rental sector. A key element in any redesign for the rental sector would be the introduction of minimum standards for rental housing which could be used to compel landlords to undertake this cost effective energy efficiency measure.

Phase out of greenhouse intensive (electric) hot water systems

The recently announced phase-out of greenhouse intensive (electric) hot water systems is an example of a residential housing energy efficiency initiative based on mandatory minimum requirements which applies to both new and existing housing. This initiative requires that greenhouse intensive hot water systems that require replacement must be replaced by a low emission hot water system. The scheme is supported by government rebates. The TUV is encouraged to see the design of an energy efficiency initiative which imposes a mandatory minimum standard of energy efficiency on both new and existing housing. We would be very interested to see data collected on the take-up of this scheme by landlords installing new hot water systems on rented properties – which is where many greenhouse intensive hot water systems are in operation in Victoria. At this point, we remain concerned that the design of this initiative still fails to address the predicament faced by tenants living with inefficient and expensive hot water systems which may not be regarded as needing replacement under current regulations in both the RTA and building regulations. Introducing a minimum energy efficiency standard for hot water systems in rental properties would greatly enhance the impact and effectiveness of this scheme.

Green Start

The Federal Government's decision to defer the commencement of the Greenstart program represents a further set-back for low income renters (the majority of whom are also likely to be renters). The TUV had been encouraged by the structure of the Greenstart program which promised to address one of the key barriers to take-up of energy efficiency measures in the rental sector by providing

eligible low-income households with advocacy and support to negotiate with landlords, real estate agencies and tradespeople in order to participate in the available programs and schemes. While the success of such a scheme would still be compromised by the regulatory barriers posed by the current requirements of the RTA, the TUV argues that the commencement and details of the operations of the Green Start scheme should be confirmed.

Mandatory disclosure

The National Strategy on Energy Efficiency includes a requirement to be introduced in May 2011 for landlords to have their properties assessed for energy efficiency and disclose that rating on point of lease.

As it is predicated on tenants having the ability to exercise choice – a luxury that is not available to low income tenants in the current tight rental market – mandatory disclosure is unlikely to be an effective mechanism for improving the energy efficiency of rental properties. Landlords may choose to invest in property improvement in the market segment in which tenants are most able to exercise choice based on the likelihood of greater returns in the form of increasing rents and sale values. Considerable concerns about the administration and implementation of mandatory disclosure remain, including the qualifications of assessors, the quality of assessments, the weightings of the rating scheme to be used and the length of time such ratings would remain current and accurate.

One benefit the TUV can foresee coming out of a mandatory disclosure scheme would be the data it could produce on the quality of rental housing stock. However a more effective regulatory step would be to take mandatory disclosure one step further and require all dwellings to meet a minimum water and energy efficiency standard on point of sale or lease

Barriers to the take-up of energy efficiency improvements

The TUV argues that the key barriers to take up of water and energy efficiency measures in the rental sector are tenure specific and would be most effectively addressed through industry specific regulations.

The key barriers we refer to are;

- The affordable housing shortage – which reduces the incentive for landlords to improve rental properties and reduces the ability of tenants to exercise consumer choice in the rental market.
- The split incentive – which reduces the incentive of the landlord to invest in energy or water efficiency improvements on a rental property because of a perception that it is the tenant rather than the landlord who stands to benefit from any such improvements.
- Regulatory barriers – The Residential Tenancies Act 1997 which regulates the relationship between landlord and tenant in Victoria sets up a number of barriers to the take-up of energy efficiency improvements by a landlord or tenant. Key examples are;
 - the lack of minimum standards required before a property can be leased.¹⁰

¹⁰ The only area in which the RTA sets a minimum standard for any aspect of a rental property is in relation to water use where it states that a landlord, rooming house or caravan park owner is required to replace an irreparable water appliance, fitting or fixture with one which has no less than an A rating. While the intent is clearly to set a minimum standard for replacement of water using appliances, its effect has been negligible as the rating referred to denotes the lowest efficiency rating available in the ‘AAAAA’ National Water Conservation Rating and Labelling Scheme which in any case has been replaced by the WELS (Water Efficiency Labelling and Standards Scheme) which uses a rating system of 6 stars.

- the restriction on a tenant's ability to compel a landlord to do repairs which is limited to the restitution of conditions existing at the start of that tenancy
- the restriction on a tenant's ability to make any alterations to a property which require a tenant to obtain their landlord's consent to any alteration and to restore the premises to their original condition on the expiry of the lease or pay compensation to the landlord.

Unequal relations between landlord and tenant – for example insecurity of tenure, fear of rent increases and retaliatory evictions act as barriers to tenants attempting to negotiate with landlords for improvements to their rental property

The TUV argues that the barriers outlined above have significantly affected the take-up of existing energy efficiency programs and schemes in the rental sector. We argue also that the most effective way of overcoming these barriers and promoting the effectiveness of current and proposed energy efficiency programs in the rental sector is to introduce regulations which require minimum energy efficiency standards in all rental properties. Regulations would compel landlords to engage with available energy efficiency programs and schemes and provide tenants with some recourse where landlords failed to meet minimum standards.

Conclusion

The TUV contends that step change improvement in the impact of energy efficiency measures in the rental sector is urgently needed and could be best achieved through sector-specific regulatory measures. The most effective step to achieve this aim would be through the introduction of mandatory minimum standards for rental housing. The TUV is deeply concerned however that recent government decisions regarding key Home Insulation and Green Start programs

reveal a Government in the process of stepping back from rather than considering step change improvement in this area.

In summary the TUV recommends the government consider the following to enhance the impact of future energy efficiency program in the rental sector:

- Requiring all new and existing public and private rental housing have a minimum 5-star energy efficiency rating
- Funding a loan-based scheme for the retrofitting of existing housing stock to meet minimum standards for landlords with no other means to pay for retrofitting
- Identifying the rental sector as a category for research and data collection on the energy efficiency of existing rental housing stock, the take-up rates by landlords of current and recent energy efficiency schemes and information on energy efficiency initiatives undertaken by tenants
- Targeting eligibility for further assistance packages to the low rent stock in the private rental market
- Developing a targeted information provision and advertising campaign to improve awareness and take up of assistance in the private rental market
- Ensuring acceptance of retrofitting assistance by landlords is conditional on rents not being increases for a set period
- Working with state and territory governments to improve residential tenancies legislations, including
- Instituting legislated minimum standards to ensure rental properties are weatherproofed, equipped with insulation, heating and hot water systems conforming to minimum energy efficiency standards and provided with window coverings
- Ensuring compliance by making it an offence to lease properties not meeting standards
- Legislative reform to allow basic energy efficiency measures to be installed by tenants without the need for permission of the landlord

- Legislative reform to provide tenants with appeal rights where landlords have unreasonably withheld consent to the installation of energy efficiency measures.

We welcome any further opportunity to be consulted on these issues. Please do not hesitate to contact me on 03 9411 1444 or 0417 138 471.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T. Archer', with a long horizontal stroke extending to the right.

Toby Archer
Policy and Liaison Worker
Tenants Union of Victoria