

Victorian Energy Efficiency Target Scheme
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15th May 2007



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RE: VICTORIAN ENERGY EFFICIENCY TARGET SCHEME ISSUES PAPER

The Tenants Union of Victoria welcomes the opportunity to comment on the issues identified in the *Victorian Energy Efficiency Target Scheme Issues Paper*. Our submission focuses on barriers preventing the scheme objectives from having application to energy consumption in the private rental market.

We would like to thank the Consumer Utilities Advocacy Centre (CUAC) for their assistance in funding the preparation of this submission.

Who we are

The Tenants Union of Victoria 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 25,000 private and public renters in Victoria every year. Our commitment is to improving the status, rights and conditions of all tenants in Victoria. We represent the interests of tenants in law and policy making by lobbying government and businesses to achieve better outcomes for tenants, and by promoting realistic and equitable alternatives to the present forms of rental housing and financial assistance provided to low-income households.

The rental sector context

According to Australian Bureau of Statistics (ABS) data, around 20% of Victorian households reside in the private rental market. In particular, private rental is overwhelmingly the housing tenure of low-income and disadvantaged Victorian households: almost 195,000 households receive Commonwealth Rent Assistance, indicating that they are in receipt of some other form of government financial support, and over 85,000 private renter households earn less than \$500 per week. By comparison, just under 63,000 Victorian households reside in public housing.

Currently, there are very few requirements on rental property that promote energy efficiency. While the Building Code of Australia (BCA) requires that all homes constructed after 1 July 2005 conform to a 5 star energy rating, the bulk of housing in

the private rental market is not newly built, and there are no requirements around energy efficiency applicable. Properties in the rental market constructed before this date are not required to:

- be insulated;
- have an energy efficient heating source;
- be fitted with curtains; or
- to be free of cracks, gaps or other structural defects that directly influences energy efficiency.

The only explicit statutory requirement for rental properties is that any fixture or appliance that uses or supplies water that needs to be replaced must be replaced with a product that has at least an A rating (see *Residential Tenancies Act 1997*, s 69).

The Issues Paper correctly identifies that split incentives for landlords and tenants as a significant barrier for the uptake of energy efficiency in the private rental sector. Under the *Residential Tenancies Act 1997*, where properties are separately metered for gas and electricity, tenants are billed by retailers and pay for energy consumed. Because this cost is not borne by landlords, they may be unaware of, or have very little interest in, the energy costs of their properties and of the means of minimising consumption through energy efficient appliances or other measures.

The *Residential Tenancies Act 1997* also restricts tenants' capacity to uptake energy efficient devices or to modify premises to become more energy efficient. Section 64 of that Act states that tenants may not install any fixtures or effect any alterations, renovations or additions to the premises without the consent of their landlord. If any such changes are made to the property in the absence of consent, the tenant is required to restore the premises to its original condition, or else compensate the landlord for the reasonable costs of restoring the property to its original condition.

This legislative requirement effectively discourages tenants from making relatively minor and inexpensive modifications to rented properties (such as installing an energy efficient showerhead) that would improve the energy efficiency of their property. Furthermore, tenants are a fairly mobile population group, moving house on average every 18 months. Even if the making of small, non-structural modifications were permitted by law, this mobility would also discourage tenants from making even small investments in energy efficiency products for their rented homes, as they will gain no long-term benefit from their investment, and face the possibility of having to make the same investment in their new property.

Furthermore, market forces currently prevailing in the private rental market are compounding the effects of the split incentive. The rental vacancy rate in Victoria is a historically low 1.7%, indicating that demand for rental property is significantly outstripping supply. Because of increased demand, landlords have even less inducement to make improvements to their properties in order to attract potential tenants.

To effect changes in the private rental market, the VEET Scheme will have to directly address the barriers imposed by this split incentive. To improve the energy efficiency of housing, the Scheme will have to target landlords to cause them to

make alterations to the fixtures and structures of their properties, as tenants have little capacity to make lasting and effective changes.

Issues Paper Response

The Introduction to the Issues Paper describes the VEET scheme as a step change “that will stimulate investment in energy saving/greenhouse abatement and accelerate the take-up of energy efficiency opportunities across the residential sector”

The VEET scheme is also described as a key mechanism for driving reductions in household greenhouse gas emissions and meeting the Victorian government target of a 10% reduction in those emissions by 2012.

The introduction then lists a number of new commitments by the Government intended to contribute to emissions reductions in conjunction with the proposed VEET scheme.

The Tenants Union of Victoria contends that, like the VEET Scheme, these additional measures are not likely to assist tenants or reduce emissions from the rental sector without changes to eligibility criteria or the introduction of quotas for rental properties within each measure.

This view is best explained by a brief commentary on each of the commitments outlined in the Introduction.

- **The \$14 million rebate program for retrofitting or replacing old appliances** – Most appliances are treated in law as fixtures and are therefore property of the landlord. Because of this, tenants cannot replace landlord owned appliances. Therefore, they are often excluded by eligibility criteria and/or face practical difficulties from making application to such programs. We refer you to the assessment of the DHS Capital Grants Programs, the Australian Government Photovoltaic Rebates Scheme and the and the Multinet natural gas rebate scheme for the Yarra Valley later in our submission.
- **\$2 million Energy Task Force program to retrofit public housing estates with energy efficient improvements** – This program does not apply to private rental properties. The Tenants Union is not aware of any parallel program that is applicable to private rental properties.
- **Establishing minimum standards for heating and cooling appliances in new homes** – The vast majority of new homes are occupied by purchasers. Most property in the private rental market is much older, predating instruments like the BCA. Therefore, the standards promoting thermal efficiency for new property do not have widespread application to properties in the private rental market.
- **A tariff law for the feed in of renewable energy into the electricity grid** – As noted later in this submission, the Australian Government Photovoltaic Rebates Scheme excludes applications from tenants. A recent survey of Alternative Technology Association members revealed that only 5% of members were tenants and even that figure is surprising in the circumstances.

- **Requirements for water saving devices in new homes** – Again, these requirements apply only to homes constructed relatively recently, which is generally occupied by the owner.
- **5 Star Energy Standard** – As noted in the overview of the rental market this scheme has little application to private rental properties.
- **Energy Task Force Audits** – The Energy Task Force is targeted at public housing. However, even if a tenant were to benefit from an energy audit, any improvements in energy efficiency would require the approval and co-operation of the landlord.
- **A range of government rebates to reduce energy consumption** – Examination of three current rebate schemes has led the Tenants Union to conclude that, in most instances, tenants will not benefit from existing schemes.

Example 1 - DHS Capital Grants Scheme

The Department of Human Services Capital Grants Scheme provides once-off assistance to concession card households by repairing or replacing essential water, gas or electrical appliances for households who otherwise could not afford to do so, due to financial hardship.

The scheme provides for the replacement of a wide range of household appliances for purposes of heating, hot water, cooking, refrigeration and washing. However, the eligibility criteria specifically limit applications by tenants to the replacement of refrigerators and washing machines.

This limitation is imposed on the basis that the other household appliances within the tenanted property are fixtures owned by the landlord. The tenant would need permission of the landlord to replace those appliances. The Department has also been reluctant to provide funds that ultimately benefit the landlord in the longer term.

The effect of this limitation is considerable. The information in Figures 1 and 2 of the Introduction show that refrigeration accounts for 4% of energy use and washing accounts for a part of 10%. Refrigeration accounts for 12% of greenhouse emissions and part of the 20% for hot water. The limitation precludes the Capital Grants program having an impact on 93-95% of energy use and 80-85% of greenhouse gas emissions of tenanted households.

Example 2 - Natural Gas Rebates – Multinet Gas

Multinet Gas has been offering substantial financial incentives to assist residents in the Yarra Valley to convert from LPG to natural gas. The website (<http://www.multinetgas.com.au/industryInformation/convert.aspx>) sets out the eligibility criteria for the rebates. Tenants are excluded from this scheme for a number of reasons:

- Caps and Limitations

The scheme is subject to a financial cap, a time limitation and a cap within specific geographic boundaries. The scheme is offered as an incentive to residents to change from LPG to natural gas and is primarily concerned to enable the

distributor to reach the critical mass of properties required to make the network extension economically viable. By its nature, the rebate is not intended to cover the full cost of the transfer to natural gas.

The financial cap is based on a split incentive between the distributor and the occupier to share the cost of the infrastructure extension. There is no short term benefit to a landlord, as distinct from an occupier, and the cost of the extension is likely to exceed the rebate leading to a short term loss on the transaction for a landlord with no capacity to claw back the remainder of the cost through lower energy bills. The appliance rebate may also be less than the cost of purchase of required appliances.

The time limit is initially six months, but is essentially a first-come-first-serve arrangement which has greatly disadvantaged tenants. A homeowner can make the application immediately subject to finding a suitably qualified gas fitter. A tenant may have to seek approval from the agent and/or the landlord and then wait for one of them to engage a gas fitter. The process will be even more difficult if the property is owned by an absentee landlord. Given that the rebate is unlikely to cover the cost there is little incentive for a landlord to agree to the transfer or to compete with homeowners in seeking one of a limited number of available rebates.

There are also limits based on geographical boundaries. There are only a limited number of rebates for each town or region. The first come first serve rule provides a significant advantage to homeowner applicants over tenants and landlords. Information on the attached site makes it clear that rebates for many areas within the Yarra Valley are already exhausted.

- Split Incentive

The scheme is said to assist “residents” but is effectively targeted at homeowners. The failure to address the split incentive has disadvantaged both landlords and tenants. It is unreasonable to expect a landlord to transfer to natural gas on worse terms than an owner occupier and leaves tenants exposed to the cost of higher LPG prices.

Example 3 - Australian Government Photovoltaic Rebates

The eligibility criteria require the Photovoltaic (PV) system to be installed at the applicant’s (owner’s) principal place of residence as shown on the electoral roll. Rebates are payable on owner occupied houses and owner occupied units within a body corporate. Rebates are also payable on owner occupied transportable homes, provided the owner/ occupier owns the land, or is a long-term lessee of the site (minimum of five years). Ownership must be demonstrated to the satisfaction of the Administering Agency. See website (<http://www.greenhouse.gov.au/renewable/pv/pubs/pvrp-guidelines.pdf>)

These criteria exclude tenanted properties. The lack of applicability to tenanted properties was confirmed by an email from the Australian Greenhouse Office (AGO): “to get a PVRP rebate the building has to be the applicant's principal place of residence, so rental properties do not qualify (see the PVRP Guidelines on the AGO website).

The Tenants Union acknowledges that these measures will have a significant impact in the reduction of greenhouse gas emissions in the near future. However, we maintain that the measures as currently defined will have little or no impact on households within the private rental market.

The State Government has set a target of 10% reduction in emissions across the residential population. The private rental sector provides accommodation almost 20% of Victoria's households. It is our contention that to meet the target of 10% reduction the State Government must achieve a significant reduction in emissions from within the private rental market. It is also our view that serious social inequities would arise in terms of reductions in energy use and cost of energy if private sector tenants were to be excluded from the benefits of these and future State Government energy efficiency initiatives.

The potential for energy efficient improvements in Victoria's residential sector.

Section Two of the Issues Paper notes that over one third of Victorian energy is consumed by the residential market. The Section then identifies the potential for energy efficiency and barriers to uptake within the residential market. Recent ABS figures state that 17.9% of total households reside in the private rental market. The Tenants Union agrees that there is scope for improvements and the description of the key barriers to energy efficiency identified in Section two but believes that the Issues Paper has understated the extent of the barriers within the private rental market.

Barriers to the take up of energy efficiency

The issues paper has set out the key barriers to energy efficiency. The barriers include "poor availability of information, split incentives for tenants/landlords, behavioural inertia and uncertainty about returns for energy efficiency investment"

We agree that split incentives for landlord/tenants is a key barrier to improved energy efficiency within domestic households. However, the Tenants Union further argues that the landlord-tenant relationship has a multiplier effect on many of the other barriers listed in Table 1 on page 8 of the paper.

The multiplier effect on barriers is as follows:

- **Lack of awareness and appreciation of energy efficiency to reduce energy bills** – the split incentive removes any incentive for the landlord to consider this issue. Furthermore, the landlord has no incentive to retrofit or weatherproof a property to protect a tenant against unreasonably high power bills caused by a lack of energy efficiency in the property.
- **Resistance to changing habits and the 'hassle factor'** – landlords and real estate agents are likely to be far more influenced by the hassle factor given that change is likely to require time and money that may not be recovered from the tenant, given there is neither incentive or compulsion to take advantage of available schemes.
- **Inadequate information about costs and benefits** – It is not clear that a landlord will see any benefits. Moreover, absentee landlords (landlords who do not reside locally or even in Victoria) may not have access to any relevant information about energy efficiency measures applicable to the property.

- **Appliances are not replaced until they fail** – this problem is more likely to impact on private rental properties because the landlord does not benefit from early replacement and is not inconvenienced by unsatisfactory performance or increased energy bills arising from aging or inefficient appliances.

The Tenants Union submits that the multiplier effect of the landlord tenant relationship on these barriers creates an imperative for the state government to acknowledge the special need for targeted action to achieve energy efficiency within the private rental market.

However, we also believe that the lack of access to current energy efficiency measures combined with the multiplier effect of the existing barriers to the uptake of energy efficiency opportunities within the private rental market has created an opportunity for the State Government to maximise the impact of any measures targeted at this priority group.

Further, the potential impact of measures targeted towards the private rental market provide the State Government with a greater likelihood of meeting the 10% reductions target precisely because such little progress has been made to date in improvements in energy efficiency for households in this priority group.

VEET Scheme

3.5.6 Priority groups.

The issue for consideration is whether the VEET scheme should adopt an overall target or a portfolio approach that targets priority groups.

The Tenants Union is strongly opposed to the overall target approach. The Issues Paper has noted that this approach will pursue “the most cost effective reductions.” As noted earlier an emphasis on cost effectiveness in measures introduced to date has effectively excluded private rental tenants from accessing the benefits of existing schemes. The Issues Paper has also identified that split incentives in the rental market act as a key barrier to the take up of energy efficiency programs within the private rental market.

The Tenants Union supports a portfolio approach that targets priority groups on grounds of social equity – that groups such as tenants have yet to share in the benefits of government initiatives - and practicality, in that the government may not be able to achieve a 10% reduction in emissions if tenant households that make up 20% of the residential market continue to be locked out of access to energy efficiency programs.

3.5.9 Eligible Implementers

The Issues Paper seeks comments on the identification of appropriate parties to implement the scheme. The Tenants Union is sceptical about the suggestion that landlords or real estate agents could or would act as implementers. It is widely accepted that the majority of landlords own no more than one or two properties. Common sense dictates that a landlord would need to have access to a far larger number of properties to consider seeking accreditation as an implementer.

Estate agents do have access to large numbers of rental properties. However, in our experience, agents regard rental properties as less profitable and important than the home purchase and sale market. The role of implementer for the VEET scheme is likely to be time consuming and non profitable by comparison with other business opportunities available to estate agents.

The Tenants Union believes that the optimum means of engaging with private and public tenants may be to accredit community agencies such as community based retrofitters. These groups can be funded by government and undertake the role of implementer at a cost that would be not be attractive to an estate agent. The retrofitting agencies already have the required experience and could act make contact with the various parties involved in the landlord tenant relationship at cost acceptable to government.

The Tenants Union points to the UK rental housing market to support this position. Most rental housing in the UK is effective by managed by local government agencies. Many of the schemes targeted at UK tenants are made possible by the low cost of program implementation achieved by these organisations.

3.6 Integration with other policy

As noted in our response to the Introduction, the Tenants Union is concerned that private rental tenants will not receive any significant benefits from recently announced programs, including the \$14 million rebate package.

To recap, there are a number of factors preventing widespread uptake of energy efficiency measures in the private rental market:

- Tenants are prevented by law from making any alterations to rented premises;
- The split incentive implicit in the landlord-tenant relationship; and
- Prevailing rental market conditions do not encourage landlords to invest in improving properties in order to attract tenants.

Consequently, the Tenants Union believes that they only effective way to improve the energy efficiency of the rental housing sector is to regulate for minimum standards of energy efficiency. Properties available to rent in the private rental market must be required to conform to some basic standards that promote energy efficiency:

- A decent level of thermal insulation
- At least one form of in built heating (in the main living area) with a minimum energy efficiency standard
- Efficient and properly installed appliances for cooking, bathing and sanitation
- Efficient and properly installed hot water
- A basic level of window covering

Requiring housing to conform to these basic standards before it can be made available to rent will overcome the barriers imposed by the split incentive and by current market conditions that discourage landlords from making investments and accessing government schemes that will enhance the thermal efficiency of their properties.

It is important to note that regulated minimum standards are not about:

- Mandating high quality, or even new, appliances. The only requirement should be a reasonable energy efficiency rating;

- Mandating high levels of amenity. Minimum standards are about basic human habitation standards and not about high-cost amenity; or
- Forcing owners to regularly invest in their properties. The standards we have identified will mostly require investment with a long-lasting benefit.

Recently, the Real Estate Institute of Victoria (REIV) suggested that landlords or tenants be allowed to seek funds for the uptake of energy and water efficiency measures from the Victorian Property Fund (see REIV media release at <http://www.reiv.com.au/news/details.asp?NewsID=509&ID=&pnav=135>). The Tenants Union is concerned that the measures proposed by the REIV will not cover many rental properties in need of significant work by way of retrofitting or repairs to improve thermal efficiency.

However, the Tenants Union would support releasing monies from the Victorian Property Fund for more expensive and extensive work subject to an agreement that ensured that the property remained a rental property at a regulated rent for an agreed minimum period. Alternatively, if minimum standards for rental properties were instituted, loans could be made from the Fund to assist landlords with the costs of improving properties to meet the new requirements.

The Tenants Union agrees that there is a need for integrated policies to achieve energy efficiencies within the private rental market. This should include a wider consideration of measures targeted to assist private tenants and could include:

- consideration of regulated minimum standards for rental properties;
- review of eligibility guidelines for the DHS Capital Grants Program;
- quotas for private rental properties within existing schemes;
- access to funds for retrofitting and weatherproofing of private rental stock;
- legislative reform to allow basic energy efficiency measures to be installed by tenants without the need for permission of the landlord.

Without these targeted measures, the state government is not only at risk of falling short of the 10% target for emissions reduction, but of creating a socially inequitable scheme that favours owners over renters and high income households over lower income consumers unable to enter into the home ownership market.

Please do not hesitate to contact the Tenants Union of Victoria on (03) 9411-1410 if you wish to discuss any of the matters raised in this submission further

Yours sincerely,

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