



Ensure all rental homes are safe and healthy

Members of the One Million Homes alliance, a broad collection of community, business and environment groups, have come together to call for the Victorian Government to set strong minimum energy performance standards for rental homes. All rental homes should be safe, healthy and affordable to run.

We congratulate the Andrews Government for recognising the many challenges facing renters and taking action by passing the *Residential Tenancies Amendment Act 2018*, and proposing the associated *Residential Tenancies Regulations 2020* (the ‘rental reform package’). The rental reform package will make a real difference to over a million Victorians - providing more secure tenure and a much fairer balance of rights and obligations.

However, strong minimum standards are required to ensure that rental homes are safe and protect people from the elements. Many rental homes are little better than glorified tents – dangerously hot in summer and freezing in winter. The quality of a home profoundly affects the health of the home’s occupants. For example, in recent years hundreds of Victorians have been hospitalised for hypothermia – one study found about four in five elderly people presenting to hospital with hypothermia developed it inside a home.ⁱ

This is a national health emergency. Every year, cold weather kills 2,600 Australians – that’s more than double Australia’s annual road toll.ⁱⁱ Many of these deaths are avoidable - Australia has a 76 per cent higher rate of deaths linked to cold weather than Sweden, a country that is far colder than Australia but has enforced much stronger standards for homes. By 2050, a further 860 Melbournians are estimated to die each year from hot weather compared with 2007 ratesⁱⁱⁱ. Research shows that, if the energy star rating of homes was increased to 5.4 stars, heat-related deaths could be reduced by 90 percent^{iv}.

We must ensure that all homes provide decent shelter, but the issue is particularly urgent for rental homes. Victorian renters are three times more likely than homeowners to live in a home without insulation.^v A draughty, uninsulated home without efficient heating and cooling appliances doesn't just make it expensive to maintain a safe indoor temperature – it can make it impossible.

The benefits of bringing rental homes up to scratch will far exceed the cost. In addition to health and safety benefits, this will result in improved energy affordability, reduced climate pollution, and local job creation. It will be particularly beneficial for low-income renters, people with disabilities, and older renters.

While some elements of the Victorian Government's proposed rental reform package will deliver mild improvements in the health and safety of homes, these standards will not be sufficient to deliver safe and affordable homes. We have outlined out a set of detailed recommendations on the next page, which include stronger minimum standards for heaters and minimum standards for insulation, draught-proofing, lighting and hot water units.

Victorians pay a median rent of \$20,800 each year – generally their single largest household expense. For this amount of money, they should be able to expect that their home is safe. If a business makes money renting out cars, they must ensure that those cars are safe. Landlords have a responsibility to make sure people who rent have safe and healthy homes, especially with more Victorians renting for longer periods, raising families and growing old while renting.

With 1.5 million Victorians living in rental accommodation, renters now represent 23% of Victoria's population^{vi}. The state government has the opportunity to set standards that will make a real difference to almost a quarter of the Victorian population, especially vulnerable people, while delivering reduced carbon pollution and increasing gross state product. We urge the government to act now.

Recommendations in detail

The signatories to this statement welcome some of the elements in the rental reform package that aim to improve the health and affordability for homes, including safety checks for gas and electricity appliances and minimum standards for heaters. However, the proposed reforms don't provide the protections that are necessary to make a home safe and affordable to live in.

While we welcome the proposal to make it easier for renters to modify their property, this is not a suitable alternative to minimum standards. Tenants should not have to bear the cost of bringing a property up to a minimum standard, as most renters do not have secure enough long-term leases to recoup the costs. Placing the onus on tenants to bring their home up to scratch is deeply inequitable.

Therefore, the signatories to this statement are calling for the amended Act and associated regulations to include the following minimum standards for thermal safety and affordability.

- The rental reform package proposes standards for heaters, low-flow showerheads and dishwashers. However, the standard should also include minimum standards for insulation, draught-proofing, lighting and hot water units.
- In particular, we strongly urge the government to set minimum standards for insulation and draught-proofing. While we acknowledge the concerns about draught-proofing in homes with open-flued gas heaters, we suggest this can be managed through the proposed two-year safety checks and introduction of carbon monoxide alarms as suggested in DELWP's open flued gas space heaters review. Also, the implementation of technical fixes recommended by a 2018 coronial inquiry, and the gradual phase-out of open flued gas heaters, would assist in reducing the risk of these appliances. The answer to open flued gas heaters is not leaky homes, but intelligent management and phase-out of the risk.
- The proposed heating standards do not go far enough. The proposed two star energy requirement for heaters is effectively the bare minimum according to the department's own analysis in the RIS, and only applies to class 1 buildings (houses), not class 2 buildings (apartments). We believe a four star requirement would impose minimal additional burden on heating manufacturers and on rental providers.

Many of the new provisions, including minimum standards, will only affect rental agreements entered into after 1 July 2020, and some as late as 1 July 2023. This will result in many of the proposed provisions not applying to existing periodic tenancies and fixed term agreements. This will particularly disadvantage public, social and community housing tenants, who are generally on longer term housing agreements with less turnover. Therefore, the proposed minimum standards should be applied

to all rental homes from 1 July 2023, regardless of when new tenancy agreements are entered into.

While we acknowledge that it is beyond the scope of this review, the signatories to this statement also recommend that rental providers should be required to disclose the energy performance of rental properties so tenants can make informed choices about their homes. The government's Victorian Energy Efficiency Scorecard represents an opportunity to achieve this.

ⁱ Forcey, D. FitzGerald, M., Burggrad, M. Nagalingam, V. and Ananda-Rajah, M. 2019, "Cold and lonely". Emergency presentations of patients with hypothermia to a large Australian health network. *Internal Medicine Journal*, 2019 Apr 9. doi: 10.1111/imj.14308.

ⁱⁱ Gasparrini et al, 2015 "Mortality risk attributable to high and low temperature: a multicountry observational study" *Lancet* 2015; 386: 369–75.

ⁱⁱⁱ Department of Environment, Land, Water and Planning, State of the Environment Report 2016.

^{iv} Centre for Sustainable Infrastructure 2018, Swinburne University of Technology, Submission 9, pp. 3–4.

^v Australian Bureau of Statistics (ABS) 2009 4602.2 - Household Water, Energy Use and Conservation, Victoria, Oct 2009.

^{vi} ABS 2009 3101.0 - Australian Demographic Statistics, Mar 2019.

18 December 2019

Via [Engage Victoria website](#)

RE: Submission to Residential Tenancies Regulations 2020 - Regulatory Impact Statement

Thank you for the opportunity to make a submission to the Regulatory Impact Statement assessing the proposed Residential Tenancies Regulations 2020 to accompany the *Residential Tenancies Amendment Act 2018*.

About Environment Victoria

Environment Victoria is one of Australia's leading independent environment groups. With more than 50 member groups and tens of thousands of individual supporters, we've been representing Victorian communities on environmental matters for 50 years. Through advocacy, education and empowerment, Environment Victoria seeks significant and enduring solutions that will safeguard the environment and future wellbeing of all Victorians.

Environment Victoria has been advocating for minimum standards for energy efficiency in rental homes for several years.

About this submission

We congratulate the Andrews Government for recognising the many challenges facing renters and taking action by passing the *Residential Tenancies Amendment Act 2018*, and proposing the associated Residential Tenancies Regulations 2020. The rental reform package will make a real difference to over a million Victorians - providing more secure tenure and a much fairer balance of rights and obligations. Our submission largely focuses on the environmental benefits the reform package could deliver.

We welcome this opportunity to contribute to the RIS process and hope that our recommendations, as well as those of the One Million Homes alliance members, are given full consideration and adopted as part of the reform package.



Minimum standards - measures we support

We welcome the proposed minimum building and safety standards, including mandatory safety checks for gas and electricity appliances every two years to be carried out by rental providers. This will hopefully assist in reducing the risks posed by faulty appliances to tenants in their homes.

The proposal to phase out LPG gas heaters by July 2022 is also welcome, given Victoria's need to transition away from fossil fuels to meet our emissions reductions targets under the *Climate Change Act 2017*. The environmental benefits of shifting away from gas appliances towards electric appliances are that electricity supply (unlike gas) can be decarbonised, through either onsite or grid renewable energy.

While the above proposals are welcome, there are significant omissions and shortcomings with regard to the proposed minimum standards, many of which Environment Victoria have been calling for over several years. Below is a summary of the changes we are calling for to the amended Act and associated regulations.

Minimum standards - suggested changes and additional measures

Heating

Every year, cold weather kills 2,600 Australians – that's more than double Australia's annual road toll. Many of these deaths are avoidable - Australia has a 76 per cent higher rate of deaths linked to cold weather than Sweden, a country that is far colder than Australia but has enforced much stronger standards for homes.¹ Research shows that, if the energy star rating of homes was increased to 5.4 stars, heat-related deaths could be reduced by a factor of 20.²

Therefore, Environment Victoria welcomes the proposal to require rental providers to supply a heater in class 1 and 2 rental properties. However, the proposed 2 star energy rating for heaters in class 1 buildings, and the absence of a mandated rating for heaters in class 2 buildings, is disappointing. While the aim of the prescribed minimum standard is simply to "bring poor performing rental properties up to a basic minimum standard", rather than to achieve 'best practice', the justifications and rationale underpinning this proposal are questionable.³

The RIS analysed three regulatory outcomes with regard to the heating minimum standard;

- 1) Low energy efficiency option – no stars for class 1 or 2
- 2) Medium energy efficiency option (preferred option) – 2 stars for class 1, no stars for class 2
- 3) High energy efficiency option – 3.5 stars for class 1, no stars for class 2

Given the spectrum of stars under the gas and electricity rating systems is 6 and 7 stars, respectively, it is difficult to argue that the preferred option (2 stars for class 1 buildings), represents a medium level of policy ambition. This is clearly on the low end of the energy rating spectrum. Indeed, preliminary, desktop

1 Gasparri et al, 2015 "Mortality risk attributable to high and low temperature: a multicountry observational study" *Lancet* 2015; pp 386: 369–75.

2 Centre for Sustainable Infrastructure 2018, Swinburne University of Technology, Submission 9, pp. 3–4.

3 Department of Justice and Community Safety 2019, Regulatory Impact Statement Residential Tenancies Regulations 2020, p 49



market research conducted by Renew and Brotherhood of St Laurence, shows that there are almost no 1 star heating units available for purchase on the market, meaning 2 stars is the default, bare minimum. Thus, the unambitious nature of this regulatory outcome will not only fail to achieve significant cost and emissions reductions, it also risks locking in the manufacture of some of the lowest-performing, inefficient units for the next 10 years. Analysis conducted by Brotherhood of St Laurence and Renew, shows slightly higher purchase and installation costs for more efficient heating units (see Appendix). However, we believe these costs are far outweighed by the savings and thermal comfort delivered to tenants as demonstrated by the analysis. We call for the heating minimum standard to be raised to 4 stars instead of 2 to reflect the stated 'medium' level of policy ambition and to avoid unintended, negative market distortions.

In addition, we believe that not prescribing any energy efficiency rating for class 2 buildings is a significant lost opportunity. While we recognise there will be some difficulty in installing externally-fixed heating/cooling units to apartment buildings compared with detached houses, leaving a policy vacuum is not a reasonable solution.

Further, the department has not provided an in-depth analysis into how class 2 properties would be affected by the proposed 2 star minimum, other than to provide speculation about potential installation difficulties and opposition from owners corporations. Given the importance given to heating in the RIS, we consider this type of analysis to be a core component of the analysis, which is unfortunately missing. Thus, we propose DELWP/CAV should carry out a detailed investigation into how a mandated energy performance metric for heaters would affect class 2 buildings. This could include an exemption regime whereby rental providers could apply to the department for an exemption to install heating units where the physical constraints of the building present a genuine barrier to installation.

Draught-proofing

There is a possible conflict in the proposed regulations with regard to draught-proofing. Proposed regulation 29, schedule 4, item 7 requires the premises to be "structurally sound and weatherproof" as a minimum standard. The Cambridge Dictionary defines weatherproofing as "not allowing wind or rain to go through".⁴ At the same time, the proposed regulations allow draught-proofing to become a modification that renters can request without the rental provider unreasonably refusing. Thus, it is not clear whether draught-proofing is considered a minimum standard or a renter-initiated modification. As it currently stands, draught-proofing arguably falls under two categories: a renter-initiated modification *and* a minimum standard. We continue recommend draught-proofing be considered a minimum standard on basic health, safety, comfort and thermal efficiency grounds.

We understand that draught-proofing can pose a safety threat in homes with open flued gas heaters. However, we suggest this can be managed through the proposed two-year safety checks as recommended by this RIS, as well as the implementation of the recommendations of the 2018 Hawkins coronial inquiry via the associated Discussion paper: options for addressing risks from open flued gas space heaters in Victoria, currently open for comment.⁵ The key recommendations of the coronial inquiry were the carryout of technical fixes to faulty, unflued gas heaters, the introduction of carbon monoxide

⁴ Weatherproof in Cambridge Dictionary online, accessed from <https://dictionary.cambridge.org/dictionary/english/weatherproof>, 17 December 2019

⁵ <https://engage.vic.gov.au/open-flued-gas-space-heaters-discussion-paper>



alarms, and the gradual phase out of this category of heater. The implementation of these recommendations would assist in reducing the risk of these appliances. Thus, we do not support r28c), as it prohibits renters from draught-proofing rental properties with an open flued gas heater. The answer to solving the challenges posed by open flued gas heaters is not to create a policy vacuum leading to leaky homes, but through clearer regulation and more active risk management.

Insulation

A notable omission from the proposed regulations is any minimum standards requiring insulation. While we note that further investigative work is proposed on this topic in 2020, continued delay is hindering progress toward achieving safe, liveable and efficient homes. Based on Sustainability Victoria research⁶, and in line with other One Million Homes alliance members, including Tenants Victoria and the Australian Energy Foundation, clear minimum standard metrics should be developed by the department for insulation, for example, by requiring installation of ceiling insulation at a level of R3.5.

Hot water systems

Given that hot water account for 25% of a home's energy use⁷, it is disappointing that the RIS does not propose an energy efficiency standard for hot water units. While the RIS does propose to develop standards by 2021, we call for a clear and timely pathway for regulating minimum hot water standards.

Modifications

Many of the proposed modifications to a property allowed as of right or with the consent of the rental provider should simply be considered minimum standards for the basic safety, comfort and energy performance of a home. The requirement that efficiency-related modifications, such as draught-proofing be implemented via requests to the rental provider will lead to tenants bearing responsibility for costs and for initiating modifications. We consider this an unnecessary burden on tenants in an already unbalanced power relationship.

Mandatory disclosure

We continue to recommend that rental providers be required to disclose the energy performance of rental properties so tenants can make informed choices about their homes. Requiring homeowners to disclose their home's efficiency rating when they sell would provide valuable information to purchasers and create a market incentive for vendors to improve their home. The Victorian Government should be commended on the development of its Victorian Energy Efficiency Scorecard. However, the full benefits of the scorecard can only be realised if its disclosure is mandated at point of sale and lease. This would create a level playing field in the property market, allowing prospective tenants to make fully informed housing decisions in a better functioning market.

Transitional arrangements

Many of the new provisions, including minimum standards, will only affect rental agreements entered into after 1 July 2020, and some as late as July 2023. This will result in many of the proposed provisions

⁶ Sustainability Victoria 2019, Comprehensive Energy Efficiency Retrofits to Existing Victorian Houses, Melbourne.

⁷ Department of Energy and Environment (no date), Energy basics for households, accessed from <https://www.energy.gov.au/households/energy-basics-householders>, 18 December 2019



not applying to periodic tenancies and fixed term agreements entered into before 1 July 2020. This will particularly disadvantage public, social and community housing tenants, who are generally on longer term housing agreements with less turnover. The minimum standards should be applied to all rental properties by 1 July 2023, regardless of whether a new rental agreement has been entered into. This proposed date will provide ample time for rental providers to comply with the minimum standards and not unreasonably burden them with compliance.

Summary of recommendations

- 1) Raise the proposed 2 star minimum heating appliance standard for class 1 buildings to 4 stars.
- 2) The department should conduct a detailed analysis of the impacts of applying a 4 star heating standard to class 2 buildings, including an exemption regime where installation is physically impossible.
- 3) Clarify that draught-proofing is considered a minimum standard rather than a renter-initiated modification in the proposed regulations.
- 4) Outline a clear and timely pathway for the development of a minimum hot water standard.
- 5) Manage the associated risks relating to unflued gas heaters by implementing the recommendations of the 2018 coronial enquiry and gradually phasing out this type of heating.
- 6) Insulation is vital to achieving safe, liveable and energy efficient homes. Thus, it should be a minimum standard in the proposed regulations.
- 7) Require rental providers to disclose at point of lease the property's energy performance, as measured by the Victorian Energy Efficiency Scorecard, which should also be a mandatory assessment
- 8) The minimum standards should be applied to all rental properties by 1 July 2023, regardless of whether a new rental agreement has been entered into.

Conclusion

Thank you once again for the opportunity to contribute to the Residential Tenancies Regulations 2020 - Regulatory Impact Statement. We urge the adoption of the above recommendations to ensure that the rental reform package delivers benefits to all renters, especially vulnerable people, as well as reduced carbon pollution.

We would welcome the opportunity to further discuss the contents of our submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read "N. Aberle".

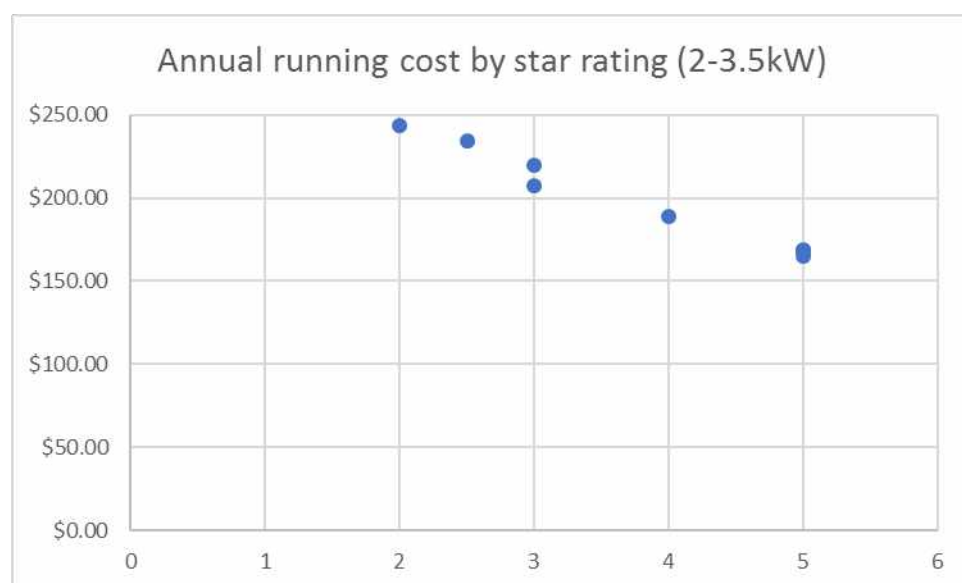
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Appendix: Reverse cycle air conditioner market analysis

Smaller units (2-3.5 kW)

Star rating	Average typical purchase + install cost	Average annual running cost	Annual running cost premium for inefficiency (\$)	Running cost premium for inefficiency (%)
2-2.5	\$744.00	\$238.74	\$25 higher than 3-3.5 star \$67 higher than 4-5 star	12% higher than 3-3.5 star 39% higher than 4-5 star
3-3.5	\$1,365.00	\$213.75	\$42 higher than 4-5 star	24% higher than 4-5 star
4-5	\$1,324.20	\$171.91		



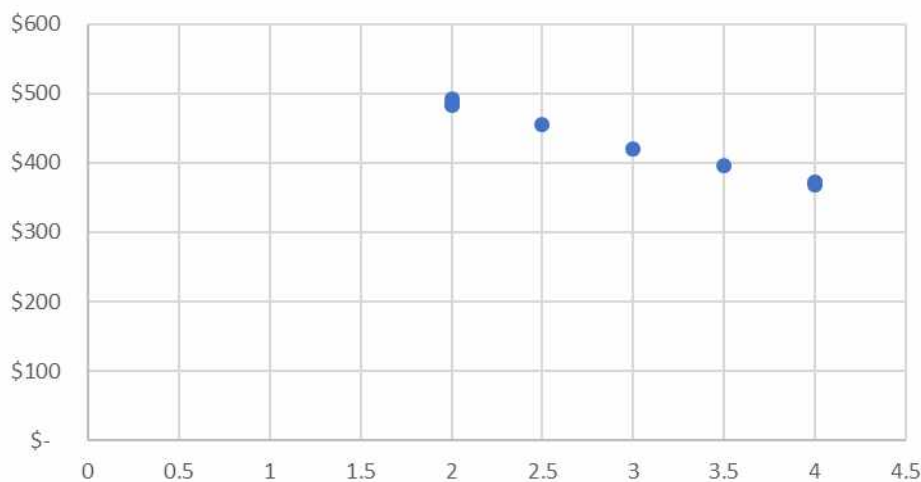


Larger units (3.6-5.5 kW)

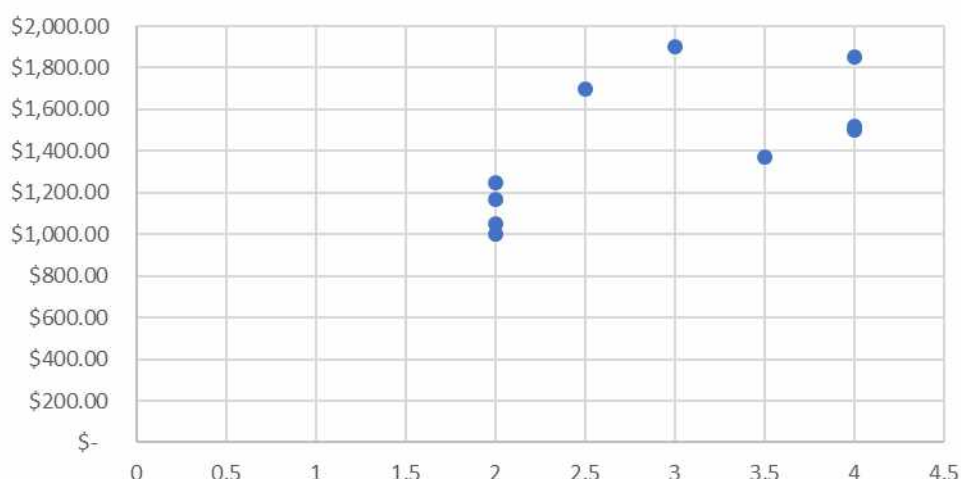
Star rating	Average typical purchase + install cost	Average annual running cost	Annual running cost premium for inefficiency (\$)	Running cost premium for inefficiency (%)
2-2.5	\$1,233.00	\$479.65	\$72 higher than 3-3.5 star \$109 higher than 4 star	18% higher than 3-3.5 star 29% higher than 4-5 star
3-3.5	\$1,636.00	\$407.97	\$37 higher than 4 star	10% higher than 4 star
4	\$1,622.00	\$370.77		



Annual running cost by star rating (3.6-5.5kW)



Purchase + install cost by star rating (3.6-5.5kW)



Data sources

Install costs: \$200 for Window/Wall units (Brotherhood of St Laurence data), \$600 for Split Systems (small survey of installers).

Retail prices of RCACs from popular large retailers, Q4 2019 (BSL, online searches). Models used are low cost popular models. Details available on request.

Energy usage calculated from specification sheets using NatHERS criteria for 2-star houses in Melbourne – 25 sq. m for small RCACs, 50 sq. m for large ones. Includes heating and cooling, noting that heating is 80% of the total energy allowance.

Victorian Default Offer for 2020 (mean of all network areas) used to calculate running costs. Volumetric rate only. Models are low cost popular models. Details available on request.

