

Regulation Review Submission
Housing Safety Authority
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By email: housingsafety@sa.gov.au

RE: *Housing Improvement (Prescribed Minimum Housing Standards) Variation Regulations 2018 Review – Targeted Consultation Response*

As the peak body for the health and community services sector in South Australia, the South Australian Council of Social Service (SACOSS) has an established history of interest, engagement and provision of advice in relation to the supply of essential services. SACOSS' research shows that the cost and supply of basic necessities like electricity has significant and disproportionately greater impacts on vulnerable people. SACOSS' advocacy is informed by our members and direct consultations with consumers and other consumer organisations; organisations and individuals who witness and experience these impacts in our community. SACOSS thanks the Housing Safety Authority and the Minister for Human Services, the Hon Michelle Lensink MLC, for the opportunity to make a submission on the Housing Improvement (Prescribed Minimum Housing Standards) Variation Regulations 2018 (the Draft Regulations).

SACOSS refers to our previous submission to the Housing Safety Authority,¹ dated 17 November 2018, which supported the inclusion of environmental performance standards within the Prescribed Minimum Housing Standards.² We repeat our submission that the review of the *Housing Improvement Regulations 2017* (the Regulations) presents an important opportunity for the Government of South Australia to introduce measures that set a minimum standard of energy efficiency for existing housing, resulting not only in health benefits for those most at risk of heat-related illnesses, but also in long term energy savings for consumers and downward pressure on the cost of living for vulnerable households.

SACOSS is extremely disappointed that the Draft Regulations contained in the Consultation Paper do not contain any prescribed standards relating to the environmental performance of existing residential premises.

¹ SACOSS, Regulation Review Submission – Housing Improvement Regulations 2017 – Review of Minimum Housing Standards in South Australia, 16 November 2017 see:
https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/171117_SACOSS_Submission%20to%20Housing%20Safety%20Authority.pdf

² In line with section 5(2)(d) of the *Housing Improvement Act 2016*

SACOSS strongly submits that the absence of environmental performance standards within the Draft Regulations represents a failure of the Housing Safety Authority to give effect to the meaning and intent of the *Housing Improvement Act 2016*, and is a missed opportunity for the South Australian Government to address the increasing health risk posed by heat-stress due to inadequate and inappropriate housing, particularly for vulnerable South Australians (including tenants).

Meaning and Intent of the Housing Improvement Act 2016

As noted in our previous submission, the objects of the *Housing Improvement Act 2016* (the Act) are to:

- ensure that housing meets the prescribed minimum housing standards, and
- regulate **unsafe or unsuitable** housing and the rent payable in respect of such housing, and
- raise community awareness of the prescribed minimum housing standards.³

Section 5 of the Act provides for the Governor to make regulations establishing standards that must be met for premises to be considered **safe and suitable** for human habitation (the prescribed minimum housing standards).

Section 5(2)(d) of the Act provides that the Regulations may make provision for '**environmental performance (including water and energy efficiency) of premises and any fixtures, fittings or facilities provided with premises**' (emphasis added).

'Residential premises' is defined in section 4 of the Act to mean 'premises used, intended to be used, or reasonably capable of being used as a place of residence...'

The Consultation Paper⁴ on the Review of the prescribed minimum housing standards, states that the Housing Safety Authority's role is to 'respond to **circumstances** that will, **or have the potential to**, cause harm to members of the community'.⁵ A recent study by Dr Thomas Longden of the University of Technology Sydney⁶ found that, on a per capita basis, Adelaide had the highest number of deaths due to heatwaves of all of Australia's capital cities.⁷ SACOSS submits that any measures which can ensure existing housing stock complies with minimum standards of energy efficiency to reduce the impact of Adelaide's heatwaves on the most vulnerable members of our community, would support the objects of the Act and the intent of the legislature.

The Consultation Paper further states that the *Housing Improvement Act 2016* 'supports a perspective-shift towards preventing and remediating health and safety risks in a modern context'.⁸ SACOSS submits the risks posed to members of the community by extreme heat and weather events, clearly supports the development of minimum energy efficiency standards for existing residential housing.⁹ Additionally,

³ See section 3 of the *Housing Improvement Act 2016*

⁴ SA Housing Authority, Consultation Paper, Regulation Review: Hushing Improvement Regulations 2017, Review of the South Australian Prescribed Minimum Housing Standards

⁵ SA Housing Authority, Consultation Paper, p.5

⁶ [Longden, T.](#) 2018, 'Measuring temperature-related mortality using endogenously determined thresholds', *Climatic Change*.

⁷ The study found that the number of deaths due to heatwaves in Australia's five largest capital cities during that period was highest in Melbourne, followed by Sydney, Adelaide, Perth and Brisbane. Melbourne recorded 1283 deaths, Sydney had 768, there were 549 recorded in Adelaide, Perth had 532 and Brisbane had the least with 220. But when the statistics were broken down — on a per capita basis — Adelaide was the hardest-hit capital city, followed by Melbourne and Perth. See ABC article, 15 August 2018 at <http://www.abc.net.au/news/2018-08-15/heatwaves-more-deadly-in-melbourne-and-adelaide/10119316>

⁸ SA Housing Authority, Consultation Paper, p.5

⁹ There are clear health and safety impacts resulting from unsuitable, energy inefficient housing see: Centre for Urban Research RMIT University, Heatwaves, Homes and Health: Why household vulnerability to extreme heat is an electricity

improved energy efficiency of rental accommodation would result in reduced bills for some of the most vulnerable members of our community. SACOSS, once again, submits a failure to include standards relating to the environmental performance of premises within the Draft Regulations represents a significant missed opportunity to address the heat-related health dangers caused by the inadequacy of existing housing stock.

The environmental performance of existing premises is of central importance to both the health and safety of the occupants, as well as to the energy and water consumption (and therefore costs) of the household. SACOSS submits the broad object of the Act to regulate 'unsafe or unsuitable' housing, contemplates ensuring the effects of extreme temperatures on occupants are mitigated through the development and implementation of minimum housing standards relating to energy efficiency. We consider energy efficiency measures such as the requirement that '**external windows at the residential premises must be able to be opened and closed to allow for economical home ventilation and heating**',¹⁰ are in line with the meaning and intent of the Act.

Relevantly, on 22 August 2018, South Australian Senator Tim Storer introduced the *Treasury Laws Amendment (Improving Energy Efficiency of Rental Properties) Bill 2018* to the Australian Senate. The Bill amends the *Income Tax Assessment Act 1997* to allow landlords to 'claim a tax offset of up to \$2000 per year during a three year trial period for energy efficiency upgrades to rental properties leased at \$300 per week or less, which is roughly 30 per cent below national median market rent'.¹¹ The Explanatory Memorandum states that (our emphasis):¹²

*'The Bill is a response to the fact that low income people who rent are acutely vulnerable to energy poverty. **Low income people who rent typically reside in the most energy inefficient homes, use the most energy inefficient appliances, and typically lack the means to upgrade the energy performance of their home.***'

In August 2018, the Australian Senate's Environment and Communications References Committee published a report into 'Current and future impacts of climate change on housing, buildings and infrastructure'.¹³ The Report outlines the significant issues facing occupants of rental and public housing, referring to a 2013 report which found that Australia's rental housing 'is poorly adapted to climate change, incorporates the lowest quality housing which is over represented by low income earners, and is the most vulnerable to climate change'.¹⁴ Further, the City Futures Research Centre at UNSW advised the Senate Committee that the lack of incentives for landlords to implement efficiency upgrades '*...especially disadvantages lower income households who are more likely renters than owner-occupiers and, without explicit cooperation from the landlord, are left with few recourses to protect themselves from climate change and extreme weather events even if they have the financial means to do so.*'¹⁵

policy issue, November 2017 http://cur.org.au/cms/wp-content/uploads/2017/11/heatwaves-homes-and-health-rmit_full-report.pdf

¹⁰ As outlined in SACOSS' November 2017 submission.

¹¹ The Parliament of the Commonwealth of Australia, Senate, Treasury Laws Amendment (Improving the Energy Efficiency of Rental Properties) Bill 2018, Explanatory Memorandum, p. 1

¹² Ibid, p.1

¹³ Senate of the Commonwealth of Australia, Environment and Communications Reference Committee, 'Current and future impacts of climate change on housing, buildings and infrastructure', August 2018 https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/CCInfrastructure/Report

¹⁴ Climate and Health Alliance, *Submission 16*, p. 5. The report cited is L Instone et al, *Climate change adaptation and the rental sector*, NCCARF, 2013.

¹⁵ City Futures Research Centre, UNSW, *Submission 24*, p. 1.

The Senate Committee Report outlines stakeholders' suggestions to address these issues through 'changes to building standards and providing incentives for homeowners to improve the efficiency of their dwellings'.¹⁶ This is supported by one of the key recommendations from the LIEEP¹⁷ GV Community Energy Report (the GV Report), which was to 'establish **minimum dwelling energy efficiency standards** for private and public rental properties.'¹⁸

SACOSS submits the evidence in support of the need for governments to regulate environmental performance standards for existing housing is overwhelming. Not only would the introduction of environmental performance standards within the Draft Regulations give effect to the intent of the South Australian parliament, it would also complement and support the move by Senator Storer to address the issue of split incentives in the rental sector, through the provision of tax breaks for landlords who undertake energy efficiency upgrades. **SACOSS therefore strongly encourages the Housing Safety Authority to thoroughly investigate options for appropriate environmental performance standards to be included within the Draft Regulations.**

Specific feedback to proposed standards

In addition to our broader call for the inclusion of environmental performance standards within the Draft Regulations, we are providing specific feedback in relation to two of the proposed amendments within the Consultation Paper.

Lighting and ventilation - section 5(1) and 2(h) of the Act

Currently the prescribed minimum housing standards require:

Each room in the residential premises must be adequately ventilated and lit and, in the case of a habitable room, must be able to be adequately lit by natural light during daylight hours.

It is proposed to remove this standard and replace it with a standard requiring that (our emphasis):

*'each room in the residential premises must **be able to be** adequately ventilated and lit'.*

SACOSS considers that the original standard should remain. Adequate ventilation is essential to preventing heat-related health impacts. Removing the obligation on landlords to ensure rental accommodation is adequately ventilated represents a failure to acknowledge the overwhelming evidence supporting the significant and dangerous impact of heat on vulnerable South Australians. Including '*be able to be*' creates uncertainty around the meaning and intent of the standard.

Insect screens – section 5(1) and 2(k) of the Act

Currently the prescribed minimum housing standard requires:

Each external window in the residential premises that is able to be opened or is fixed open must be fitted with a fly screen.

It is proposed to remove the existing standard and to allow the Housing Investigation Officers to use *existing* standards to consider the level of risk, such as:

¹⁶ Senate Environment and Communications Reference Committee, 2018, op cit, p. 84

¹⁷ The Low Income Energy Efficiency Program (LIEEP) was a Commonwealth Government grants program, which provided 20 grants worth \$55.3 million to a consortia of government, business and community organisations to trial approaches to improve the energy efficiency of low income households and enable them to better manage their energy use.

¹⁸ See for example the GV Community Energy Power Down Project, Low income energy efficiency program, April 2016 <https://www.environment.gov.au/system/files/energymog/files/gv-community-energy.pdf>

*The residential premises and any fixtures, fittings or other facilities provided with the residential premises must not present a health or safety hazard:
and
the residential premises and its grounds must be maintained to prevent-
iii infestation by vermin..*

Residents are less likely to open an external window to 'allow for economical home ventilation', in circumstances where there is no fly screen fitted. SACOSS strongly opposes the removal of this standard.

The Consultation paper states that '87% of respondents agreed that the minimum standard should allow for greater consideration of health and safety risks regarding insect screens'. SACOSS strongly submits that heat-related health risks should be considered relevant to the decision to remove the standard. SACOSS is unable to understand how the removal of the obligation to fit flyscreens relates to the existing standard dealing with the 'infestation by vermin'. SACOSS submits a clearer health or safety hazard associated with fly screens is the impact of heat on residents who are less likely to cool their homes by opening a window, in circumstances where no fly screen is fitted. SACOSS submits the existing standard could be amended to include:

*'..the residential premises and its grounds must be maintained to prevent-
iv heat-related health risks'*

In our November submission we referred to the report by the Centre for Urban Research, RMIT University (the RMIT Report), which found a clear causal link between energy costs and health and safety risks. The RMIT Report stated that 'together, poor quality housing and high electricity costs compromise health and wellbeing in Australia'.¹⁹

We repeat the finding in the RMIT Report that there is 'a clear need for cross-sectoral collaboration between the energy, housing and appliance sectors to address household's exposure to indoor heat through housing design, **housing and appliance regulations and standards**, retrofit programs, incentives and other schemes (emphasis added).'²⁰ The Report highlighted **economical home ventilation as a priority**, including ensuring there are windows and security doors which can be opened to reduce indoor temperatures overnight and mechanisms to encourage the installation of ceiling fans.

More broadly, the RMIT Report recommended:

- Improving housing quality and energy efficiency for heat vulnerable households, including strategies for public and private rental housing.
- Integrating heat vulnerability assessments into existing housing programs and services such as energy efficiency assessments and public housing maintenance inspections.
- Improving access to home air conditioning for households in extreme circumstances e.g. poor quality public housing, elderly and frail residents, chronic conditions exacerbated by extreme heat.²¹

SACOSS submits the Prescribed Minimum Housing Standards clearly have a role to play in minimising heat-related health and safety risks caused by poor quality existing housing stock, through measures which require houses to be adequately ventilated. The inclusion of the provision for **environmental performance standards** in Section 5(2)(d) of the Act, puts this role beyond doubt. SACOSS believes the Draft Regulations

¹⁹ Centre for Urban Research, RMIT University, Heatwaves, Homes and Health: Why household vulnerability to extreme heat is an electricity policy issue, November 2017, p42 see link: https://cur.org.au/cms/wp-content/uploads/2017/11/heatwaves-homes-and-health-rmit_full-report.pdf

²⁰ Ibid p42

²¹ RMIT Report p43

currently being consulted on represent a backwards step , and will result in existing housing becoming *less* safe and *less* suitable for habitation, in terms of heat-related health impacts, than was previously the case. We are seeking the South Australian government give serious consideration to the implementation of environmental performance standards within the Draft Regulations.

We thank you in advance for consideration of our comments. If you have any questions in relation to this submission, please contact Jo De Silva on jo@sacoss.org.au or 08 8305 4211.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Womersley', enclosed in a thin black rectangular border.

Ross Womersley
Chief Executive Officer