The Senate

Environment and Communications Legislation Committee

Treasury Laws Amendment (Improving the Energy Efficiency of Rental Properties) Bill 2018

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Chapter 1

Introduction

1.1 On 23 August 2018, the Senate, on the recommendation of the Senate Standing Committee for the Selection of Bills, referred the Treasury Laws Amendment (Improving the Energy Efficiency of Rental Properties) Bill 2018 (the bill) to the Senate Environment and Communications Legislation Committee (the committee) for inquiry and report by 23 November 2018.[1] The bill is a private senator's bill introduced by Senator Tim Storer.

1.2 Following the committee's presentation of a progress report to the President of the Senate on 19 November 2018, the Senate agreed to extend the tabling date to 5 December 2018.[2] On 3 December 2018, the Senate granted a further extension of time to report until 6 February 2019.[3]

Conduct of the inquiry

1.3 In accordance with its usual practice, the committee advertised the inquiry on its website and wrote to relevant individuals and organisations inviting submissions by 28 September 2018.

1.4 The committee received 21 submissions which are listed at Appendix 1 of this report. The public submissions are available on the committee's website at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/TreasuryLawsBill.

1.5 The committee also held a public hearing for this inquiry on 30 October 2018 in Melbourne. A list of witnesses who gave evidence at the hearing is at Appendix 2.

1.6 The committee thanks all of the individuals and organisations that contributed to the inquiry.

Reports of other committees

1.7 When examining a bill or draft bill, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills (Scrutiny Committee). The Scrutiny Committee assesses legislative proposals against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations, and on parliamentary propriety.

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1 *Journals of the Senate*, No. 113, 23 August 2018, pp. 3607–08.

2 *Journals of the Senate*, No. 130, 26 November 2018, p. 4230.

3 *Journals of the Senate*, No. 134, 3 December 2018, p. 4364.

1.8 The bill has been considered by the Scrutiny Committee and the Parliamentary Joint Committee on Human Rights. Neither committee had any comment on the bill.[4]

Scope and structure of the report

1.9 This report comprises two chapters. The remaining sections of this chapter provide background information and outline the provisions of the bill. Chapter 2 examines the principal issues raised by stakeholders regarding the bill. The committee's overall findings on the bill are provided at the end of Chapter 2.

Purpose and overview of the bill

1.10 The bill seeks to amend the *Income Tax Assessment Act 1997* (the Act) to allow landlords to claim a tax offset of up to $2000 per year during the three year trial period for energy efficiency upgrades to certain rental properties that are leased at $300 per week or less.[5]

1.11 The bill aims to reduce the so-called 'split incentives' between landlords and renters, where tenants do not have the resources or ability to invest in energy efficiency improvements, while landlords who do not directly experience the benefits of improved energy performance, have little incentive to invest in these improvements for their tenants.[6]

1.12 In the second reading speech, Senator Storer explained:

> The Bill is not a silver bullet that would make all of those buildings energy efficient, but instead aims to be a reasonably narrow and balanced policy that moves the tax goalposts in a fairer and more sustainable direction.
>
> In short, the Bill seeks to:
>
> a) Reduce energy bills, improve comfort and improve health outcomes of low income people who rent; and
>
> b) Demonstrate the benefits of energy efficiency to lay the groundwork for more ambitious policies to be developed.
>
> The Bill is timely, aims to help those most vulnerable to energy poverty (especially the elderly), and strengthens current energy efficiency schemes. The Bill is based on reliable evidence and broad stakeholder support, and it is my hope that the Senate will join together in supporting broader discussion on the merits of energy efficiency.[7]

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4 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, p. 10; Parliamentary Joint Committee on Human Rights, *Report 9 of 2018*, p. 22.

5 *Explanatory Memorandum*, p. 1.

6 *Explanatory Memorandum*, p. 1.

7 Second Reading Speech, *Senate Hansard*, 22 August 2018, p. 5574.

Provisions of the bill

1.13 The proposed amendments to the Act are contained in Schedule 1 of the bill.

1.14 Item 1 would insert the rental property energy offset into the list of tax offsets in section 13-1 of the Act, and item 2 provides that the rental property energy offset is a tax offset available under the proposed Division 381.

Division 381-Rental property energy efficiency offset

1.15 Item 3 inserts a new Division 381 to create the rental property energy efficiency offset. Section 381-5 outlines that the eligibility to claim the offset requires certain conditions to be met. Proposed subsection 381-5(1) requires that the dwelling in question is to be rented at $300 per week or less, as well as requiring the measure claimed to be energy efficient. The Explanatory Memorandum (EM) states:

> The intention of combining those two conditions is for the Bill to primarily benefit people who have low economic resources. The $300 per week figure is consistent with 2016 data from the Australian Bureau of Statistics, which suggests that $300 per week is roughly 30 per cent below median market value rent. There are more sophisticated mechanisms that measure low economic resource households, but for the purposes of this trial policy a rough guide seems appropriate.[8]

1.16 Proposed subsection 381-5(2) caps the maximum offset amount at $2000 per eligible property, per year, for the duration of the offset. The EM states that this figure was chosen in order to balance the cost to the budget and incentives to the landlord. While noting that a higher claimable threshold would be likely to have a stronger impact in improving building energy performance, the EM states that the threshold 'is deliberately a modest measure in order to encourage and assist smooth up-take'.[9]

1.17 The offset will only be able to be claimed per dwelling per year, and not per landlord, so as to avoid fewer desired properties being impacted if a landlord owned multiple eligible properties and to prevent multiple landlords claiming the offset for the same property.[10]

1.18 Proposed subsection 381-5(4) specifies that in the first year no installation or replacement of an appliance is able to be claimed. The EM states:

> The intention is to avoid the consequence that a more energy efficient appliance is installed, but the building performance remains weak. This would result in limited benefit to the occupant.[11]

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8 *Explanatory Memorandum*, p. 2.

9 *Explanatory Memorandum*, p. 3.

10 Subsection 381-5(3); *Explanatory Memorandum*, p. 3.

11 *Explanatory Memorandum*, p. 3.

1.19 Proposed section 381-10 would establish what energy efficiency measures can be claimed, including energy performance assessment tools. The EM notes that the assessment tools listed are intended to be available nationally, so as to avoid preferring one state over another.[12]

1.20 Proposed section 381-15 specifies that an energy efficiency measure must meet quality controlled industry standards, in order that upgrades are installed with respect to climate context and the installation is performed by adequately trained and accredited professionals, who must only use high performance and safe materials.

Review of proposed amendments

1.21 Item 4 proposes a requirement that, before the end of the 2021–22 income year, an independent review of the new offset must be conducted. The review would be undertaken by an independent panel that includes an expert in energy efficiency and an expert in housing policy and a report prepared and tabled in each House of the Parliament.

1.22 The report must include recommendations in relation to whether further amendments to the Act should be made, including other policy measures for improving the energy efficiency of rental properties.[13]

Background

1.23 The bill is a response to concerns that those on low incomes who rent privately are acutely vulnerable to 'energy poverty'.[14] Submitters noted that energy prices have been growing at a significantly greater rate than incomes for most Australians over the last decade.

1.24 Low income private sector renters are particularly vulnerable to financial pressure as a result of energy price increases. Uniting Communities stated that 'the lowest income quintile of households already pays more than three times more of their disposable income on electricity and gas compared to the highest income quintile'.[15] The Australian Council of Social Service (ACOSS) noted that households dependent on income support payments such as Newstart and related allowances are 'hit hardest by high prices, with one in four of these households spending more than 9.7% of their incomes on energy'.[16]

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12 *Explanatory Memorandum*, p. 3.

13 Item 4(4), paragraph (b).

14 The term 'energy poverty' generally refers to those households that spend a high percentage of their income on energy and struggle to keep up with rising energy prices, and whose well-being is negatively affected as a consequence.

15 Uniting Communities, *Submission 8*, p. 3.

16 The Australian Council of Social Service (ACOSS), *Submission 14*, p. 2 (citation omitted).

1.25 As a consequence of high energy prices, low income renters may be disconnected from utilities or seek to meet bills through other means. ACOSS commented:

> We know people in low incomes are more likely to be disconnected from their electricity, end up on hardship programs and be conserving energy to the detriment of their health and well-being. People are skipping meals, medicine, and not heating or cooling their home in order to afford their energy bills.[17]

1.26 The impacts of renters choosing not to heat or cool their homes and the energy inefficiency of properties were highlighted in research on thermal comfort. Dr Daniel Daly from the Cooperative Research Centre (CRC) for Low Carbon Living stated that during his research he had found properties in Western New South Wales with indoor temperatures of around five degrees during the winter.[18] Mr Robert Murray-Leach from the Energy Efficiency Council commented that tracking of outdoor and indoor temperatures in the homes of some low income households in Tasmania had found that these temperatures were identical.[19]

1.27 Many renters live in poor quality housing with one recent report suggesting that more than 450 000 private renter households and almost 195 000 public renter households are living in housing classified as poor quality or even derelict.[20] Poor quality housing is typically energy inefficient. Private rental properties are less likely to have insulation or other energy efficient features and to have inefficient appliances that are cheap to buy but expensive to operate.[21] For example:

- in the Australian Capital Territory (ACT), 43 per cent of rental properties have a 0 star rating.[22] In South Australia, less than four per cent of renters benefit from having access to solar photovoltaic (PV) to reduce their energy bills;[23]
- in Victoria, 58 per cent of private renters and 55 per cent of public renters live in a house with some level of ceiling insulation, compared to 95 per cent of home owners/buyers;[24] and

17 ACOSS, *Submission 14*, p. 2. See also, Brotherhood of St Laurence, *Submission 16*, p. 3.

18 Dr Daniel Daly, Research Fellow, Sustainable Buildings Research Centre, University of Wollongong, CRC for Low Carbon Living, *Committee Hansard*, 30 October 2018, p. 5.

19 Mr Robert Murray-Leach, Head of Policy, Energy Efficiency Council, *Committee Hansard*, 30 October 2018, p. 33.

20 RMIT University and University of Adelaide researchers, *Submission 4*, p. 1.

21 St Vincent de Paul Society, *Submission 21*, p. 3.

22 ACOSS, *Submission 14*, p. 2 (citation omitted).

23 Uniting Communities, *Submission 8*, p. 4.

24 Community Housing Industry Association (CHIA), *Submission 12*, p. 1.

- in Queensland, 40 per cent of renters live in properties with insulation compared to 80 per cent of owner occupiers.[25]

1.28 Energy inefficient properties amplify the effects of increasing energy prices for low income renters.[26] Evidence provided to the committee indicated the financial savings that could accrue from improvements to the energy efficiency of rental properties. Environment Victoria, for example, 'found that raising an existing home from a 2-star to 5-star rating can result in a 54 per cent reduction in energy or up to $600 in savings a year'. It was also noted that the retrofitting of 1400 community housing developments across Sydney by St George Community Housing is expected to cut energy bills across those properties by about $800 000 a year and provide an average saving of $570 each year on each tenant's energy bills.[27]

1.29 Properties that are energy inefficient and deliver poor comfort may also have significant impacts on the health and wellbeing of the occupants. This is particularly the case in extreme weather when renters seek to limit energy bills by not heating or cooling properties. The St Vincent de Paul Society commented that 'for those with chronic health problems, such as cardiovascular and respiratory conditions, exposure to temperature extremes can aggravate pre-existing conditions and increase mortality risks'.[28] The Brotherhood of St Laurence also noted that 'improving thermal efficiency has been linked with improved physical and mental health'.[29]

1.30 In relation to increased mortality risks, Mr Zac Gillam from the Consumer Action Law Centre (CALC) noted that Australia has a higher death rate from cold weather conditions than Canada and Sweden. He added that this is 'a reflection of the very poor rental stock in this country'.[30] ACOSS noted that the medical journal *The Lancet* reported that six per cent of deaths in Australia are due to the effects of cold living environments while a further one per cent are heat-related. It is also predicted that heat-related deaths will increase as global warming increases.[31]

1.31 The CALC also pointed to recent reports by RMIT University on the impact of energy costs on health and wellbeing. A 2017 report prepared by RMIT University for the Victorian Council of Social Service on the effects of rising household energy

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25 Queensland Council of Social Service (QCOSS), *Submission 11*, p. 2.

26 St Vincent de Paul Society, *Submission 21*, p. 2.

27 ACOSS, *Submission 14*, p. 3 (citation omitted).

28 St Vincent de Paul Society, *Submission 21*, p. 3 (citation omitted).

29 Mr Damian Sullivan, Senior Manager, Energy, Equity and Climate Change, Brotherhood of St Laurence, *Proof Committee Hansard*, 30 October 2018, p. 21.

30 Mr Zac Gillam, Senior Policy Officer, Energy, Consumer Action Law Centre (CALC), *Committee Hansard*, 30 October 2018, p. 15. See also, Mr Robert Murray-Leach, Head of Policy, Energy Efficiency Council, *Committee Hansard*, 30 October 2018, p. 30.

31 ACOSS, *Submission 14*, pp. 3–4 (citation omitted). See also, South Australian Council of Social Service (SACOSS), *Submission 6*, p. 3.

and water bills found that 'access to home heating can be especially important for health in older age and during illness, and when living in older, poorly designed and ineffectively insulated homes'.[32] A second report by RMIT University also noted that extreme heat can have significant negative impacts on health and wellbeing. The report commented that low income households may have greater exposure to heat and fewer options to respond. This is due to several factors: the increased likelihood that poor quality housing heats up quickly and retains heat; few tenants are able to make changes to their homes; and living in higher density areas tends to heighten indoor and outdoor temperatures.[33]

Barriers to improving energy efficiency of rental properties

1.32 There are a number of significant barriers to improving the energy efficiency of rental properties particularly the 'split incentive' between landlords and tenants. The split incentive means that low income renters lack the means to improve the energy efficiency of their homes, while landlords are often unwilling to bear the upfront cost of improvements as renters derive the ongoing benefit.[34] Under the current tax system, upgrades for items such as solar PV panels and efficient heating and cooling for rental properties, are considered an investment in the property and are not tax deductible as part of operational expenses. Instead, they are treated as capital improvements that can only be deducted against the cost base for capital gains tax when the property is sold.[35] The Public Interest Advocacy Centre (PIAC) added that 'this flaw is exacerbated by an established culture that regards rental tenancy as a short-term circumstance'.[36]

1.33 The Energy Efficiency Council noted that in rental properties like-for-like replacement is considered an instant depreciation, while replacement by a more efficient system is considered an investment in capital. Thus the landlord receives a greater tax benefit from the like-for-like replacement.[37]

1.34 Other barriers include the lack of accessible, timely and trusted information about the energy performance of properties and efficiency options and costs. Landlords find it costly and time-consuming to identify and understand different

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32 L Nicholls & Y Strengers, *Rising Household Energy and Water Bills: Case Studies of Health, Wellbeing and Financial Impacts*, Prepared for Victorian Council of Social Service, RMIT University, April 2017, p. 21.

33 L Nicholls et al, *Electricity pricing, heatwaves and household vulnerability in Australia*, RMIT University, June 2017, p. 6.

34 Better Renting, *Submission 2*, p. 2; Uniting Communities, *Submission 8*, p. 5; CRC for Low Carbon Living, *Submission 9*, p. 2; Brotherhood of St Laurence, *Submission 16*, p. 4.

35 CHIA, *Submission 12*, p. 2.

36 Public Interest Advocacy Centre (PIAC), *Submission 5*, p. 1.

37 Mr Robert Murray-Leach, Head of Policy, Energy Efficiency Council, *Committee Hansard*, 30 October 2018, p. 34. See also, Property Council of Australia, *Submission 20*, p. 3; St Vincent de Paul Society, *Submission 21*, p. 4.

efficiency measures and are less likely to spend the time to acquire the requisite knowledge to upgrade their properties.[38] Similarly, renters have insufficient information about the energy performance of their homes and many renters also do not have the authority to make efficiency upgrades.[39]

1.35 A further matter noted was that rental markets in capital cities have been tight over the last decade so landlords have not needed to invest in property improvements to secure tenants.

38 St Vincent de Paul Society, *Submission 21*, p. 4.

39 Brotherhood of St Laurence, *Submission 16*, p. 4.

Chapter 2

Key issues

2.1 This chapter canvasses the key issues raised in relation to the bill. The committee's overall conclusions on the bill are included at the end of the chapter.

Overall views on the bill

2.2 Submitters to the inquiry were generally supportive of the intent of the bill. The following extract from the Consumer Action Law Centre (CALC) is an example of the arguments made in submissions supporting the amendments:

> We generally support the Bill because the benefits of modifications that improve the energy efficiency of rental housing greatly exceed the costs. We agree that the tax code should not present a barrier to more energy efficiency improvements to the nation's housing stock by perversely incentivising landlords to retain inefficient rental properties.[40]

2.3 Submitters also supported the targeting of the program towards low income households. For example, the Brotherhood of St Laurence advised the committee:

> We particularly like that it's targeted towards a certain segment of the population, that it's not across the board. We think that there are a lot of incentives in place for landlords already, so we would think having this targeted towards the low end of the market is very important.[41]

2.4 The Community Housing Industry Association (CHIA) supported the use of a refundable offset mechanism as an appropriate incentive to encourage landlords to improve the energy efficiency of their properties. CHIA argued that the measure would be 'of particular benefit to community housing providers by allowing a prompt return from the Australian Tax Office of all or part of the capital investment required under the program'.[42] CHIA added that it 'may encourage better-researched investments by landlords and limit potential gaming of the system whereby suppliers of energy saving products price their products at the maximum available funding'.[43]

2.5 However, a number of submitters and witnesses, while supporting the underlying intent of the bill, pointed to a range of concerns and potential barriers to

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40 CALC, *Submission 3*, p. 1.

41 Mr Damian Sullivan, Senior Manager, Energy, Equity and Climate Change, Brotherhood of St Laurence, *Committee Hansard*, 30 October 2018, p. 22.

42 CHIA, *Submission 12*, p. 2.

43 CHIA, *Submission 12*, p. 2.

the take-up of the scheme.[44] The St Vincent de Paul Society commented that it believed:

> …the proposed measure is unlikely to result in significant improvements to the energy efficiency of low-cost private rental given the voluntary nature of the measure, the persistence of landlord disincentives and the limited scope of eligibility for the proposed tax offset. We also believe further consideration needs to be given to the potential for unintended consequences and adverse effects, such as increases in rental costs.[45]

2.6 Similarly, the Australian Council of Social Service (ACOSS) stated:

> …there is a tension between the very tight targeting of the proposal (which excludes the majority of rental homes), its potential cost to public revenue (noting other housing affordability policy priorities, including improving the inadequacy and securing the future of the National Rental Affordability Scheme (NRAS) and boosting the Rental Allowance for low income tenants), and potential for the incentive proposed to increase rent. ACOSS would have to be confident a new tax break would deliver new effective investment that would not otherwise occur and not lead to rent increases in order to support the measure proposed.[46]

Comments on specific measures

2.7 The following discussion addresses some of the issues raised by submitters in relation to the specific measures contained in the bill.

Eligibility for the offset

2.8 Concerns were raised by submitters in relation to the maximum eligible rent level of $300 per week. It was argued that this could potentially exclude many rental properties in high-cost city and suburban areas. For example, the Tenants' Union of NSW noted:

> We have examined the rents for the almost 60,000 bonds lodged in NSW's Rental Bond Board between May and July of 2018. In Sydney 96% of all homes will be excluded. Outside Sydney, 69% of NSW properties will be excluded. Three quarters of detached houses and about half of apartments outside the Greater Sydney area will be excluded.[47]

2.9 In addition, submitters and witnesses commented that the $300 limit does not take into account household type and size, making the 'offset inaccessible for

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44 See, for example, Mr Simon Croft, Executive Director, Building Policy, Housing Industry Association (HIA), *Committee Hansard*, 30 October 2018, p. 39.

45 St Vincent de Paul Society, *Submission 21*, p. 2.

46 ACOSS, *Submission 14*, p. 1.

47 Tenants' Union of NSW, *Submission 7*, p. 3. See also, Local Government NSW (LGNSW), *Submission 18*, p. 1.

multiple-occupancy dwellings, including share-houses and properties housing low-income families'.[48] The Tenants' Union of NSW added that 83 per cent of homes with three or more bedrooms outside of Sydney and 99 per cent of three or more bedroom homes in Sydney will be excluded.[49] The exclusion of larger dwellings was seen as significant by the Public Interest Advocacy Centre (PIAC) as these are used by many shared households and 'are often the least efficient and would benefit greatly from improvements in energy efficiency'.[50]

2.10 Mr Zac Gilliam from CALC concluded:

> …the main point, really, for us is that $300 a week is simply going to leave too many low-income people in really poor housing stock without any benefit as a result of this pilot program, and we think that the people we're concerned about are particularly low-income families living in homes. You're simply not going to find those properties for $300 a week or less, so there's going to be a mistargeting of the scheme and a lack of benefit to the people who need it the most.[51]

2.11 Submitters provided a range of suggestions to address this issue. The CALC, PIAC and the Housing Industry Association (HIA) argued that the $300 limit should be removed from the bill.[52] Similarly, Queensland Council of Social Service (QCOSS) supported the removal of the $300 limit and commented that such an amendment would also reduce administrative complexity, and thus reduce the compliance costs of the scheme.[53]

2.12 The committee also received a range of other suggestions on ways to set a limit which it was argued would better reflect the diversity of rental housing and support a higher take-up of the measure. For example:

- National Shelter recommended that the limit be increased to $450 per week across a range of dwelling types;[54]
- the Brotherhood of St Laurence suggested a more targeted approach could include 'a maximum dollar figure for each state/territory, perhaps based on 75% of the median private rental price for that state' as well as 'a maximum dollar figure plus an extra allowance for high-cost areas, such as capital cities

48 St Vincent de Paul Society, *Submission 21*, p. 6. See also, Mr Jake Lilley, Policy Officer, Energy, CALC, *Committee Hansard*, 30 October 2018, p. 19.

49 Tenants' Union of NSW, *Submission 7*, p. 3.

50 PIAC, *Submission 5*, p. 2.

51 Mr Zac Gilliam, Senior Policy Officer, Energy, CALC, *Committee Hansard*, 30 October 2018, pp. 18–19.

52 CALC, *Submission 3*, p. 3; PIAC, *Submission 5*, p. 2; HIA, *Submission 10*, p. 2.

53 QCOSS, *Submission 11*, pp. 3–4.

54 National Shelter, *Submission 13*, p. 6.

and the NT' and argued that 'consideration could also be given to a maximum dollar figure per bedroom (rather than per dwelling)';[55]

- Uniting Communities suggested the 40th percentile of median rent by jurisdiction;[56] and
- CRC for Low Carbon Living suggested that, to better reflect median rents, each housing type (e.g. detached home, home unit) have its own rental threshold and the rental threshold be increased for each housing type to reflect the median rent applicable to Australian capital cities.[57]

2.13 CHIA, however, supported restricting the availability of the offset to homes rented at $300 per week. CHIA argued that the 'vast majority of tenants in community housing pay less than $300 per week' and that the lower threshold 'would target the program at landlords making modest rental returns who are least likely to have free cash flow to invest in capital improvements'.[58]

Maximum claimable amount

2.14 A range of submitters and witnesses argued that the amount of the tax offset should not be limited to $2000 per year and that consideration should be given to a higher amount that would encourage more investment in substantial energy efficiency measures.[59] PIAC, for example, doubted that the proposed offset would be used for anything other than replacing a limited number of broken appliances with slightly more energy efficient appliances.[60]

2.15 The CRC for Low Carbon Living also commented that the $2000 limit:

> …is unlikely to be sufficient to stimulate investment in energy efficiency upgrades that will deliver substantial energy savings or thermal comfort improvements. For example, the cost to purchase and install an energy efficient electric heat pump or solar hot water service is around $5,000. The cost of ceiling insulation for a typical home is in the order $3,500.[61]

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55 Brotherhood of St Laurence, *Submission 16*, p. 7. See also, CRC for Low Carbon Living, *Submission 9*, p. 4.

56 Mr Mark Henley, Manager Advocacy and Communication, Uniting Communities, *Committee Hansard*, 30 October 2018, p. 12.

57 CRC for Low Carbon Living, *Submission 9*, p. 4.

58 CHIA, *Submission 12*, p. 3. See also, Ms Peta Winzar, Executive Director, CHIA, *Committee Hansard*, 30 October 2018, p. 15.

59 See, for example, PIAC, *Submission 5*, p. 3; Dr Daniel Daly, Research Fellow, Sustainable Buildings Research Centre, University of Wollongong, CRC for Low Carbon Living, *Committee Hansard*, 30 October 2018, pp. 6–7 ; Mr Simon Croft, Executive Director, Building Policy, HIA, *Committee Hansard*, 30 October 2018, p. 39.

60 PIAC, *Submission 5*, p. 3. See also, St Vincent de Paul Society, *Submission 21*, p. 7.

61 CRC for Low Carbon Living, *Submission 9*, p. 4.

2.16 CRC for Low Carbon Living suggested that a limit of $5000 would support more substantive efficiency upgrades.[62] This would include improvements to building fabric, replacement or upgrading of windows, improved insulation and installation of solar PV. A higher offset would also encourage investment to address the very poor energy performance of rental housing and allow for the greatest gains in energy efficiency.[63]

2.17 As an indication of the level of benefits to be gained by a higher level of investment, CHIA pointed to a 2016 cost-benefit assessment of a voluntary energy efficiency rating system for residential property by the CRC on Low Carbon Living. It estimated that energy bill savings of between $1000 and $2000 per year from lighting improvements, insulation, draft proofing, solar PV and water heating upgrades would require energy efficiency investments of between $5500 and $9600.[64]

2.18 However, CHIA added:

> …the $2,000 per annum under this pilot program could make an immediate and substantial difference to energy costs of low-income households. For those on very low incomes, even small reductions in energy bills will be significant. As a benchmark, the average energy concession received by eligible Victorian households in 2014 was $186.[65]

Definition of 'energy efficiency measure'

2.19 Several submissions noted the limitations of using the energy assessment schemes listed in the bill—the Nationwide House Energy Rating Scheme (NatHERS); the National Australian Built Environment Rating System (NABERS); and the Liveability Features Property Appraisal. For example, the CRC for Low Carbon Living stated:

> NatHERS assessments are generally only completed for new buildings and may not be useful for older buildings with poor construction documentation. NABERS assessments will only be relevant for apartment common areas.[66]

2.20 RMIT University and University of Adelaide researchers commented that the Liveability Features Property Appraisal 'is a very new tool, whose suitability is difficult to assess at this stage'.[67]

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62 CRC for Low Carbon Living, *Submission 9*, p. 4.

63 Mr Simon Croft, Executive Director, Building Policy, HIA, *Committee Hansard*, 30 October 2018, p. 39.

64 CHIA, *Submission 12*, p. 4 (citation omitted).

65 CHIA, *Submission 12*, p. 4 (citation omitted).

66 CRC for Low Carbon Living, *Submission 9*, p. 4.

67 RMIT University and University of Adelaide researchers, *Submission 4*, p. 2.

2.21 While the tools listed in the bill are national schemes, Dr Daniel Daly, CRC for Low Carbon Living, commented that 'at the moment there's a real lack of a nationally applicable method to assess energy efficiency in existing properties'.[68] Given the lack of a national assessment method, submitters and witnesses recommended that the definition be expanded to a wider range of assessment measures. Better Renting, for example, supported inclusion of energy efficiency assessments using state and territory measurement systems.[69] Dr Daly suggested including the Victorian Residential Efficiency Scorecard (RES).[70]

2.22 The Victorian RES provides an assessment of a dwelling's thermal performance in summer and offers recommendations on how the energy efficiency of the home may be improved. RMIT University and University of Adelaide researchers commented that 'the rating provides information on costs and guidance on retrofits, which would be desirable to promote the uptake of energy efficiency improvements'.[71] The Property Council of Australia informed the committee that the Department of the Environment and Energy was reviewing the Victorian RES with a view to adapting it to a national measure.[72]

2.23 In relation to the use of an accredited energy performance assessment, the CRC for Low Carbon Living recommended that 'home energy audits be completed by suitably qualified and accredited assessors (i.e. by the Australian Building Sustainability Association or other similar organisations)'.[73] However, HIA questioned 'the need for such stringent conditions for the types of properties that are likely to have poor current energy efficiency performance, so an assessment on their performance may provide little added benefit'.[74]

Appliance replacement

2.24 Some submitters questioned the minimum appliance star rating required to qualify as an energy efficient appliance under the bill and suggested this be adjusted to the type of appliance. For example, PIAC argued:

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68 Dr Daniel Daly, Research Fellow, Sustainable Buildings Research Centre, University of Wollongong, CRC for Low Carbon Living, *Committee Hansard*, 30 October 2018, p. 1.

69 Better Renting, *Submission 2*, p. 5. See also, Ms Francesca Muskovic, National Policy Manager, Sustainability and Regulatory Affairs, Property Council of Australia, *Committee Hansard*, 30 October 2018, p. 28.

70 Dr Daniel Daly, Research Fellow, Sustainable Buildings Research Centre, University of Wollongong, CRC for Low Carbon Living, *Committee Hansard*, 30 October 2018, p. 1.

71 RMIT University and University of Adelaide researchers, *Submission 4*, p. 3.

72 Ms Francesca Muskovic, National Policy Manager, Sustainability and Regulatory Affairs, Property Council of Australia, *Committee Hansard*, 30 October 2018, p. 28.

73 CRC for Low Carbon Living, *Submission 9*, pp. 4–5.

74 HIA, *Submission 10*, p. 2.

> Having a minimum of 3 stars required to qualify as an energy efficient appliance under the Bill is an unsuitable definition of energy efficiency and could result in rewarding owners with a tax offset for replacing broken appliances with an appliance they were going to replace it with anyway. This minimal definition of an energy efficient product is a missed opportunity to significantly improve the energy efficiency of rental opportunities. Meaningful and realistic minimum star ratings should be set depending on options available in each category. For example, a minimum of 6 stars is likely to be appropriate for split system air conditioners.[75]

2.25 Similarly, Uniting Communities raised concerns in relation to the three-star rating for appliances and stated that 'three-star rating is generally unsuitable these days because appliance efficiency has improved dramatically'.[76] Uniting Communities suggested:

> …a short schedule of appliances be developed, by the Commonwealth Department, with relevant contemporary energy efficiency star ratings applied as benchmarks for the various appliance categories.[77]

2.26 The Brotherhood of St Laurence recommended that any energy efficiency upgrades be limited to those listed on a schedule of improvements to be determined by an expert panel. Such a list is provided by the Victorian Government for the Victorian Home Energy Efficiency Target scheme and specifies different star ratings for different appliances.[78] The Brotherhood of St Laurence also noted that some kinds of appliances are not rated using the Equipment Energy Efficiency (E3) program as required by the bill. As a consequence, landlords would be unable to claim high efficiency hot water systems and gas heaters, as these appliances 'do not receive E3 ratings and would presumably therefore be ineligible'.[79]

2.27 The limiting of claimable upgrades to those listed on a schedule of improvements was also supported by Mr Robert Murray-Leach from the Energy Efficiency Council. He stated:

> I think some basic pointers to people about what constitutes the minimum features for an efficient home is really good. There are a lot of people trying to sell product, and I think it's better to give people clear guidance about what are the major hitters—insulation, draught-proofing, energy efficiency

75 PIAC, *Submission 5*, p. 3.

76 Mr Mark Henley, Manager Advocacy and Communication, Uniting Communities, *Committee Hansard*, 30 October 2018, p. 12.

77 Uniting Communities, *Submission 8*, p. 6.

78 Mr David Bryant, Research Officer, Brotherhood of St Laurence, *Committee Hansard*, 30 October 2018, p. 25.

79 Brotherhood of St Laurence, *Submission 16*, p. 6 (citation omitted). See also, ACOSS, *Submission 14*, p. 4.

> assessments, hot water systems, air space conditioning. Those are the really big ones.[80]

2.28 Submitters also expressed concerns in relation to the prohibition on landlords claiming for installation or replacement of appliances installed during the first year of the trial period.[81]

Review of amendments

2.29 The timeframe and scope of the independent review to be conducted at the end of the three year trial period was also commented upon by submitters. For example, both the CALC and the PIAC recommended that the independent review into the operations of the amendments be conducted after two years instead of three.[82] CALC submitted that this would '[ensure] the incentive encourages meaningful energy efficiency improvements (including products that may not have a star rating), consideration of a higher offset amount and the need for community education to realise the intended benefits of the Bill'.[83]

2.30 In addition, the CRC for Low Carbon Living recommended that any review of the amendments should be 'informed by a comprehensive monitoring and evaluation strategy' which:

> a) articulates measurable outcomes at various scales (housing typology, location etc)
>
> b) provides robust evidence of whether the intended outcomes have been achieved at, if so, the causal relationships between the amendments and those outcomes
>
> c) includes SMART measures and indicators that use a rich data set captured from the commencement of the amendments.[84]

2.31 CHIA commented on how the evaluation should be undertaken and stated:

> It will be important for the evaluation of this program to measure the actual impact of the measures taken on household energy consumption and thermal comfort, any changes in rent paid for the property and, if possible, to compare the motivations of landlords undertaking energy measures under

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80 Mr Robert Murray-Leach, Head of Policy, Energy Efficiency Council, *Committee Hansard*, 30 October 2018, p. 35.

81 See, for example, COTA Australia, *Submission 15*, pp. 3–4; Brotherhood of St Laurence, *Submission 16*, pp. 6–7.

82 CALC, *Submission 3*, p. 1; PIAC, *Submission 5*, p. 4.

83 CALC, *Submission 3*, p. 1.

84 CRC for Low Carbon Living, *Submission 9*, p. 5. See also, St Vincent de Paul Society, *Submission 21*, p. 8.

> this program and the investment choices they make with those of landlords outside the program who own similar properties.[85]

Other issues raised

2.32 Submitters and witnesses also raised a range of other issues including the possible effects of the program on rental affordability and the need for minimum energy efficiency standards for rental properties.

Effects on rental affordability

2.33 A number of submitters discussed a possible perverse/unintended outcome of the tax offset: increased rents for tenants. For example, ACOSS submitted:

> There is a risk that landlords could increase rents because they are not fully compensated for the costs of the energy efficiency measure and/or they consider the investment has increased the value of the property and its attractiveness to prospective renters.[86]

2.34 RMIT University and University of Adelaide researchers commented:

> [T]he lower supply of energy inefficient properties will put upward pressure on rents in this segment of the market. This may make the rent unaffordable for the existing tenants.[87]

2.35 CHIA pointed to the ACT Government's Liveability pilot program which suggested that 45 per cent of landlords who were 'inclined to invest' in energy improvement measures were motivated by the potential to increase rents.[88] However, CHIA noted:

> A more rigorous 2018 study of the impact of the ACT government's residential energy efficiency rating disclosure regime found that it resulted in a 'small but statistically significant' increase in rental prices; 5-star properties rented for 3.5 per cent more than 3-star properties, which in turn rented for 2.4 per cent more than 2-star rated properties. This suggests that the savings to the tenant from energy efficiency measures is likely to exceed any rental increase, however it is a program impact which the evaluation should carefully assess.[89]

2.36 Better Renting commented that the extent of increases may be limited as 'making energy efficiency features more widespread will reduce their scarcity value

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85 CHIA, *Submission 12*, p. 5.

86 ACOSS, *Submission 14*, p. 5. See also, QCOSS, *Submission 11*, p. 1.

87 RMIT University and University of Adelaide researchers, *Submission 4*, p. 3.

88 CHIA, *Submission 12*, pp. 4–5.

89 CHIA, *Submission 12*, p. 5 (citations omitted).

and thus reduce the extent to which landlords can use them to extract increased rents'.[90]

2.37 Mr Mark Henley from Uniting Communities also noted that there are mechanisms open to tenants such as residential tenancy tribunals to deal with rent increases. Mr Henley concluded:

> I think that there are various state approaches that deal with rental levels, and it would be best to leave the rent setting to those instruments rather than trying to deal with it in this legislation. We recognise that it's a risk, but it's a modest risk compared to the benefits from applying this legislation.[91]

2.38 Submitters who were concerned with the possibility of rent increases argued that a mechanism should be introduced to limit increases. St Vincent de Paul Society commented that many low income renters have little capacity to absorb any increases in rent and suggested that they would face problems with any rental increases even if energy bills were ultimately lower. It submitted:

> The possibility of paying more in upfront rent for a more energy efficient property—even if this might be mean lower utility bills—is problematic for low-income renters who are already juggling budgets simply to stay put in their current accommodation.[92]

2.39 The St Vincent de Paul Society went on to note that some countries have introduced rent stabilisation mechanisms alongside energy efficiency initiatives, for example, the Netherlands, Sweden and Germany. They also recommended that, if the tax offset is adopted:

> …guarantees are legislated at the state and territory level to protect tenants against associated rental increases (bar nominal increases within the guidelines of residential tenancy legislation), thereby preventing low-cost rentals from being priced out of reach of low-income households once energy efficiency measures are implemented.[93]

2.40 Dr Edgar Liu from the University of NSW suggested that corresponding measures should also be considered in order to protect renters from the risk of rent inflation:

> With Budgetary constraints considered, however, (i.e. that a maximum rent level is set as an eligibility criteria), measures should be included so that the landlords are responsible for maintaining the rent level (bar nominal increases within the guidelines of residential tenancy legislations) so not to

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90 Better Renting, *Submission 2*, p. 4.

91 Mr Mark Henley, Manager Advocacy and Communication, Uniting Communities, *Committee Hansard*, 30 October 2018, p. 13.

92 St Vincent de Paul Society, *Submission 21*, p. 4.

93 St Vincent de Paul Society, *Submission 21*, p. 5.

> risk these low-cost rentals being priced out of reach of low-income households once the energy efficiency measures have been performed.[94]

2.41 RMIT University and University of Adelaide Researchers also noted that if the proposed offset were to be introduced, then the 'Federal government would need to collaborate with the states through COAG [Council of Australian Government] and make them responsible for regulating the rents of properties that has been improved using the commonwealth tax provision'.[95]

Minimum energy efficiency standards

2.42 Many submitters supported the implementation of minimum energy efficiency standards for rental housing as the most effective way of improving the energy efficiency of housing for low-income tenants.[96] For example, QCOSS argued:

> …regulated mandatory minimum rental property standards, (that include energy efficiency) are the best way to improve comfort and affordability for tenants, while ensuring that landlords are not prevented from getting fair tax treatment for their expenditure.[97]

2.43 It was noted in evidence that minimum standards are in place overseas, including in the United Kingdom (UK) and New Zealand.[98] Dr Daly noted that the UK scheme has recently implemented minimum standards for rental properties. As a consequence, 'the two lowest performing star bands or ratings [in the UK scheme] now are unable to be leased. That provides some protection to renters that they can't be rented properties that are essentially impossible to keep comfortable for a reasonable cost'.[99]

2.44 The need for minimum standards was supported by the Brotherhood of St Laurence as one part of the solution to improving the energy efficiency of rental properties. The need to provide incentives to assist landlords to upgrade properties was seen as being equally important. Mr Sullivan commented:

> We see this particular bill as addressing that incentive component, which is very important, but we do think a regulated minimum standard is a really

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94 Dr Edgar Liu, University of New South Wales, *Submission 1*, p. 2.

95 RMIT University and University of Adelaide researchers, *Submission 4*, p. 5.

96 See, for example, CALC, *Submission 3*, p. 1.

97 QCOSS, *Submission 11*, p. 2.

98 Mr Robert Murray-Leach, Head of Policy, Energy Efficiency Council, *Committee Hansard*, 30 October 2018, p. 32.

99 Dr Daniel Daly, Research Fellow, Sustainable Building Research Centre, University of Wollongong, CRC for Low Carbon Living, *Committee Hansard*, 30 October 2018 p. 5.

> important part of this as well. It would provide certainty for both landlords and tenants.[100]

2.45 The St Vincent de Paul Society also supported the introduction of a range of complementary policy and regulatory measures at the state and territory level to ensure that the benefits of the bill are realised and the risks minimised. These measures include mandated minimum energy efficiency standards for rental properties. The St Vincent de Paul Society concluded:

> Ultimately, meaningful improvements in the energy efficiency of low-income housing will require a mix of measures, with better coordination and cooperation between different levels of government.[101]

2.46 The importance of minimum standards in the future was raised by the Property Council of Australia. Its representative, Ms Francesca Muskovic, noted that research suggests that 51 per cent of buildings that will exist in 2050 haven't been built yet. Ms Muskovic stated that, as a consequence:

> …there is an imperative to focus on minimum standards because, at any one point in time, new buildings might comprise a small amount of the building stock, but the cumulative impact on that is obviously tremendous. So there is absolutely an imperative to focus on minimum standards.[102]

2.47 Submitters also argued that the implementation of the bill should be accompanied by an education and awareness campaign to ensure the greatest uptake of the scheme.[103] The Property Council of Australia expressed the following view:

> If this bill were to be introduced it would need to be accompanied by a fairly significant push on education through real estate agents and the like. You need to think about the points of influence or their touch points with professionals in the sector and seek to educate. I think if you just introduce the bill on its own without some of those supporting measures, you might not see a lot of uptake.[104]

Committee view

2.48 The committee acknowledges that many Australian households and businesses are struggling with high energy bills and that measures supporting improved energy efficiency have the potential to alleviate cost-of-living pressures and restore competitive advantage.

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100 Mr Damian Sullivan, Senior Manager, Energy, Equity and Climate Change, Brotherhood of St Laurence, *Committee Hansard*, 30 October 2018 p. 21.

101 St Vincent de Paul Society, *Submission 21*, p. 2.

102 Ms Francesca Muskovic, National Policy Manager, Sustainability and Regulatory Affairs, Property Council of Australia, *Committee Hansard*, 30 October 2018, p. 27.

103 See PIAC, *Submission 5*, pp. 3–4; CRC for Low Carbon Living, *Submission 9*, p. 4.

104 Ms Francesca Muskovic, National Policy Manager, Sustainability and Regulatory Affairs, Property Council of Australia, *Committee Hansard*, 30 October 2018, p. 29.

2.49 The Australian Government has recently announced a plan for more affordable and reliable energy. This will benefit households and businesses by putting consumers back in charge and increasing competition in the National Energy Market. The committee notes that the government is also improving the energy efficiency of household appliances through the COAG Energy Council's Equipment Energy Efficiency work stream, in conjunction with state and territory governments.

2.50 The bill proposes to introduce a scheme aimed at improving the energy efficiency of some of the poorest quality residential housing in Australia. It proposes that landlords will be able to access a tax offset to undertake upgrades such as the installation of insulation, draught-proofing and the replacement of appliances.

2.51 The committee supports the broad aims of the bill: improved energy efficiency will result in lower energy bills and improved health and wellbeing of tenants. However, this is a complex policy area and the committee believes that further consideration should be given to ensure that the best approach to addressing the serious inadequacies of the energy efficiency of rental properties is implemented. The committee notes that, for example, there were concerns that improved energy efficiency may lead to increased rents for those tenants least able to afford them. While there may be compensating decreases in energy bills, the committee considers that further analysis of the impact on affordability needs to be undertaken before the tax offset proposal is implemented.

2.52 In addition, the committee notes the extensive evidence received that the $300 weekly rental threshold may exclude many rental properties, particularly in capital cities. It was also suggested that the maximum claimable amount of $2000 per year may impact adversely on the take up of the proposal by landlords and may be too low to fund many improvements for greater energy efficiency. There were also concerns raised in evidence about the proposed definition of energy efficiency.

2.53 The committee therefore considers that further consultation with stakeholders should be undertaken before the proposed tax offset is progressed.

Recommendation 1

2.54 The committee recommends that the bill not be passed.

Senator Jonathon Duniam
Chair

Labor Senators' additional comments

Energy policies

1.1 Labor welcomes and acknowledges Senator Storer's commitment to improving energy efficiency and lowering the incidence of energy poverty.

1.2 Labor agrees with Senator Storer's view that a national energy efficiency strategy and energy efficiency target would be helpful. This is why Labor is committed to providing certainty to investors in the energy sector as this is fundamental to ensuring commitment to lower cost renewable energy while reducing Australia's reliance on expensive and unsustainable fossil fuels.

1.3 It is also why Labor has committed to a comprehensive Energy Affordability and Productivity Review as well as a $100 million Community Renewables program, to target renters, people in community and social housing, and others to access the benefits of renewable energy.

1.4 The policy paralysis of the Abbott Turnbull Morrison Governments as a result of their continual capitulation to the extremists within the party has resulted in reduced business investment in energy efficiency, renewable energy and the development of alternatives to our ageing and inefficient coal-fired power generation plants.

1.5 Shadow Minister Butler, in November 2018 announced Labor's plan for more renewable energy and cheaper power.

1.6 A Shorten Labor Government will drive new investment in renewable energy generation and storage and transform Australia's energy supply systems—delivering more renewable and cheaper power for all Australians. The plan will include a 10-year energy investment framework that delivers certainty for industry, lower power prices and more reliability.

1.7 Labor's preference is to achieve a bipartisan agreement on energy policy. Unfortunately, Prime Minister Scott Morrison and the Liberals are too divided and out of touch to agree on an energy policy that will lower prices, boost renewable energy and address climate change.

1.8 A Labor Government will double the original investment in the Clean Energy Finance Corporation (CEFC). Labor will provide an additional $10 billion in capital for the CEFC over 5 years from 2019–20. This will:

- support large-scale generation and storage projects, including solar and wind farms;
- support Labor' s household battery program by providing concessional loans for the purchase of solar and battery systems; and

- boost investment in energy efficiency projects, commercial and community renewable energy projects and industrial transformation.

1.9 A Shorten Labor Government will create an independent Energy Security and Modernisation Fund.

1.10 Labor will provide $5 billion in capital to future proof our energy network—building and upgrading Australia's energy transmission and distribution systems. Using the Australian Energy Market Operator's Integrated Systems Plan, Labor will facilitate investment in:

- upgrades to existing interconnectors and build new interconnectors to lower prices and improved system stability;
- new gas pipelines, upgrades and extensions to unlock new gas supplies and improve transportation to businesses and households; and
- transmission links to renewable energy zones to access new renewable projects across the country.

1.11 A Shorten Labor Government will implement a new Energy Productivity Agenda.

1.12 The Abbott Turnbull Morrison Governments presided over deterioration in Australia's energy efficiency performance with the International Energy Agency now ranking Australia last out of developed countries in energy efficiency policy and performance. This drives up costs for businesses and households and undermines jobs.

1.13 Labor will implement a suite of measures to help Australian businesses improve their energy efficiency and cut their power bills. We will:

- provide 1000 grants of up to $20,000 to Australian manufacturers to help them reduce their energy usage—for example through energy management systems and data gathering and analysis;
- allow ARENA to support a broad range of energy efficiency projects, not just projects with renewable energy involvement;
- develop new training programs for energy managers and consultants, and an accreditation system for energy auditors; and
- improve state and territory energy efficiency initiatives through COAG.

1.14 Labor's plan for more renewable energy and cheaper power will benefit households and benefit the economy and the environment. In addition, it will help deliver 50% power from renewable energy by 2030, keep our prices lower, and create tens of thousands of jobs in the renewable industry.

1.15 These announced initiatives will, if Labor is elected at the next election, provide a clear strategy and plan to reduce energy costs and, are the priorities for Labor in the context of reducing power costs to all consumers including those from low-socio economic backgrounds and those targeted by this Bill.

1.16 Labor Senators assert that Labor's energy policies will provide more effective and sustainable reductions in power costs than those proposed by Senator Storer.

1.17 We again reiterate that Senator Storer is acting with the best intentions, however providing tax concessions through a rental property energy efficiency offset to landlords in the predominantly unregulated private rental market is not a priority for a future Labor Government.

1.18 Demonstrating the benefits of energy efficiency requires Federal Government leadership, something that is missing within the current Government. Labor notes that Senator Storer has conceded that the Bill is not a silver bullet that would make all buildings energy efficient. We therefore believe that Labor's policies are the most effective means of reducing energy costs to consumers

1.19 The majority view of the Coalition dominated committee as outlined in paragraph 2.49 beggars' belief. To assert that the Australian Government has a plan for more affordable and reliable energy by putting consumers back in charge and increasing competition in the National Energy Market demonstrates how out of touch, divided and incoherent this Government is when it comes to affordable and reliable energy. This is a Government incapable of developing a coherent energy policy in the national interest.

1.20 In paragraph 2.51, Coalition Senators claim they support the broad aims of the bill: improved energy efficiency will result in lower energy bills and improved health and well-being of tenants. The Coalition then devalue this statement by claiming that this is a complex policy area and that further consideration should be given to ensure that the best approach to addressing the serious inadequacies of energy efficiency of rental properties is implemented. This statement is designed to gloss over the chaos, division and lack of policy that epitomises a Government devoid of policy, ideas and commitment to scientific evidence. It also demonstrates that the extremists with in the Government, including the Energy Minister, who wish to expand public funds on coal-fired power, continue to dominate coalition policy development.

Housing policies

1.21 Labor notes that more than 450,000 private renter households and almost 195,000 public renter households live in housing classified as poor quality or even derelict.[1]

1.22 Labor notes the evidence provided at paragraph 1.29 of the committee report from ACOSS that the very poor rental stock in Australia leads to poor health outcomes. ACOSS noted a Lancet report that six per cent of deaths in Australia are due to the effects of cold living environments, while a further one per cent are heat-

1 University of Adelaide and RMIT researchers, *Submission 4*, p.1.

related, and the number of deaths could increase as a result of increasing global warming.

1.23 While Labor agrees with Senator Storer in relation to the growing problem of energy poverty, this is only one aspect bearing in on Australian households' particularly low income households and households dependent upon social security payments.

1.24 A failed housing market, inadequate Federal Government policies on housing and homelessness, and an ideological obsession with neoliberal market based approaches has resulted in increased rental stress for Australians in the private rental market.

1.25 Despite claiming that the 2017–18 Budget would be the 'housing budget', the Coalition failed miserably to develop any substantive policy to reduce rental and mortgage stress. The then Assistant Treasurer, the Hon Michael Sukkar, claimed on Sky News on April 23, 2017 that:

> The housing package will be extraordinarily large, it will be far reaching, it will deal with all the groups on the spectrum of housing… It will be an impressive package, it will be a well-received package.

1.26 As it transpired, the package wasn't well received at all.

1.27 The Parliamentary Library in its Budget Review 2017–18 Index outlines the Government's ineffectual measures. In addition, the Parliamentary Library detailed responses from economists to the Government's so-called 'initiatives'.

> Economists have questioned whether this package of measures will have a significant impact. The Grattan Institute described the package as "a grab bag of "easy solutions", and argued that a few of them sound good; fewer still will make a difference. KPMG chief economist Brendan Rynn said that "it's not (enough), and argued that other tax changes would be more effective, including reducing the Capital Gains Tax discount from 50 to 25%. Economist Saul Eslake supported some of the supply measures targeting affordable housing, argued that overall, the package "won't make a huge difference."[2]

1.28 John Daley, of the Grattan Institute, noted the Government's so-called 'housing package':

> You'll need a scanning electron microscope to see an impact on prices. I can't see any reason why this budget is going to make a discernible

2 Parliamentary Library, Housing Affordability Measures, https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201718/HousingMeasures

> difference to housing affordability; a discernible difference on the number of younger people that buy a house.[3]

1.29 Richard Holden, Professor of Economics and PLuS Alliance Fellow, University of New South Wales, commented:

> Yet the measures in the budget involve not much more than tinkering. But the biggest minus of all was the absence of any measure whatsoever to address negative gearing and CGT exemptions for rental properties.[4]

1.30 The Coalition failed to bring on the bill in the Senate that included the bond aggregator proposal and was forced by the Senate to implement its policy to establish a National Housing Infrastructure Facility. This was a policy previously announced by Labor as part of its housing and homelessness package prior to the Government adopting our policy.

1.31 This failure by the Coalition to develop housing policies that reduce rental and mortgage stress is in addition to the failed policies of the Abbott Turnbull Morrison Governments. Since 2013 the Coalition has:

- refused to reform negative gearing and capital gains tax discounts;
- closed the National Rental affordability Scheme which has provided 37,000 new affordable social housing units and was on track to achieve its target of 50,000;
- scrapped the First Home Savers Account Scheme which was helping people save for their first home;
- abolished the National Housing Supply Council and the Prime Ministers Council on Homelessness
- cut $44 million a year in capital funding from homelessness services under the National Partnership Agreement on Homelessness;
- defunded Homelessness Australia, National Shelter and the Community Housing Federation of Australia;
- failed to appoint a dedicated Minister for Housing and Homelessness;
- scrapped the Housing Help for Seniors trial, announced in Labor's 2013–14 Budget;
- announced a grab bag of unrelated housing measures in the 2017–18 Budget;
- failed to acknowledge that the bond aggregator by itself will not drive the community housing sector to greater scale and capability in the absence of an ongoing, direct government subsidy; and

3 John Daley, *ABC 7.30*, 10 May 2017.

4 Richard Holden, *The Conversation*, 9 May 2017.

- ignored advice from the Department of Treasury Affordable Housing Working Group, the Community Housing Industry Association, the New South Wales Federation of Community Housing Associations, AHURI, Industry Super Australia, Homelessness Australia, National Shelter and many others that housing requires a subsidy.

1.32 Under the Liberals, the housing crisis is only getting worse.

- House prices have grown significantly faster than incomes, especially in major cities, putting home ownership out of the reach for the growing number of Australians. While prices have come of peaks in some markets, housing cost to income ratios remain at historic highs. Analysis by the Grattan Institute has shown that median prices have increased from around four-times median incomes in the early 1990s to more than seven-times today.
- Rental stress is also on the rise with more than 40 per cent of low income households paying more than a third of their income to keep a roof over their heads.
- There is a severe shortage of affordable rental housing in Australia and many families are struggling to find and keep a roof over their heads. The Australian Housing and Urban research Institute have estimated that there is a shortfall of more than 525,000 affordable rental properties.
- The number of Australians experiencing homelessness has risen by more than 13 percent since the 2011 census. At the 2016 census, 116,427 Australians were classified as being homeless up from 102,439 in 2011.

1.33 Australia's housing system is broken. Speculators are driving prices out of the reach for a generation of Australians. There is a shortage of secure affordable rental accommodation.

1.34 A Shorten Labor Government will reform and extend the National Rental Affordability Scheme (NRAS) to improve housing supply and help secure long-term affordable housing for key workers and vulnerable Australians.

1.35 This will be achieved by partnering with the community housing sector to build 250,000 new affordable rental properties over the coming decade. This will attract private institutional investment, and by working cooperatively with states and territories increase the supply of affordable rental housing in areas of greatest need.

1.36 Labor's reformed NRAS will support the residential construction sector, skill up the capacity of the community housing sector, boost employment, including the number of apprenticeships in the industry, improve national economic productivity, and meaningfully address the profound shortage of affordable rental housing in Australia. Labor's investment will cost $102 million over the forward estimates from 2018–19 and $6.6 billion over the medium term (10 years).

1.37 Labor can afford this policy by:

- Reforming negative gearing and capital gains tax concessions—making our tax system fairer and putting concessions to work to increase housing supply. There will be no negative retrospective impact on existing investors.
- Ensuring multinationals pay their fair share—closing the loopholes exploited by multinationals and stock profits being stashed away in tax havens.
- Closing loopholes used by the top end of town—stop the use of family trust to avoid paying a fair share of tax.
- Winding back the excesses in dividend imputation—end cash refunds on share dividends for investors who don't pay tax.
- Minimising the deductions for the use of accountants—with a maximum $3000 deduction for using accountants to prepare personal tax returns.
- Opposing the Morrison Government's proposed tax cuts for millionaires and ensuring that those in the top tax bracket pay a little more so we can pay down the Liberals debt in a responsible way.

1.38 In addition to the policies outlined above, a Shorten Labor Government will:

- limit direct borrowing by self-managed superannuation funds;
- facilitate a COAG process to introduce a uniform vacant property tax across all major cities;
- tighten foreign buyer restrictions;
- ensure the bond aggregator works effectively to increase investment in affordable housing;
- boost social housing and support for vulnerable Australians;
- achieve better results from the National Housing and Homelessness Agreement;
- re-establish the Housing Supply Council and reinstate a Minister for Housing.

1.39 Labor Senators understand Senate Storer's objectives in this bill and congratulate him on his commitment to reducing inequality. Nevertheless, Labor's priorities in Government are outlined above and will deliver effective short- and long-term support to Australians experiencing mortgage-, rental- and energy-induced poverty.

Senator Anne Urquhart
Senator for Tasmania

Senator Anthony Chisholm
Senator for Queensland

Australian Greens' dissenting report

1.1 The Australian Greens reject the recommendation of the Committee Report opposing the passage of this bill.

1.2 The Senate Environment and Communications Legislation Committee inquiry into the Treasury Laws Amendment (Improving the Energy Efficiency of Rental Properties) Bill 2018 received significant evidence and submissions that expressed strong support for the bill.

1.3 While acknowledging and expressing support for the aims of the bill and despite the evidence to the committee, the committee has failed to support the bill.

1.4 Energy efficiency is the 'low hanging fruit' in energy policy that successive governments have failed to act on it. As outlined in submissions to the committee, energy efficiency can reduce energy demand, cut power bills and cut pollution.

1.5 Despite rhetoric about energy bills and acting on climate change both the old parties have failed to put in place comprehensive plans for energy efficiency.

1.6 The quibbles raised by the committee should not be sufficient to prevent the bill going ahead, arguing that thresholds are too low and therefore would only apply to a limited number of properties is a not a substantive argument against the bill. Given that currently government gives zero support in this area it is hardly a persuasive argument against the bill. In fact any amendments to the bill to reflect the committee's concerns could be made to widen the scope if the government desired to.

1.7 The bill, while moderate in scope and narrowly targeted, will play an important role in highlighting the opportunities that could come from energy efficiency as well as delivering significant benefits to renters and landlords. The reality is that while this bill is not comprehensive it is a start that could be built on.

1.8 The Australian Greens will outline a comprehensive energy efficiency policy before the next election, but we are happy to support any specific measures, such as this bill, that start to address the issue.

1.9 It is worth remembering that this bill could save lives. As climate change continues to drive extreme weather the number of people vulnerable to heat waves will grow.

1.10 The tenth anniversary of the Black Saturday heat wave in which as many as 374 people died highlights the importance of driving the improvement in the energy performance of homes occupied by people on low incomes.

1.11 We want to commend Senator Storer for his pursuit of this bill which has been costed by the Parliamentary Budget Office. We note that Senator Storer is willing to accept amendments to the bill, which he has outlined in his dissenting report.

1.12 The unwillingness of the government to back the bill is further proof of their failure to confront the reality of climate change and the energy transition that must be undertaken.

Recommendation 1

1.13 Australian Greens recommend that the Senate consider amendments to the legislation as provided in this dissenting report.

Recommendation 2

1.14 Australian Greens recommend that the bill be passed.

Senator Janet Rice
Deputy Chair
Senator for Victoria

Senator Tim Storer's dissenting report

1.1 I reject the recommendation of the Committee Report.

1.2 The Senate inquiry into the Treasury Laws Amendment (Improving the Energy Efficiency of Rental Properties) Bill 2018 received a number of high-quality submissions from organisations who overwhelmingly support the motivation and merits of the bill.

1.3 I am pleased that the Committee 'supports the broad aims of the bill' and acknowledges that 'improved energy efficiency will result in lower energy bills and improved health and wellbeing of tenants'. The Committee should also be congratulated for acknowledging that there are 'serious inadequacies of the energy efficiency of rental properties'.

1.4 The approach to the design of the bill has been to consult widely with stakeholders and provide an immediate option for dealing with the growing problem of energy poverty, narrowly targeted towards those who are most vulnerable. People who rent live in the least energy efficient homes and have the least means to improve them. It is perverse that the tax code incentivises and exacerbates this problem.

1.5 The submissions reflect and acknowledge that careful, inclusive approach to the design of the bill, which was designed as a pilot, temporary programme in the short-term to deal with urgent problems caused by energy poverty.

1.6 The submissions provide clear evidence that energy efficiency has strong ability to cut energy bills, reduce energy demand and reduce carbon emissions.

1.7 The bill was also designed to raise awareness of the considerable benefits that energy efficiency could bring to the everyday lives of Australians who rent, and to generate debate on how to ramp-up Australia's energy efficiency strategy more generally.

1.8 These aims were achieved through the Environment and Communications Legislation Committee process. I am particularly grateful to the Committee, witnesses at public hearings and all the submitters for taking the time to review and comment on the bill. I am also grateful for the thoughtful consideration provided by the Minister for Energy and his office, as well as by the Shadow Minister for Housing and Homelessness and his office.

1.9 Another aim that was achieved through the Committee process was to pinpoint areas of the bill that required refinement. The Report highlights points raised by the submitters that would need to be fleshed out before implementing the bill. I'll deal with them now in turn.

1.10 One point raised was that the eligibility threshold was set too low at $300 rent per week. That threshold was chosen because it was roughly 30% below median market rent. The idea was that those who rent under that threshold are those worst effected by high energy bills whilst also being those least able to afford them. Narrow eligibility also reduced the cost of the policy.

1.11 The narrow $300 limit was backed by the Community Housing Industry Association, which said that that threshold 'would target…landlords making modest rental returns who are least likely to have free cash flow to invest in capital improvements'.[1]

1.12 However, it was noted in a range of other submissions that too few people would be included as eligible under that threshold, limiting the positive reach of the policy. So, I proposed to raise the threshold to $500 per week, following the recommendation by National Shelter, thereby including a larger range of landlords who would be eligible to claim under the policy.

1.13 The maximum claimable threshold of $2000 per year was also raised as possibly being too low. The purpose of that threshold was so that the proposal would be economically modest, whilst achieving the objectives of the policy. It is worth noting the CHIA submission:

> …The $2000 per annum under this pilot program could make an immediate and substantial difference to energy costs of low-income households. For those on very low incomes, even small reductions in energy bills will be significant.[2]

1.14 In a report just released by the Brotherhood of St Laurence and ACOSS in January this year, it is shown that a $2000 investment in energy efficiency results in an average saving of $300 per year off energy bills. This highlights that the threshold of the bill is sufficient for a pilot programme.

1.15 So, ultimately I agree that raising the threshold would improve the effectiveness of the policy. However, given that the main aim of the policy is to tackle the perverse incentive in the tax code for landlords to repair rental properties that retain and exacerbate energy inefficiency, and because the limit would deliver savings to tenants, it is not clear that raising the threshold should be used as an excuse to not support the policy.

1.16 The questioning of the definition 'energy efficiency measure' is similarly a minor point. I am open to refining the definition, though it seems unnecessary given the inclusiveness of the current definition, especially given likely administration costs. An important point is that, though I would welcome listing the Victorian Residential Efficiency Scorecard as a claimable item as suggested, the bill must avoid a possible constitutional issue of favouring one state over another.

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1 Community Housing Industry Association, *Submission 12*, p. 3.

2 Community Housing Industry Association, *Submission 12*, p. 4.

1.17 The refinement of the review process is also a minor point. It seems excessive to have a time-consuming and possibly expensive review of a bill designed to have small uptake and modest cost.

1.18 However, broader review into energy efficiency policy options more generally would be warmly welcomed in another arena. For example, a national energy efficiency strategy and energy efficiency target would be helpful but the specifics deserve close examination.

1.19 A more significant point raised relates to the policy's effects on rental affordability. As a narrowly targeted and modest policy with small uptake, it is highly unlikely that the policy would result in landlords raising the rent.

1.20 Each state has its own restrictions on landlords unfairly raising rent, which would suffice to control any desire to raise the rent as a result of relatively small investment in energy efficiency. As noted by Uniting Communities, those state approaches are the best place to deal with controlling rental levels, a 'modest' compromise 'compared to the benefits from applying this legislation'.[3]

1.21 Convincing arguments that rent raises would not be problematic are made in submissions. CHIA, for example, state that '…savings to the tenant from energy efficiency measures is likely to exceed any rental increase'.[4] Better Renting argue that the extent of increases may be limited as 'making energy efficiency features more widespread will reduce their scarcity value and thus reduce the extent to which landlords can use them to extract increased rents'.[5]

1.22 The argument that mandatory minimum energy performance standards and mandatory disclosure would be more effective in improving energy efficiency is convincing.

1.23 However, comprehensive energy reform is not the purpose of this policy. As noted by the Brotherhood of St Laurence, this bill deals with the equally important area of incentives in the short term. Mandatory minimum energy performance standards would necessarily be a long-term option needing COAG agreement. Given the scale and seriousness of the problem, urgent action is clearly needed.

1.24 The bill has been costed to reflect those amendments, including changing from a tax refund to a tax offset and removing certain appliance eligibility, with the Parliamentary Budget Office suggesting the revised policy would cost $21 million for the two year policy and $29 million for the three year version. These numbers highlight the impressive value of energy efficiency upgrades, especially when

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3 Mr Mark Henley, Manager Advocacy and Communication, Uniting Communities, *Committee Hansard*, 30 October 2018, p. 13.

4 Community Housing Industry Association, *Submission 12*, p. 5.

5 Better Renting, *Submission 2*, p. 4.

considering the massive benefits energy efficiency would bring to lowering energy bills and improving health outcomes of people who rent.

1.25 The return on energy efficiency investment is important to note. Examples of similar programmes, such as the Healthy Homes programme in New Zealand, reveal energy efficiency programmes to generate up to 5 times the resource costs.

1.26 So, the concerns raised within the Report are evidently straightforward to deal with.

1.27 It is important to note what the recommendation of the Report–that the bill not be passed–will mean for those who would have otherwise been helped by the bill.

1.28 People who rent are more vulnerable to extremes in temperature, which will only become more frequent with climate change. I remind the Committee of evidence cited in my Second Reading Speech:

> …in a scenario akin to the 2009 extreme Melbourne heatwave, 374 lives would have been saved if people were not occupying low energy performance homes due to heat stress. The figure for people who lived in high energy performance homes is estimated to be 37. Additionally, there would have been about 1000 presentations to emergency departments from those in low rated homes, compared to 280 from those in high rated homes.[6]

1.29 These effects are real and ongoing, as we saw just in Adelaide in late January this year, where hot temperatures resulted in more than 220 South Australians being treated by paramedics. As noted in the Advertiser, 'Hospital emergency departments dealt with 152 heat-related presentations across the three-day heatwave, with 53 people admitted for further treatment'.[7]

1.30 Energy efficiency does not only help when it is hot, but also when it is cold. I remind the Committee that 6.5% of deaths in Australia are attributed to cold weather, as opposed to only 3.9% in Sweden–a much colder country.

1.31 Before concluding, I would like to thank the Australian Greens for their unwavering support for energy efficiency and for being persuaded by the strong evidence presented to support the bill.

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6 Second Reading Speech, *Senate Hansard*, 22 August 2018, p. 5576.

7 Clare Peddie, 'Bureau of Meteorology meeting to review emergency response to SA's record-breaking heat', *The Advertiser*, 1 February 2019. www.adelaidenow.com.au/news/south-australia/bureau-of-meteorology-meeting-to-review-emergency-response-to-sas-recordbreaking-heat/news-story/911614278d404a3c5a100adb72a09efa (accessed 4 February 2019).

Conclusion

1.32 Improving the energy efficiency of rental properties is an urgent issue that should be prioritised by the Government. This bill presents an opportunity for the Government to show leadership by backing a clear energy policy winner. The bill would be a win for landlords, a win for people who rent, a win for the economy and a win for the environment.

1.33 It is thus particularly disappointing that the recommendation of the Report is that the bill not be passed, especially when all concerns listed are relatively simple to overcome through basic, minor changes to the original bill, as outlined above.

1.34 I strongly encourage both the Coalition and Labor to back the evidence and commit to substantial energy efficiency investment. I am hopeful that future policies from this Government and the next one will take full advantage of the striking benefits that energy efficiency would bring to Australian workers, businesses and families.

Recommendation 1

1.35 I recommend that the Senate consider amendments to the legislation as provided in this dissenting report.

Recommendation 2

1.36 I recommend that the bill be passed.

Senator Tim Storer
Senator for South Australia
Independent

Appendix 1

Submissions, answers to questions on notice and additional information

Submissions

1	Dr Edgar Liu, University of New South Wales
2	Better Renting
3	Consumer Action Law Centre
4	RMIT University and University of Adelaide researchers
5	Public Interest Advocacy Centre
6	South Australian Council of Social Service
7	Tenants' Union of NSW
8	Uniting Communities
9	CRC for Low Carbon Living
10	Housing Industry Association Ltd
11	Queensland Council of Social Service
12	Community Housing Industry Association
13	National Shelter
14	Australian Council of Social Service (ACOSS)
15	COTA Australia (COTA)
16	Brotherhood of St Laurence
17	Australian Sustainable Built Environment Council (ASBEC)
18	Local Government NSW
19	Energy Efficiency Council
20	Property Council of Australia
21	St Vincent de Paul Society National Council Australia

Answers to questions on notice

- Energy Efficiency Council – Answers to questions taken on notice, public hearing, Melbourne, 30 October 2018 (received 1 November 2018)

Additional information

- Consumer Action Law Centre - Baker et al, 'Is housing a health insult?', 2017
- Consumer Action Law Centre - Baker et al, 'Poor housing quality: Prevalence and health effects', 2016
- Consumer Action Law Centre - Nicholls et al, RMIT Centre for Urban Research, 'Electricity pricing, heatwaves and household vulnerability in Australia', 2017
- Consumer Action Law Centre - Nicholls and Strengers, RMIT Centre for Urban Research, 'Rising household energy and water bills: Case studies of health, wellbeing and financial impacts', 2017

Appendix 2

Public hearing

Tuesday, 30 October 2018 – Melbourne

Cooperative Research Centre for Low Carbon Living

Dr Edgar Liu, Senior Research Fellow, City Futures Research Centre, University of New South Wales

Dr Daniel Daly, Research Fellow, Sustainable Buildings Research Centre, University of Wollongong

Uniting Communities – via teleconference

Mr Simon Schrapel, Chief Executive

Mr Mark Henley, Manager Advocacy and Communication

Community Housing Industry Association

Ms Peta Winzar, Executive Director

Consumer Action Law Centre

Mr Zac Gillam, Senior Policy Officer, Energy

Mr Jake Lilley, Policy Officer, Energy

Brotherhood of St Laurence

Mr Damien Sullivan, Senior Manager, Energy, Equity and Climate Change

Mr David Bryant, Research Officer

Property Council of Australia

Ms Francesca Muskovic, National Policy Manager, Sustainability and Regulatory Affairs

Energy Efficiency Council

Mr Robert Murray-Leach, Head of Policy

Housing Industry Association – via teleconference

Mr Tim Reardon, Acting Chief Executive, Industry Policy

Mr Simon Croft, Executive Director, Building Policy