MEDIA RELEASE **9 May 2025**

Energy efficiency standard for rental properties

ACT Auditor-General, Mr Michael Harris, today presented the report **Energy efficiency standard for rental properties** to the Speaker for tabling in the ACT Legislative Assembly.

On 1 April 2023, a new minimum standard for ceiling insulation in rental properties commenced in the Territory. The standard requires owners of rental properties in the ACT with no insulation, or existing ceiling insulation below an R-value (meaning thermal resistance) of R2, to install or upgrade the ceiling insulation to a minimum of R5. The new regulation has a phase-in period extending to November 2026.

The audit made a series of findings in relation to administrative arrangements and monitoring, compliance and enforcement arrangements to support the implementation of the minimum standard.

The audit found that the Environment, Planning and Sustainable Development Directorate (EPSDD) undertook a variety of planning activities to prepare for the implementation of the minimum standard and that electrical, fire and safety risks associated with the installation of ceiling insulation were managed and mitigated.

However, Mr Harris says 'ACT Government agencies do not have adequate information on landlord compliance with requirements for the installation of required ceiling insulation or the requirement to adequately disclose the status of the insulation. As a result, ACT Government agencies' ability to report on implementation of the standard and its contribution to policy outcomes is compromised'.

The summary of **Energy efficiency standard for rental properties: Report No 2/2025**, with audit conclusions and key findings are attached to this media release.

Energy efficiency standards for rental properties is available to download from the ACT Audit Office's website https://www.audit.act.gov.au/ If you need assistance accessing the report please phone 6207 0833.

Summary

On 1 April 2023, the ACT Government commenced a new minimum standard for ceiling insulation in rental properties by way of regulation.

The standard requires owners of rental properties in the ACT with no insulation, or existing ceiling insulation below an R-value of R2, to install or upgrade the ceiling insulation to a minimum R-value of R5. Rental properties with existing insulation of R2 or higher are considered to meet the standard.[1]

The audit assessed the effectiveness of the implementation of the minimum standard for ceiling insulation in rental properties from the pre-commencement period in 2022 through to mid-2024.

Conclusions

Planning for implementation

EPSDD undertook a variety of planning activities to prepare for the implementation of the minimum standard. This included the preparation of project planning and communication documentation. Most of the planned activities were undertaken as planned.

One activity that wasn't undertaken, as planned, was the preparation of a *Compliance and Decision-Making Policy*. By not developing such a policy, ACT Government agencies' activities to monitor and enforce compliance with the standard is impaired.

Risk management

EPSDD did not develop a standalone risk management plan or risk register for the implementation of the minimum standard, including with respect to risks of fraudulent or unethical behaviour. This means that EPSDD's activities to identify and manage risks in the implementation of the standard have not been explicitly recognised and documented.

It is apparent, however, that EPSDD has undertaken a range of activities to manage and mitigate electrical, fire and safety risks associated with the installation of ceiling insulation. This includes requiring ceiling installation to be installed by installers certified under an ACT Government recognised certification framework and relying on Access Canberra's Electrical Safety Inspection Program to provide assurance over the safe installation of ceiling insulation.

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[1] 'R-value' refers to the thermal resistance of ceiling insulation and is defined in the *AS/NZ Standard 4859.1 Thermal Insulation Materials*. The higher the R-value the more the insulation slows heat flow and insulates a home.

Monitoring, evaluation and reporting

EPSDD engaged Common Capital to monitor and evaluate the implementation of the minimum standard. A series of monitoring and evaluation reports were produced which, inter alia, reported on landlord compliance with the requirement to install ceiling insulation and disclose the status of the ceiling insulation in rental advertisements.

The final monitoring and evaluation report (May 2024) identified a need for further data to verify landlords are complying with their obligations under the minimum standard as well as opportunities for enhanced compliance and enforcement activity to obtain such data.

Compliance and enforcement

ACT Government agencies do not have adequate information on landlord compliance with requirements for the installation of required ceiling insulation or the requirement to adequately disclose the status of the insulation. As a result, ACT Government agencies' ability to report on implementation of the standard and its contribution to policy outcomes is compromised. Compliance and assurance activity was initially planned for, and supported by, a range of stakeholders but has not been progressed.

Enforcement of the standard relies on tenants seeking recourse through ACAT to enforce contractual rights associated with residential tenancy agreements. This places an unfair burden on tenants, who may not be equipped to undertake such an action.

Key findings

Planning for implementation

Paragraph

Planning for the new standard

The ACT Government has implemented financial support schemes to support ACT households to improve the energy efficiency of their homes. The interest-free loans and rebates for eligible homeowners may also be used by landlords to assist with improving the energy efficiency of rental properties. These include the Sustainable Household Scheme and the Home Energy Support Program. There have been a very low number of Sustainable Household Scheme loans taken out by landlords for the purposes of ceiling insulation. 2.11

Communication with stakeholders

EPSDD sought to communicate the requirements of the minimum standard to various stakeholder groups. To guide its communication activities EPSDD developed an *Announcement Communications Plan* in October 2022 and a *Post Announcement* 2.33

Communications Plan in June 2023. Communication activities have included industry briefings, emails to landlords, tenants and real estate agents / property managers and social media posts. The communication activities identified in the plans were undertaken as identified.

With respect to the conduct of communications, Common Capital's final monitoring and evaluation report in May 2024 noted 'a comprehensive communications strategy was implemented to ensure key stakeholders were kept informed' but there were 'limitations with [channels available to the Government to reach stakeholders] which impacted their reach and efficacy'. Feedback to the Audit Office from owners corporations suggests that communication about the implementation of the minimum standard to this stakeholder group was not effective. 2.34

Project documentation

EPSDD developed a *Minimum Standard for Energy Efficiency for Rental Properties Project Plan* to support the implementation of the regulation. The Project Plan documented deliverables, scheduling requirements, risks to implementation, reporting processes and stakeholder management activities. 2.52

EPSDD achieved some of the Project Plan deliverables, but did not achieve others such as the conduct of a Risk Register Review, the development of a *Compliance and Decision-Making Policy* or a plan for the transfer of policy responsibilities to JACS. Internal reporting against the Project Plan occurred on four occasions: 30 October 2023; 15 January 2023; 9 February 2024; and 27 August 2024. By not developing a *Compliance and Decision-Making Policy* ACT Government agencies' activities to monitor and enforce compliance with the standard is impaired. 2.53

Transition of policy responsibility to JACS

The *Minimum Standard for Energy Efficiency for Rental Properties Project Plan* identified an intention to develop a *Plan for Transference of Regulatory Responsibilities* for the transfer of policy responsibility from EPSDD to JACS. The Project Plan was not prepared, as JACS was of the view that it was not required. Notwithstanding this, informal discussions and meetings took place between EPSDD and JACS and transition activities had been identified. Without an agreed and documented transition plan, however, there is a risk that roles, responsibilities and implementation actions are not defined, and policy responsibility is ineffectively transferred. 2.60

Risk management

Risk management documentation

EPSDD did not develop a standalone risk management plan or risk register for the implementation of the minimum standard. EPSDD did, however, identify implementation and delivery risks in a range of early program documents including: the original program logic that was developed prior to the Regulatory Impact 3.22

Statement; and the *Minimum Standard for Energy Efficiency for Rental Properties Project Plan*. EPSDD did not, however, identify specific controls or mitigation strategies for these risks in either the original program logic or Project Plan.

There are risks associated with the minimum standard that may lead to fraudulent or unethical behaviour. This includes the risk of a landlord seeking to avoid or minimise the cost of insulation by stating that the rental property has an R2 value, or higher, when it does not. However, EPSDD has not undertaken a separate, stand-alone fraud risk assessment, nor has EPSDD separately categorised risks with reference to fraudulent or unethical behaviour. 3.23

Risks associated with implementation of the standard

EPSDD has introduced measures to mitigate risks associated with untrained and unqualified installers installing ceiling insulation. Two Notifiable Instruments were enacted to the effect that: 3.29

- only certified installers or provisionally certified installers under an ACT Government recognised certification framework are able to install ceiling insulation; and
- landlords were exempt from the minimum standard between 1 January 2024 through to 30 June 2024 if they could not source a certified installer.

EPSDD, along its with counterparts in other jurisdictions, engaged the Energy Efficiency Council (EEC) to develop a professional certification framework for ceiling insulation installers. EPSDD also funded eight training courses for installers through a Memorandum of Understanding with CIT. These arrangements sought to build knowledge and capacity in the sector and reduce risks associated with the improper installation of ceiling insulation. 3.42

As at July 2024, the Energy Efficiency Council portal identified a total of 57 fully certified insulation installers operating in the ACT. Seventeen of these installers have been certified through EPSDD-funded training provided by CIT. The balance of these installers have been certified through providers other than CIT (such as the Green Building Institute, Best Option Training and Master Builders ACT) which also offer relevant training to installers to support accreditation. 3.43

Access Canberra's Electrical Safety Inspection Program seeks to mitigate electrical safety risks in the ACT building and construction industry, including those associated with the installation of ceiling insulation. All planned installations of ceiling insulation must ensure that a licensed electrician undertakes an electrical safety check before work is undertaken. Access Canberra's *Standard Operating Procedure – Thermal Insulation Roof Space Inspections* (March 2023), provides for Access Canberra's Electrical Inspections Team to audit 10 percent of all *Certificates of Electrical Safety* to ensure the requirements of the *Electrical Safety Act* 1971 are met. A review of *Certificates of Electrical Safety* issued for the period 1 September 2023 to 8 April 2024 shows that the overall pass rate for electrical safety checks for ceiling insulation is extremely high; the data analysis identified a 95.89 percent pass rate. This 3.50

indicates that there are very few electrical risks detected from licensed electricians who are performing electrical checks of ceiling insulation in both rental and non-rental properties.

There is some guarantee of the quality of installation as new installations must be undertaken by a certified or provisionally certified installer. However, for those rental properties that already comply with a minimum R-value of R2 (or more) and do not need to upgrade their insulation to comply, there are no explicit provisions in the regulations to guarantee the quality of the pre-existing insulation, such as the completeness of its coverage in the roof cavity. 3.58

The minimum standard requires rental properties with no insulation or existing ceiling insulation with an R-value below R2, to install or upgrade the ceiling insulation to a minimum R-value of R5. Landlords are taken to comply with the standard once they have reached a $10,000 limit for installing ceiling insulation in as many designated rooms as possible. For new installations, the quality of insulation is supported because only certified or provisionally certified installers be used. However, for pre-existing insulation the regulation does not explicitly specify pre-existing insulation be safe, in reasonable condition and/or complete in its coverage. 3.59

The regulation does not refer to the Australian Standard for *Thermal Insulation of Dwellings* which covers the correct installation of ceiling insulation. This means that the performance of the insulation may be less than optimal and may hinder the ACT Government's emissions reduction targets and decrease the energy efficiency of the rental property. 3.60

Monitoring, evaluation and reporting

Monitoring and evaluation

EPSDD engaged Common Capital to monitor and evaluate the implementation of the minimum standard. Common Capital prepared an Evaluation Plan and delivered three quarterly reports on 24 October 2023, 19 December 2023 and 28 March 2024. A final monitoring and evaluation report was provided to EPSDD with findings and observations in May 2024. 4.21

The monitoring and evaluation activities found that 85 to 88 percent of rental advertisements complied with the obligation to disclose whether the rental property complied with the standard, but that 15 to 20 percent of these reported that they were non-compliant with the standard. The final monitoring and evaluation report identified that further data was required to verify: disclosure and insulation compliance for non-listed lease renewals; the veracity of self-reported compliance; and the quality of insulation upgrades undertaken. In the absence of this data, it is not clear whether the policy outcomes being sought from the implementation of the minimum standard are being met. 4.22

Common Capital's final monitoring and evaluation report identified that there was a strong case to introduce additional compliance measures for the standard. Common 4.30

Capital identified eight opportunities for improvement, many of which relate to compliance arrangements. They include *inter alia*:

- the establishment of a portal or central publicly searchable register 'to provide auditors, tenants and landlords with transparent and low-cost desktop access to compliance data';
- a pilot program to provide insulation audits to tenants and landlords with the intention of '[providing] reassurance to tenants and landlords that assessments have been conducted accurately';
- 'a framework for ongoing access to rental listing data for compliance and enforcement purposes'; and
- 'a regulatory amendment to require the insulation assessment to be conducted by a certified assessor. This would ensure accurate assessment and reporting of compliance with the Standard'.

As of August 2024, there is no intention by EPSDD and/or JACS to undertake compliance and assurance activity to determine whether landlords are compliant with the standard. 4.31

Reporting

Reporting on the implementation of the minimum standard for ceiling insulation in rental properties has occurred through periodic reporting to Cabinet in response to the climate change commitments made in the ACT Government's Parliamentary and Governing Agreement for the 10th Legislative Assembly. EPSDD provided status updates to CMTEDD for the purposes of this reporting. The third status report for the Parliamentary and Governing Agreement states that the regulation has been delivered. EPSDD has also provided regular reports to the Minister for Water, Energy and Emissions Reduction on aspects of the regulation that require ministerial consideration and decision. 4.38

Compliance and enforcement

Planning for compliance

During the planning stage in 2021 and prior to the commencement of the standard on 1 April 2023, ACT Government agencies considered compliance and enforcement arrangements for the minimum standard. The need for compliance and enforcement was identified in a 2020 Issues Paper (*Minimum Building Energy Performance Requirements for Rental Properties*), the September 2021 Regulatory Impact Statement, the November 2021 Consultation Paper and *Minimum Standard for Energy Efficiency for Rental Properties Project Plan*. Common Capital's quarterly monitoring and evaluation reports identified risks in the implementation of the standard and gaps in data and identified opportunities for enhanced compliance and enforcement arrangements. The final monitoring and evaluation report (May 2024) identified eight 'opportunities for improvement' to the standard, many of which relate to compliance and enforcement arrangements. 5.15

Monitoring landlord compliance

The minimum standard relies on landlords maintaining records of their compliance with the requirements of the standard, and to truthfully disclose the status of their compliance. Records can include quotations, electrical reports, Certificates of Electrical Safety and/or statutory declarations. There is no assurance process undertaken by ACT Government agencies to verify landlords have retained satisfactory evidence of compliance with the standard. Furthermore, the *Residential Tenancies Act 1997* and the *Residential Tenancies Regulation 1998* do not explicitly provide ACT Government agencies with the right to verify landlord records. This means that a landlord's evidence is only reviewed if a tenant brings a matter before the ACT Civil and Administrative Tribunal (ACAT). 5.20

Section 11 of the *Residential Tenancies Regulation 1998* sets out the temporary and permanent exemptions to the minimum standard that are available to landlords, e.g. when a property is going to be demolished within two years, or a tenant objects to the instillation of ceiling insultation. ACT Government agencies do not verify the validity of landlord exemptions, and the onus is on the landlord to retain proof that they are exempt. Without effective monitoring of landlord exemptions, there is a risk that the exemptions process may not operate as intended. 5.26

Access Canberra's Electrical Safety Inspection Program mitigates electrical, fire and safety risks by ensuring the safe and effective installation of ceiling insulation. Data is collected through *Certificates of Electrical Safety* whereby a licensed electrician certifies whether a property complies with the *Electricity* Safety *Act 1971* (ACT) and the *Australia/ New Zealand Wiring Rules* (AS/NZS 3000). If the property does not pass, remediation works must take place before the ceiling insulation is installed. 5.30

Through Common Capital's monitoring and evaluation activity EPSDD obtained some insights into the requirement for advertisements for rental properties to state whether: the premises comply with minimum housing standards (which include energy efficiency standards); or is otherwise exempt. This was reflected in the findings of the monitoring and evaluation reports, which showed that there was some non-compliance with the disclosure requirement and non-compliance with the standard. There was no verification of the data and disclosure could be subject to misrepresentation or inaccuracy by landlords and/or property managers. 5.37

There is no established ongoing process by which ACT Government agencies monitor disclosure obligations in rental advertisements and/or lease agreements to determine if the rental property is compliant, non-compliant or otherwise exempt from the minimum standard. Without effective ongoing monitoring and compliance oversight, there is a risk that landlords and property managers do not comply with this requirement and that the effectiveness of, and community confidence in, the regulation is jeopardised. 5.38

Enforcement of compliance

In the absence of compliance and assurance activity on the part of ACT Government agencies, enforcement of the minimum standard relies on tenants seeking recourse for landlord non-compliance. Under the *Residential Tenancies Act 1997*, tenants may seek recourse via the ACT Civil and Administrative Tribunal (ACAT). The onus is on the tenant to prepare an application and bring a matter before the Tribunal. As of October 2024, ACAT has heard no matters nor made any orders in response to a tenant challenging a landlord over non-compliance with the minimum standard. 5.51

It is a criminal offence under the *Residential Tenancies Act 1997* to: fail to disclose if a property complies with, or is exempt from, the minimum standard in a rental advertisement or new lease for the property; or make a false or misleading statement in rental advertisements about a key aspect of the property's compliance with the minimum standard. In the absence of compliance and assurance activity on the part of ACT Government agencies, however, ACT Government agencies are not in a position to identify potential non-compliance. 5.58

Unlike other jurisdictions, the ACT does not have a penalty for non-compliance with the standard itself. However, the potential penalty for making a false or misleading statement about compliance (a maximum of $800 for an individual landlord and $4,050 for a corporation) is less than the cost of compliance given that installing ceiling insulation can range from an estimated cost of $5,000 to $15,000. Other jurisdictions that have minimum rental standards, such as New Zealand and the United Kingdom, have penalties in place for non-compliance with the standard. 5.59

Recommendations

Recommendation 1	Communication of the minimum standard
JACS should review and document the ongoing communication needs of different stakeholder groups (including owners corporations) and develop relevant, targeted communication material as required.	

Recommendation 2	Access to landlord records
The ACT Government should seek amendments to section 12 of the *Residential Tenancies Regulation 1998* to provide a mechanism for ACT Government agencies to request landlord records to demonstrate compliance with the standard for the purpose of compliance and enforcement.	

Recommendation 3 Monitoring compliance with the minimum standard

The ACT Government should develop and implement risk-based compliance activity for the minimum standard, which provides assurance with respect to:

(a) landlord compliance with the requirements to:

i) install ceiling insulation according to the requirements of the standard (unless there is a valid exemption); and

ii) accurately disclose the status of ceiling insulation in rental advertisements; and

(b) insulation company compliance with the requirement to use certified and/or provisionally certified installers.

Agencies' responses

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, the Environment, Planning and Sustainable Development Directorate, Justice and Community Safety Directorate and Chief Minister, Treasury and Economic Development Directorate were provided with:

- a draft proposed report for comment. All comments were considered and required changes were reflected in the final proposed report; and
- a final proposed report for further comment. All comments were considered and required changes were reflected in the final report.

In accordance with subsection 18(3) of the *Auditor-General ACT 1996*, other entities with an interest in the report were provided with extracts of the draft proposed report and final proposed report for comment. All comments were considered and required changes were reflected in the final proposed report.

As part of the final proposed report process, agencies were invited to provide comments for inclusion in the final report in the Summary chapter. No comments were provided for inclusion in this Summary chapter.