QCOSS

Queensland Council of Social Service

Choice and Control?

The experiences of renters in the energy market

June 2017

About QCOSS

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QCOSS, together with our members continues to play a crucial lobbying and advocacy role in a broad number of areas including:

- place-based approaches
- citizen-let policy development
- cost-of-living advocacy
- sector capacity and capability building.

QCOSS is part of the national network of Councils of Social Service lending support and gaining essential insight to national and other state issues.

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1.0 Executive Summary

The proportion of Australian households who rent is trending upwards, rising from 25.7 per cent in 1994-95 to 31 per cent in 2013-14. Queensland is at the forefront of this national trend, with 35.6 per cent of Queensland households renting their home, and most in the private rental market.[i]

Following significant increases in energy prices during the past ten years, many households have embraced new technologies and products to control their energy costs. However, to benefit from many of these technologies and services, customers need a minimum length of tenure in the home, or need to make changes to the building, electrical wiring, fixtures or fixed appliances. These are factors over which renters have little to no control.

As market reforms and new technologies offer consumers more choice and control over their energy use, the evolution of the energy market risks creating a growing divide in our communities – between those who can take advantage of opportunities to reduce their energy costs, and those who cannot. Given the essential nature of energy, the inequitable distribution of energy costs across households has serious social and economic implications.

This report finds renters face several barriers to participating effectively in the emerging energy market, including:

- making informed choices about their energy supply and use
- controlling their energy costs and
- accessing energy consumer safeguards.

Renters are unable to make informed choices about their energy supply and use, as they receive little information about the energy features of rental properties. Tight competition in the rental market in many locations, or lack of choice for some renters (such as those on very low incomes or those living in social housing), further restricts renters from factoring energy features into their decision making when choosing a property to rent.

Renters are more likely to live in properties with major structural problems and without energy saving improvements such as insulation or solar panels. Split incentives between renters and lessors mean that improvements requiring electrical work or changes to the property or its fixtures are not implemented, even if there is no cost to the lessor. Insecure tenure inhibits renters from contacting lessors about energy issues, even where there may be faults which are resulting in high energy bills. The prevalence of short-term tenure also reduces the economic viability for renters to invest in improvements, even if they have their lessor's permission to do so.

Renters can also face barriers to understanding their rights, accessing safeguards, and seeking redress in relation to energy disputes. Renters are more likely to encounter non-standard supply arrangements – either because they are more likely to live in units, apartment complexes or caravan parks where embedded networks are common, or because they may be supplied via new business models that are being adopted by lessors. Renters are therefore disproportionately impacted by the gaps in consumer safeguards for customers who receive energy services in non-standard ways. The intersection between tenancy and energy legislation also creates complexity and confusion, which further inhibits renters from understanding and asserting their rights as energy consumers.

Given these issues, and the direction of energy market reform towards greater consumer choice and control, there is an urgent need to consider the experience of renters as a distinct consumer cohort. For renters, issues related to housing tenure, energy costs, tenancy protections, energy consumer protections and access to energy products and services are inextricably linked. The complex web of housing and energy legislation at both state and national levels makes it challenging to identify key lines of accountability and policy responsibility, resulting in these problems not being addressed.

A mix of policy makers and stakeholders – in housing and energy, and at national and state levels – must work together develop coordinated policy and program solutions with a long-term view. To avoid doing so risks excluding this large and growing segment of the population from the benefits of energy market reform. This outcome is not only inequitable, but risks subverting the achievement of national objectives to manage spiraling energy costs through increased demand-side participation by consumers.

2.0 Recommendations

Many of the issues raised in this report are of national significance. However, as QCOSS is a Queensland based organisation, the examination of the issues and recommendations are focused on the Queensland context.

The recommendations require multiple government portfolios and stakeholders to take a shared responsibility for issues which cut across both housing and energy policy, at both state and national levels. There is the opportunity for Queensland to address these recommendations through a range of current policy processes, including:

- The implementation of the Queensland Productivity Commission's Electricity Pricing Inquiry recommendations which specifically note the need for measures to improve the energy efficiency of rental properties in Queensland.
- The Ministerial Housing Council and the Queensland 10-Year Housing Strategy and Queensland Building Plan, which explore building standards and housing reforms.
- Reforms to federal funding arrangements through the new Housing and Homelessness Agreement.
- The review of the *Residential Tenancies and Rooming Accommodation Act (2008) (RTRA).*
- Delivering and contributing to actions under the COAG Energy Council's National Energy Productivity Plan (NEPP).
- Working as part of the COAG Energy Council's Energy Market Transformation work program which aims to ensure regulatory frameworks are fit-for-purpose to enable consumers to benefit from innovative products and services.

Both energy and housing issues are currently at the forefront of policy maker's minds. There is much work already underway to understand the critical issues and develop strategies to address them. This report seeks to highlight the nexus between these two sectors and provide a voice for consumers, particularly those who are increasingly vulnerable in both housing and energy markets.

Recommendation: Amendment of the *Residential Tenancy and Rooming Accommodation Act (2008)* to:

- require lessors to consent to energy performance improvements to the property if there is no cost to the lessor
- improve security of tenure for renters including the tightening of the ability for lessors to terminate tenancies 'without grounds'
- require the key energy features in rental properties be disclosed to renters at the point of advertisement, on Entry Condition Reports and as part of the lease agreement.

Recommendation: Reintroduction of a Code of Conduct for Property Agents to improve service standards and responsiveness to requests for property upgrades and repairs.

Recommendation: Implementation of a mandatory disclosure scheme which enables renters to compare the energy performance rating of different rental properties.

Recommendation: Development of resources and factsheet materials to:

- explain the different energy features commonly found in Queensland rental properties and how those features can affect energy costs, thermal comfort and access to state and national consumer rights and safeguards.
- promote and encourage social housing tenants to make energy performance improvements where they can do so at their own cost.

Recommendation: Development and implementation of minimum energy performance standards for housing, including undertaking an audit of government-owned housing stock to identify opportunities for improving minimum energy performance standards in social housing.

Recommendation: Address barriers to equitable access to consumer safeguards for renters by:

- reviewing legislation related to energy, residential tenancy, body corporate, retirement villages and manufactured homes to ensure consistency and equity in outcomes for renters as energy consumers
- publishing clear and independent information so all parties (renters, lessors, property agents and third party exempt sellers) clearly understand their rights and obligations, and
- improving access to energy consumer safeguards for renters, including concessions, Energy and Water Ombudsman Queensland (EWOQ), price protections for energy services where there is no competition and consumer protections for renters with non-standard energy supply arrangements.

3.0 Introduction

There is a clear national policy agenda to give consumers more choice and control over their energy expenditure. The former Standing Council on Energy and Resources (now the Council of Australian Governments (COAG) Energy Council) adopted a Demand Side Participation Work Program that aims to provide consumers with:

- Clear signals about the cost of their energy consumption so they can efficiently manage their use.
- Information so they can make informed choices to identify and implement efficient demand options.
- Access to technologies, skills and supporting framework to support demand management options and enable timely responses to market signals.[ii]

As part of its 2012 Power of Choice review, the Australian Energy Market Commission (AEMC) considered a range of potential barriers to achieving greater consumer participation (or demand-side participation) in the energy market. However, the Final Report did not specifically assess how housing tenure might impact consumer choice and control.[iii]

While renters have been considered in the development of energy policy to some extent, renting has mostly been viewed as a condition experienced by low-income households. This has resulted in solutions which focus on the income and price related aspects of the problem, rather than addressing the root cause of the issues that emerge due to housing tenure.

The proportion of households who rent is increasing and the demographics of renter households is changing. In the 1980s, renters were mostly single person households, yet now families with dependent children represent 58.9 per cent of all private rental households in Queensland.[iv] Families with dependent children are a cohort well established as having high uncontrollable energy use and being over-represented in energy hardship statistics.[vvi] There are also increasing numbers of middle-income households who are long-term renters and a growing proportion of late-to-middle-aged households who are likely to remain renting as they age.[vii] Rates of social housing are on the decline, so most Queensland renters (84.3 per cent) are in the private market. Renting can no longer be viewed as a transitionary form of housing or a tenure type confined to singles or people on low incomes.

This report finds that renters are at a distinct disadvantage in actively participating in the energy market and accessing the benefits of technological innovation and market reform. Renters face barriers to making informed choices, taking control and achieving equitable outcomes as energy consumers. With the energy market evolving at a rapid pace, these barriers are becoming more critical and must be resolved to ensure an equitable transition to the COAG Energy Council's future vision of the energy market.

4.0 Methodology

QCOSS has undertaken this research in collaboration with Tenants Queensland (TQ) and Queensland Shelter. The report was developed with input from a Steering Committee of key stakeholder representatives from:

- Department of Energy and Water Supply (DEWS) Queensland
- Department of Housing and Public Works (DHPW) Queensland
- Residential Tenancies Authority (RTA) Queensland
- Energy and Water Ombudsman Queensland (EWOQ)
- Australian Energy Regulator (AER)
- Public Interest Advocacy Centre (PIAC) NSW
- Good Shepherd Microfinance (GSM)
- AGL Energy

The perspectives of renters were also directly gathered via an online survey of 220 renters from across Queensland. The survey was advertised on the websites of QCOSS, TQ and the RTA, as well as being promoted via social media by EWOQ and DEWS.

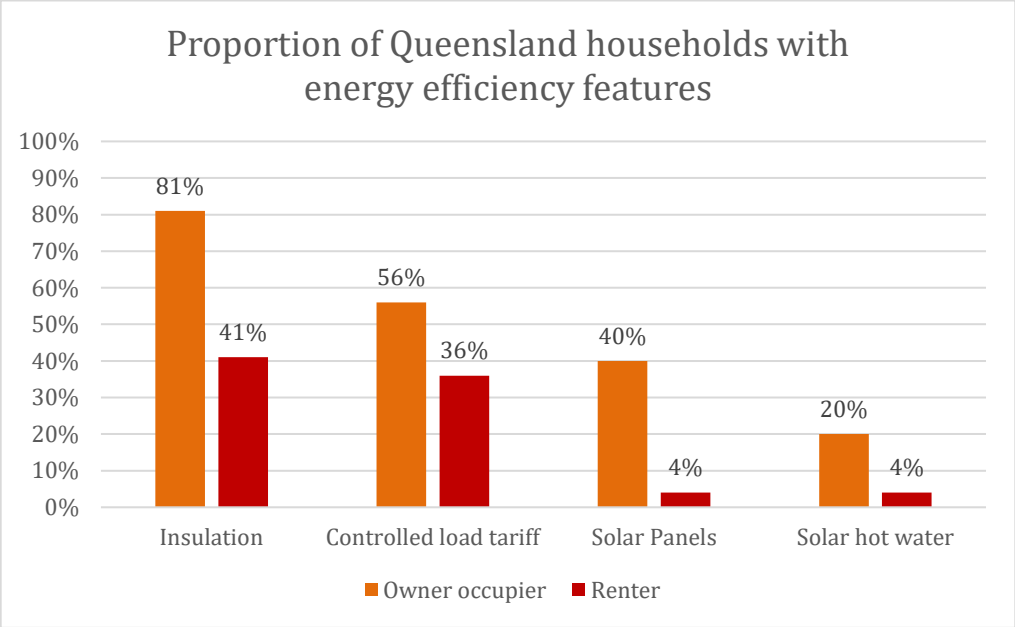
As outlined earlier, given the focus of the organisations involved, while many of the issues discussed are relevant nationally, this report focusses on the Queensland context and concentrates on the experiences of Queenslander renters.

5.0 Controlling energy use

New technologies offer many opportunities for energy consumers to have greater control over their energy costs. The strong uptake of solar photovoltaic (PV) panels is an example of Australians embracing these new technologies. Queensland has the highest level of installed solar capacity of any Australian state, and one of the highest penetration rates of rooftop solar PV in the world with almost 30 per cent of houses having a system installed.[viii]

However, solar uptake by renters has been minimal. Recent research shows a correlation between Queensland postcodes with the highest concentration of renters and the lowest rates of solar PV installations.[ix] According to the Queensland Household Energy Survey 2015, only four per cent of Queensland renters have solar panels installed compared to around 40 per cent of owner occupiers.[x] Owner-occupiers also have significantly higher rates of energy efficiency features such as insulation, window treatments and solar hot water systems.[xi]

Figure 1: Proportion of Queensland households with energy efficiency features[xii]



89 per cent of Queensland renters said they do not have solar panels *and* do not intend to get them in the next two years, with the most common reason given as being because they are renting.[xiii] Similarly, 62 per cent of Queensland renters reported renting as the main reason they would not consider purchasing a battery storage system in the next two years.[xiv]

While successive governments have implemented schemes to improve the uptake of energy efficiency measures or new technologies – most of the programs which have involved significant improvements have been inaccessible to renters. The solar uptake by renters described above demonstrates that renters have been largely excluded from the Queensland Government's popular Solar Bonus Scheme. Even programs that have sought to specifically target low-income households have not overcome these barriers.

For example, two of the three projects rolled out in Queensland under the Commonwealth Low Income Energy Efficiency Program (LIEEP) focused on appliance replacements (fridges and washing machines), the provision of low cost items (such as clothes airers and door snakes), and/or behavioural change measures. The one project that did seek to make more significant energy efficiency improvements, such as upgrading hot water systems, was targeted at seniors who owned their own home.[xv]

Many respondents to the *QCOSS Renters Survey* provided comments which indicate their rental property lacks basic features which could offer the household better control over their energy costs.

> ***"Need to run fans all summer as incredibly humid. Lack of screens [means]… windows need to be shut which adds to heat problems."***
>
> ***"No insulation in the roof. Electric hot water. Pool pump. This home needs solar energy, as the electricity bill is about $4,000 per annum".***
>
> ***"Old fibro house with no insulation in walls or roof"***
>
> ***"No insulation, colder inside than outside in winter and vice versa in summer"***
>
> ***"The seals are atrocious on windows and doors so we've got draughts in summer and winter which sabotage our attempts to heat or cool the place"***
>
> ***"No insulation, no solar panels or any energy saving facilities"***

This section explores the barriers renters face in addressing these issues and taking control of their energy use and costs.

5.1. Lessor permission

A key barrier preventing renters from taking control over their energy use is the need for lessor permission to make changes to the property or its fixtures. Each of the measures mentioned above – the installation of solar panels, battery storage, solar hot water, insulation and connection to controlled load tariffs – require electrical work to be undertaken, or for changes to be made to the building structure or fixed appliances. These are actions which require action or agreement from the lessor.

The requirements for renters to obtain lessor permission to attach or install fixtures under Sections 207-209 of the *RTRA Act* are quite strict in Queensland. Renters need written permission from their lessor to install fixtures such as picture hooks, locks, clotheslines, cable TV connections, window awnings, air-conditioners, TV antennae and satellite dishes.[xvi]. This significantly limits the ability for renters to make even small or non-structural changes to reduce their energy costs, such as installing window awnings to keep the heat out, or fly screens so windows can be open at night to capture breezes.

The need for lessor permission is a barrier even where there is no cost to the lessor. Evidence demonstrates that lessors tend not to give permission, even where renters are seeking to participate in free energy efficiency schemes. Aggregate data released by the NSW Home Power Savings Program showed that only 10 per cent of private landlords gave permission for small improvements such as free efficient showerheads and draught strips to be installed under the program.[xvii]

The Queensland Productivity Commission (QPC) also noted this as an issue in their Draft Report stating that:

> "*Even the provision of free or subsidised capital improvements may not be sufficient to overcome this barrier, with lessors not compelled to allow for capital improvements that would benefit tenants".*[xviii]

Given the majority of private renters in Queensland (64.9 per cent) pay rent to a property manager or real estate agent, most renters do not make these requests directly to the lessor.[xix] Renters interviewed by TQ expressed concerns that agents are not always passing on their requests or issues to the lessor.[xx] Choice research recently found that 21 per cent of Australian renters had waited more than a week to get a response from their lessor or property agent about an urgent repair.[xxi]

Previously, there was a requirement in Queensland for property agents to promptly respond to requests for maintenance and repairs, and to have an internal dispute resolution process.[xxii] However, there is currently no such requirement as the *Property Agents and Motor Dealers Act 2000* (PAMDA) and Code of Conduct were repealed by the former Queensland Government in 2014.

The results of the *QCOSS Renter Survey* confirm that 70 per cent of renters who had asked their lessor (directly or via a property agent) for permission to make an energy related improvement to their rental property had not been successful.

> ***"I attempted to have insulation installed under the government's free scheme. The owner told us to get quotes, then said he would have the job done by someone who was doing all his properties. It never happened."***
>
> ***"I asked to have solar panels installed, made all the enquiries re: cost etc, but the request was rejected."***
>
> ***"My current landlord denied me the right to install flyscreens, despite it being a capital improvement which would improve the value of the property… They were… uninterested in tenant comfort and energy savings."***
>
> ***"In older properties I've asked for dodgy old high-energy air conditioners to be replaced and was repeatedly told 'no'."***
>
> ***"I am charged quite a lot of money for energy, around $420 per bill, just for two tenants. {The retailer} said there might also be something wrong with the thermostat as the hot water system in the garage takes ages to heat up, which results in hundreds of extra dollars per bill. The landlord will not get this fixed."***
>
> ***"I requested that they [lessor] remove the gas from our property (as the bill is around $100/Quarter and we use about $4 worth of gas) and put an electric oven in so we only had one bill (the property needed a new oven). They declined."***

A number of respondents provided comments which highlight their frustration and lack of power in not being able to take control of their energy use and costs.

> ***"Nothing I can do, as each request goes to the rental agency to liaise with the landlord, and if they decide to take no action, that's it"***
>
> ***"I generally cannot alter or improve the energy consumption/efficiency of the property except by means of my own habit and behaviours"***
>
> ***"[I] cancelled gas account as could not pay both electricity and gas bill, so chose just to have electricity to the property - no hot water, no gas stove - that's the reality…"***

It is clear that current Queensland tenancy legislation is excluding renters from taking reasonable steps to control their energy use and costs. The lack of control experienced by renters in Australia over their energy costs is quite unique internationally. For example, in England and Wales, tenants can request improvements to the energy efficiency of their rental property provided the improvements are on a schedule of approved measures and are delivered at no cost to the lessor. Renters can then pay for their own improvements, or take part in measures which may be funded through government incentives or grants. The lessor must respond within one month and cannot reasonably deny the request. This regulation is enforced by local authorities who can issue non-compliance penalties of up to £5000.[xxiii] Similar changes to tenancy laws must be introduced in Queensland to ensure renters are not excluded from taking greater control over their energy costs.

Recommendation: Amend the *Residential Tenancy and Rooming Accommodation Act (2008)* to require lessors to consent to the tenant making energy performance improvements to the property if there is no cost to the lessor.

Recommendation: Reintroduce a Code of Conduct for Property Agents to improve service standards and responsiveness to requests for property upgrades and repairs.

5.2. Security and length of tenure

More than one third of respondents to the *QCOSS Renter Survey* reported that they have not asked their lessor to make improvements to reduce their energy bills as they do not want to seem difficult or put their tenancy at risk. Recent research by Choice found that 14 per cent of Australian renters have not made a complaint or requested a repair out of fear of adverse consequences, such as eviction or rent increases.[xxiv]

Fear of loss of tenure can even make renters reluctant to notify lessors about faulty or inefficient fixed appliances which may be resulting in higher energy costs. A recent NSW survey of 580 renters found that 77 per cent of respondents have put up with a problem or declined to assert their rights as a tenant because they were concerned about adverse consequences.[xxv]

> ***"I rented previously in the US, where landlord / tenant relationships were standardised. Here, tenants seem to be at the mercy of landlords' whims, and many landlords seem to want to spend as little on a property as possible. Therefore, no I have not asked and will never ask"***
>
> ***"I try not to bother my landlord at all, because anything I ask for results in increased rent"***

The tenancy laws in Australia create a power imbalance between lessors and renters. A key driver of insecurity for Australian renters is that they can be evicted 'without grounds'. This acts as a substantial deterrent for renters to make any requests of their lessor, or take any action which may inadvertently put their tenancy at risk. As a result, they are less willing to make requests or take action which may assist them to better manage or control their energy costs.

Even if lessor permission is sought and obtained to make a change to the energy features of a rental property, the prevalence of short-term leases in Australia means it is rarely economically feasible for a renter to invest their own resources in changes to their rented home. Many of the improvements mentioned so far, such as installing insulation or solar panels, have long payback periods. 83 per cent of Australian renters have no fixed-term lease or are on a lease of 12 months or less. In Queensland, 17 per cent of renters are on short term fixed lease of six months or less.[xxvi] According to the RTA, the median length for private rental tenancies in Queensland is only 13.5 months, "*indicating that tenants would not necessarily reap any significant benefits from arranging their own energy efficient modifications to rental properties*".[xxvii]

These barriers do not exist to the same extent in other countries. Countries such as Ireland, Denmark, The Netherlands, Sweden and Germany offer multi-year or unlimited rental leases with much tighter restrictions on eviction of renters.[xxviii] In Spain, the minimum residential rental contract length is three years with a minimum one-year extension and the lessor maintaining the right to evict the tenant on reasonable grounds.[xxix] TQ advocates for the removal of 'without grounds' evictions as a solution to improving the security of tenure for renters, noting that under this approach lessors could still end tenancies but only on reasonable grounds – for example, in the case of serious breaches by the tenant, or where the lessor requires the property to be vacated so they can move in or undertake renovations.[xxx]

The lack of secure and long-term tenure in Australia must be addressed as it acts as a barrier for private renters to benefit from new energy products and services. In Queensland, energy contract exit fees are capped at $20 which means there are not usually significant penalties for renters to change energy contracts when they move. However, short-term tenure does present a barrier for the uptake of some of the new and emerging products on offer.

For example, Origin Energy's Predictable Plan[xxxi] is a fixed price product where the customer pays an agreed dollar amount per month, regardless of how much energy they use. The customer must have at least three months recorded usage with Origin before they can take up the plan which then runs for 12-months. This means a customer needs at least 15 months in a property to access and derive the full benefit from this product. This is not the experience for the majority of Australian renters.

Another example is Solar Power Purchase Agreements (SPPAs), where solar panels are installed under long-term arrangements of 7 to 15 years, and may have penalties for early termination of the agreement.[xxxii] The dominance of short-term leases and high mobility in the private market means that these business models are likely to be unsuitable for private renters.[1] The Queensland Government has recently announced a trial program to install solar PV in the public housing sector[xxxiii] where tenure is generally longer and more secure. This may provide the opportunity for a model that is sustainable across the private sector rental market however there would have to be some direct benefit for landlords to participate. At present, the short-term insecure nature of tenancies presents a barrier for renters to actively participate in the emerging energy market.

Recommendation: Introduce measures to improve the security of tenure including amending the *RTRA Act* to remove the ability for lessors to terminate tenancies 'without grounds'.

[1] The potential issues for renters associated with lessors adopting these business models is explored in *Section 7.0 Accessing consumer safeguards*.

6.0 Making informed choices

The COAG Energy Council's Power of Choice reforms are intended to "*empower consumers to make informed choices about their energy supply and use*".[xxxiv]

Energy use can vary depending on the thermal performance of the building, the energy efficiency of fixed appliances, and other factors such as the aspect, shading or ventilation of the home. Technology improvements and market reforms are driving even greater diversity in the energy supply arrangements across residential properties, with fixtures such as solar, batteries, smart meters and load control devices wired into the home. Renters in apartment complexes also frequently encounter properties with embedded networks or bulk hot water arrangements, which are especially common in Queensland.

With further innovation expected during the next 15-20 years, the choice of rental property increasingly has a direct influence not only over energy costs and thermal comfort, but also potentially shapes the experience of retail competition, service quality and access to consumer rights and safeguards. Despite this, renters receive limited information about the energy features of rental properties to help them make informed choices.

6.1. Education and information

There is no requirement in Queensland for information to be provided to renters about the energy-related features of rental properties. While comparison sites such as *realestate.com.au* allow lessors to provide energy efficiency information, trial searches for Queensland properties suggests these features are rarely used.

As a result, renters have lower awareness of the energy related features of their home compared to owner occupiers. In Queensland, 41 per cent of renters do not know whether their home has insulation, compared to only six per cent of owner occupiers.[xxxv] Nationally, the proportion of renters who do not know if their dwelling is insulated is almost twice the proportion of owner occupiers.[xxxvi]

75 per cent of respondents to the *QCOSS Renter Survey* did not consider energy efficiency or energy related features when signing their current lease. The majority (59 per cent) of private renters who had not considered energy features reported that lack of information or awareness had been a key factor. This included 26 per cent who said energy efficiency or costs did not occur to them, 17 per cent who said they did not know what to look for and 15 per cent who said there was not enough information provided to make an assessment.[2]

[2] Totals do not add up to 100% as respondents were able to give multiple reasons to this question.

Only three respondents reported the reason as being because they are not concerned about their energy costs.

> ***"I am unsure as to what to look for"***
>
> ***"In hindsight I wish we had considered the hot water system before we moved in. Really small hot water system so it can't be on off-peak tariffs. [The] older age of the home means that if there are plumbing problems especially with hot water = big jump in bill"***
>
> ***"I really have no idea, or information that I can use to find out my home's energy efficiency"***
>
> ***"[The] real estate agent did not provide information even at [my] specific request… [the agent] said they didn't know the house that well."***

There are movements nationally to improve the disclosure of information about the energy performance of rental properties at the point of comparison and/or lease – usually through an energy "star rating" system which is disclosed to prospective tenants on a voluntary or mandatory basis. The COAG National Energy Productivity Plan (NEPP) 2015-2030 includes an action to *"consider a range of different tools to improve information for residential buildings, including options for implementing a national approach to residential building energy ratings and disclosure".*[xxxvii] The 2016 Annual Report states that "*rating and disclosure schemes will be phased-in by State and Territory Governments to suit their specific circumstances*".[xxxviii]

Other jurisdictions are moving ahead with their own actions. For example, the Victorian Government has recently introduced a Residential Efficiency Scorecard which rates the energy performance of the home in terms of its construction, fixed appliances and features such as solar.[xxxix] The NSW Government has released a Draft Plan which proposes to introduce voluntary disclosure of energy efficiency performance for tenanted homes by 2018, transitioning to mandatory disclosure from 2020.[xl] The ACT has had mandatory disclosure in place since 1999. Under the *ACT Residential Tenancies Act (1997)* lessors must disclose the energy efficiency rating of a property in any advertisements and as part of the tenancy agreement.[xli] The rating must not be false or misleading, and inaccurate ratings can result in court action. However, because it is not mandatory for every property to have an energy efficiency rating, renters are not always able to make useful comparisons.[xlii]

There is broad support for programs and initiatives that disclose of overall energy performance of a property as a star rating to enable simple and clear comparison for renters. We also support this approach rolling out in Queensland. In addition to a "star rating", there is also a need for renters to receive information about the basic energy features of a property. For example, several renters who responded to *QCOSS Renter Survey* provided comments about the cost pressures they were experiencing due to high fixed daily supply charges for reticulated natural gas in Queensland.

Some went as far as to recommend that the Queensland Government should move away from reticulated natural gas connections in social housing properties due to the cost impost for tenants.

> ***"I have high gas bills (the service charge alone is $90 a quarter) and they keep hiking up the price".***
>
> ***"Reticulated gas to kitchen is very costly for one appliance, i.e. stove"***
>
> ***"Do not install gas in public housing, people on pensions struggle to afford two different service fees"***
>
> ***"The Qld Government should fund the up-grading of all social housing complexes to remove the natural gas hot water system and install electric one so tenants are only paying one daily connection fee."***

This demonstrates the extent to which energy supply arrangements can influence energy costs for renters. As the energy market evolves, renters are making increasingly complex choices between properties based on a wide range of factors, such as:

- the energy efficiency of the home and fixed appliances
- whether fixed appliances are connected to controlled load tariffs
- whether the home relies on gas for hot water, cooking and/or space heating – and if so, whether gas is supplied via the reticulated natural gas network, reticulated LPG or bottled LPG
- whether the property has solar panels which generate electricity for use or purchase, and whether the renter benefits from feed-in tariff payments for excess energy exported into the electricity network
- whether there are non-standard supply arrangements in place such as bulk hot water, unmetered energy or embedded networks where electricity is on-supplied, and
- whether the property is fitted with, or has access to, new and emerging technologies, such as digital meters, in-home load control devices or battery storage.

In Queensland, the *RTRA Act* requires tenants to be advised in the tenancy agreement if there is an unmetered energy arrangement and how this will be charged.[3] There is also a line on the Entry Condition Report form to indicate whether the property has solar panels.[xliii] However, aside from these two factors, there is no requirement for the any of the above energy features to be disclosed to the tenant at any stage.

As highlighted in the case study below, the type of fuel used and the nature of the supply arrangements can impact both cost and access to consumer safeguards, which can have flow-on impacts on the standard of living experienced by a household.

[3] This form of charging is not permitted in any other jurisdiction. This issue is explored further in Section 7.0 Accessing consumer safeguards.

Case study A: Informed choices – Renter household with LPG hot water

Poon* is 62 years old and recently moved into a private rental property with his family of seven. During a home visit, Poon stated that the hot water was not working. On further investigation four empty 86-litre gas cylinders were located in-situ externally on the eastern side of the house. Poon had not been aware his property relied on LPG for hot water.

A phone call was made to the LPG company and the operator explained the cost to have gas delivered to the property would be $810.30. This was made up of:

- Admin fee (once off): $35.00
- Rental: $37.50 per cylinder every 12 months x 4 = $150
- Per litre gas refill: $1.81 per litre: per cylinder 86.4 litres = $156.38 = $625.30

Poon could not afford to pay this amount.

As the gas is provided by LPG, Poon was not eligible for any Queensland Government concessions such as the Reticulated Natural Gas Rebate or the Home Energy Emergency Assistance Scheme (HEEAS) to assist with these costs. Additionally, the National Energy Customer Framework (NECF) does not apply to LPG which means Poon's retailer was not obligated to offer him a payment plan or hardship program. His options for redress were also limited as the Energy and Water Ombudsman Queensland (EWOQ) has no jurisdiction to resolve complaints or disputes relating to LPG.

After considering his options, Poon decided that, as it was now Summer, his family would forgo hot water until Autumn. This would give them time to save for the gas.

**Name changed*

Without receiving information about these issues prior to commencing a lease, the family in the above case study had no opportunity to understand what they were going to be charged and what being an LPG customer meant for them in terms of their lack of access to concessions and consumer safeguards. If given this information, they may have had the opportunity to either save for the gas in advance, or perhaps make an informed choice about whether this arrangement was suitable for them.

The practices of property agents can also present a barrier for renters seeking to make informed decisions when comparing properties. Property agents are not energy experts, but if provided with clear information they could better assist tenants to help them make informed choices about rental properties.

It is critical to improve the information provided to renters about energy features in rental property advertisements, and as part of Entry Condition Reports and tenancy agreements. This information should be supplemented with factsheets and resources that outline the consumer rights and responsibilities associated with those arrangements to support informed decision making by renters. Without this information, renters are unable to make informed choices as energy consumers. Unlike owner occupiers, they have no control to change these energy arrangements once they have commenced the lease.

Renters in social housing sector generally have greater security and longer-term leases. With the right information, social housing tenants could be supported to make informed choices about cost-effective ways to improve the energy performance of their homes. While DHPW allows renters to seek permission to make changes to their property, the QPC found there is limited information for tenants about energy efficiency upgrades:

> *"While pay TV and swimming pools are covered prominently by the publicly available information, and information on hot water heater replacement is available, there does not appear to be fact sheets available about other energy efficiency upgrades (such as insulation or reverse cycle air conditioners)".*[xliv]

Other jurisdictions provide clearer information to encourage improvements by social housing tenants. For example, Housing South Australia publishes clear information and application forms for public housing tenants who may wish to have solar panels installed.[xlv] 330 applications for solar installations in public housing were approved between 2011 and 2015.[xlvi]

The development of resources and a proactive approach to encouraging social housing tenants to make energy efficiency improvements may enable tenants to seek No Interest Loan Schemes to fund low-cost upgrades, or take up emerging products and services that 'smooth' upfront costs over a longer period. The Queensland Government has recently announced a trial to install solar PV on public housing, with the intent to develop a workable model for rollout to tenants more broadly. There are also commercial models available on the market which social housing tenants could participate in if supported to do so.

Recommendation: Amend the *RTRA Act* to require the key energy features in rental properties be disclosed to renters at the point of advertisement, on entry condition reports and as part of the lease agreement.

Recommendation: Implement a mandatory disclosure scheme which enables renters to compare the energy performance rating of different rental properties.

Recommendation: Develop factsheet materials to explain the different energy features commonly found in Queensland rental properties and how those features can affect energy costs, thermal comfort and access to state and national consumer rights and safeguards – for use by renters, lessors and property agents.

Recommendation: Develop resources to promote and encourage social housing tenants to make energy performance improvements where they are able to do so at their own cost.

6.2. Choice in the rental market

Information is not the only barrier preventing renters from making informed choices as energy consumers. Tight competition in the rental market means that renters often simply 'take what they can get', and do not have the opportunity to consider energy features when comparing properties or entering into a lease.

While vacancy rates in the rental market can vary across locations and change over time, lack of choice in the rental market was cited as a key issue by respondents to the *QCOSS Renter Survey*. 42 per cent of those who indicated they did not consider energy factors highlighted lack of choice as the main reason why.

> ***"I was in need of urgent house as we were living out of a car"***
>
> ***"We took the property sight unseen"***
>
> ***"Slim pickings for renters"***
>
> ***"Properties are so hard to get I would rent even if I knew the [energy] price would be high, due to lack of choice"***

Nationally, three-quarters of renters believe that competition between renters is fierce and 62 per cent of renters feel they need to simply take whatever rental property is on offer.[xlvii] This is especially the case for low income renters who have fewer rental options to choose from, or who may be in social housing where they do not have a choice of which rental property they live in. Thus, while providing renters with quality information on the energy features of rental properties is important, many renters will be unable to act on this information.

The *RTRA Act* includes basic minimum standards for rental properties in that the premises are "*fit to live in, are in good repair and comply with laws on health and safety*".[xlviii] However, there are currently no minimum energy performance standards for rental properties in Queensland. As noted earlier, renters are less likely to live in properties with features such as insulation, solar panels and solar hot water. Renters are also more likely to live in properties with major structural problems, such as major cracks or electrical problems which can result in higher energy use and costs.[xlix]

An audit of the energy features and energy performance of social housing stock would be a useful first step to inform the development and implementation of minimum standards for new and existing social housing properties. Given the earlier comments about the high cost of reticulated natural gas connections, there is an opportunity to review the building and products standards to ensure that supply arrangements, fuel type and related appliances are not adversely impacting on energy costs for social housing tenants.

Queensland should also seek to follow other Australian jurisdictions that are taking steps to improve the minimum energy performance standard of private rental properties. For example, the NSW Government is proposing to investigate the introduction of energy performance standards for tenanted properties from 2020.[l] The Victorian Government is also actively consulting on options to introduce minimum energy performance standards, with Consumer Affairs Victoria (CAV) noting that *"private renters are the single largest group of those who are unable to heat their home (38 per cent) or pay energy bills on time (43 per cent)"*.[li]

Tasmania has introduced minimum standards for new leases under the *Residential Tenancies Act 1997* which includes specifications regarding the provision of a heating device in main living area and prescribing that curtains or blinds must be provided in each bedroom and living area to assist with keeping rooms warm.[lii]

Given the climatic differences between Queensland and Tasmania, there is likely to be different minimum standards in Queensland, however the approach is supported. Simple, non-structural changes that emerged from responses to the *QCOSS Renter Survey* which could be included in initial minimum standards included installing flyscreens so windows can be left open to capture breezes, and draught proofing windows and doors to minimize the cost of air-conditioning the home.

In the UK and New Zealand minimum standards have been introduced under a staged approach, beginning with a mandatory disclosure scheme to provide lessors with information about the standard of their property and allow them sufficient time to make the necessary improvements that may be required (see Case Study below). Like the Tasmanian example above, while the climactic conditions are different, the impact for renters of a lack of minimum standards is consistent.

Case Study B: Minimum energy efficiency standards in the UK and NZ

New Zealand recently passed changes to their *Residential Tenancies Act* to ensure all rental properties have insulation. The changes require ceiling and underfloor insulation to specified level to be installed by July 2016 for social housing and by July 2019 for all other rental properties. Additionally, the lessor/property owner must now provide a statement of the extent of insulation in a rental property on commencement of a new tenancy agreement. If tenants have concerns about their insulation that they cannot resolve with the lessor, they can go to the Tenancy Tribunal which has the authority to issue work orders and penalties of up to $4000 for non-compliance. [liii]

New Zealand provides grants for lessors with low-income tenants in private rental properties to improve their rental insulation. 50 per cent of the insulation cost is subsidised by local councils, and the remainder by the lessor. To be eligible, tenants must have a Community Services Card or have health conditions related to cold, damp housing. Either the lessor or tenant can apply.[liv]

In England and Wales, private rental properties must meet a minimum energy performance standard against the Energy Performance Certificate based on the fittings in and construction type of the dwelling including temperature control systems, insulation and double-glazing of windows. The Certificate includes recommendations for improvements and details likely costs. The energy performance standards will come into force from April 2018 for new or renewed leases and for all private rentals in April 2020.

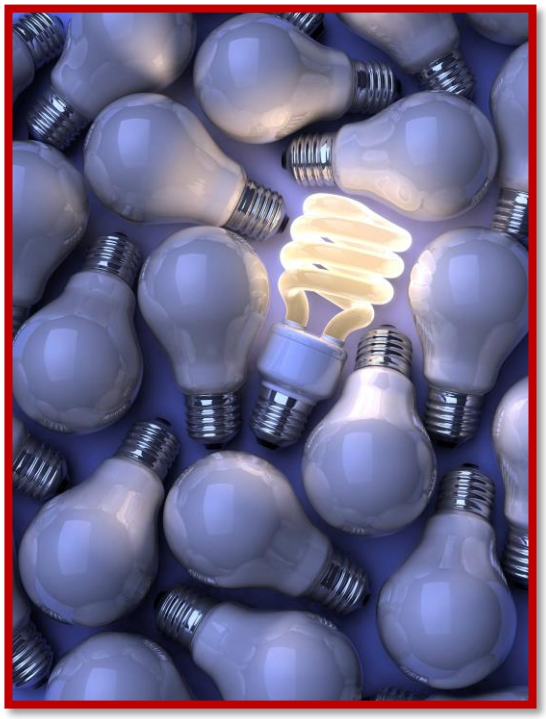
In the meantime, tenants can request improvements to the energy efficiency of their rental property provided the improvements have no cost to the lessor. These improvements can be funded through various government incentives or grants, and/or personal funds, and cannot be reasonably denied by the lessor.[lv] The regulations will be enforced by local authorities who can issue non-compliance penalties of up to £5000.

Both regions require the lessor to provide disclosure of the energy efficiency of the rental property. New Zealand requires the extent of the insulation to be disclosed, while UK legislation requires an energy efficiency rating of the dwelling. The UK rating system

includes providing the owner with the assessment with suggestions for improvements. Both the New Zealand and England and Wales authorities provide a pathway for tenants to request energy efficient improvements that cannot be reasonably denied by the lessor.

Recommendation: Undertake an audit of existing government-owned social housing stock to identify opportunities for improving minimum energy performance standards.

Recommendation: Develop and implement minimum energy performance standards for existing social and private rental housing.



7.0 Accessing consumer safeguards

There are a range of national and state-based consumer protections and safeguards in place to facilitate affordable access to a safe and reliable energy supply. These include concessions and free energy-specific external dispute resolution provided at the state level, as well as consumer protections under the National Energy Consumer Framework (NECF).

Despite this, renters frequently find themselves in non-standard energy supply situations where these safeguards either do not apply, or where there are practical barriers preventing renters from accessing them. In some of these energy supply situations, the rights and responsibilities of the renter as an 'energy consumer' can overlap or conflict with their rights and responsibilities as a 'tenant'. When this occurs, renters can experience barriers to understanding and asserting their rights, accessing safeguards, and seeking redress for energy related disputes.

The outcomes for customers with non-standard energy supply arrangements are especially relevant in Queensland, as Queensland has the highest number of registered 'exempt sellers'[4] across all National Energy Market jurisdictions.[lvi] In fact, as at June 2017, Queensland has more exempt sellers registered than NSW, SA, Tasmania and the ACT *combined*. These arrangements are also especially relevant for renters, as exempt selling arrangements generally occur in housing types where renters are over-represented (such as units and apartments, and as renters of a home or site in marginal housing tenures such as caravan parks and manufactured home parks).[lvii] Exempt selling arrangements aimed at lessors are also being rolled out by new energy providers, such as Alume Energy[lviii] and Matter Energy[lix]. The Solar Power Purchase Agreement (SPPA) product announced as a trial for Queensland public housing is also an example of an exempt selling arrangement.

The Australian Energy Regulator (AER) is responsible for monitoring compliance against the 'Exempt Selling Guideline' which covers most non-standard energy supply arrangements. Individuals or businesses operating as 'exempt sellers' must register with the AER[5] who monitor and enforce compliance with the Guideline. The Guideline attempts to mirror the NECF by obligating exempt sellers to meet provisions such as requiring them to pass on concessions, adhere to certain pricing and charging conditions, and meet obligations related to the provision of support for customers in financial hardship.[lx]

In addition to complying with the AER's Exempt Selling Guideline, depending on the nature of their arrangements, exempt sellers in Queensland may also need to comply with the following legislation:

- the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act)[lxi];
- the *Manufactured Homes (Residential Parks) Act 2003* (Manufactured Homes Act)[lxii]*;*
- the *Body Corporate and Community Management Act 1997* (BCCM Act)[lxiii]; and
- the *Retirement Villages Act 1999* (Retirement Villages Act)[lxiv].

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[4] An 'exempt seller' is an individual or entity who sells energy but is exempt from having to obtain a retailer authorisation because the sale of energy is incidental or not part of their core business. Examples include where a landlord, retirement village manager, caravan park operator or body corporate supplies energy to residents.

[5] Some categories are considered 'deemed' registrations so they do not have to register with the AER, but must still comply with the AER Guidelines.

Some of the energy supply scenarios renters may encounter are detailed in **Attachment A**. As is clear from this table, renters face significant complexity in navigating their consumer rights under both energy and tenancy rules. The key issues identified that impact renters can be summarised under the following themes:

- confusion and inconsistency around energy fees and charges
- practical barriers to accessing concessions and hardship assistance
- lack of access to appropriate dispute resolution
- conflict where the rights of a renter as an 'energy consumer' overlaps or conflicts with their rights as a 'tenant'.

7.1. Protections around energy charges

In terms of fees and charges, the AER Exemption Guideline requires that an 'exempt seller' must not charge higher than the local 'Standing Offer' price. This is slightly different to the provision in the *RTRA Act* which requires that a tenant cannot be charged more than the amount which is charged by the relevant supply authority for the quantity of energy used. According to the RTA, this provision "*results in ambiguity about charging fees such as late fees and meter reading fees, and how much a tenant can be charged for where there is a solar bonus scheme*".[lxv] It is their view that "*clear rules for charging for electricity are not necessarily a matter for tenancy law and should be dealt with clearly in energy supply legislation*".[lxvi]

The *RTRA Act* also allows renters under general tenancies to be charged for unmetered energy – if the tenancy agreement outlines how the charges will be calculated. For example, a tenant in a six-pack unit complex can be charged one-sixth of the overall energy used across the whole complex, which means their bills can fluctuate depending on their neighbour's energy use. However, renters in a caravan park, manufactured home or rooming accommodation are not permitted to be charged for unmetered energy. The AER has created a special category under the AER Guideline for this type of arrangement specifically for Queensland because it is permitted under the *RTRA Act*. The AER notes that they "*do not support unmetered energy selling"* but that they "*…allow exemptions in some circumstances where, for example, it is permitted under jurisdictional legislation…*".[lxvii]

The energy charges that can be applied to renters in a property where there is a body corporate are also protected by the *BCCM Act* which prevents the body corporate from profiting from the sale of energy.

Renters in a manufactured home park are covered by the *RTRA Act* if they rent both the home and the site, but if they rent the site only the *Manufactured Homes Act* applies which requires the site agreement to specify that energy will be charged in this way. Under the *Manufactured Homes Act,* renters cannot be charged any additional fees (for example a service fee or meter point fee) as part of their energy charges.[lxviii]

The *Retirement Villages Act* states that if energy is included in the charges for general services for residents, then the method of working out the charges must be stated in the public information document, and any increase in these charges may not be above CPI. The *BCCM Act* provisions could also apply to residents of retirement villages in situations where there is strata title.

Situations where renters are supplied with hot water that is heated and supplied via a bulk arrangement are excluded from all the above energy and tenancy legislation, and instead the sale of bulk hot water falls under Australian Consumer Law. Charging for bulk hot water is especially confusing for tenants as rates (and therefore bills) can vary significantly from quarter to quarter depending on how much water is used across all residences and how much energy is required to heat that volume of water (see **Case Study C**).

Aside from the requirements in the *Retirement Villages Act* and for general tenants supplied with unmetered electricity, there is no obligation for details about the above energy charging arrangements to be disclosed in the tenancy agreement. There is also limited information provided by the RTA, DEWS, AER and other relevant parties to clarify how these arrangements work together in simple terms that renters (and lessors) can understand. This confusion means that renters often do not receive clear information about their rights and responsibilities relating to energy fees and charges in these non-standard arrangements, and thus are often unable to assert their rights.

Case Study C: Bulk hot water

Bulk hot water supply is where gas or electricity is used to heat water in a centralised system and on-supplied to individual residences within a multi-unit dwelling. The results of the *QCOSS Renter Survey* suggest this is a relatively common supply arrangement for renters with 11 per cent of respondents indicating they are supplied with bulk hot water. Many social housing residents are supplied with bulk hot water.

XYZ Housing* is a community housing provider that has fifteen unit blocks fitted with bulk hot water systems. At one of their unit blocks, tenants have raised concerns about their bulk hot water charges. The tenants are not convinced that the bills correctly reflect their hot water usage, and they have no transparency about how they are being charged. Tenants experience significant variations in their charges from one billing period to the next which makes it difficult for them to budget and control their costs.

One tenant in the building experienced an almost 50 per cent increase in the bill for his two-person household. He received a hot water bill of $401 for the quarter, causing him considerable financial stress. Concessions such as the Home Energy Emergency Assistance Scheme cannot be applied to bulk hot water costs and bulk hot water retailers are not required to offer payment plans or hardship programs, so he had no access to assistance. There is no competition in the bulk hot water market, so they cannot change providers.

Bulk hot water is charged to each tenancy according to the litres used. However, the unit price per litre fluctuates each quarter because the unit price is calculated by dividing the energy used to heat the water is by the total number of litres of water consumed across all units. As the amount of water used each quarter fluctuates, the unit price changes.

XYZ Housing has checked the system to make sure it is working correctly, but tenants are still receiving inconsistent bills. XYZ Housing cannot change the arrangements as there would be significant cost involved. Due to the problem, they have encountered, they no longer install bulk hot water in their buildings.

The residents have written to various public officials in Queensland asking the government to review the bulk hot water arrangements and introduce a concession for low-income bulk

hot water customers. A petition signed by 90 residents at the unit complex accompanied one of the letters. XYZ Housing has also written to the relevant Queensland Energy Minister to support the tenants' call for changes to bulk hot water. There has been no resolution to date.

Even though bulk hot water is the sale of water which has been heated with energy, the consumer safeguards afforded to customers of standard energy or water services do not apply. For example:

- There are no protections around the disconnection of supply or the provision of hardship support for bulk hot water customers who may be experiencing financial difficulty.
- Customers of bulk hot water cannot access Energy and Water Ombudsman Queensland (EWOQ) for dispute resolution and are not eligible for Queensland Government concessions to assist with their hot water costs.
- Bulk hot water customers also have limited transparency about how they are charged. There is no price regulation and no requirement in Queensland for tariff information to be made transparent. There is no information on tariffs available on supplier websites and charges can vary significantly from quarter to quarter.

Additionally, customers have no choice to opt-out of these arrangements, and they cannot seek out a more competitive offer or switch providers, as there is no retail competition.

**Name has been changed*

7.2. Accessing concessions

Under Condition 12 of the AER Exempt Selling Guideline, all exempt sellers must pass on concessions to customers who are eligible. However, there are some barriers preventing some renters from accessing concessions. Firstly, the eligibility criteria exclude many renters in non-standard arrangements. For example:

- Renters living a property where unmetered energy is supplied are not eligible for energy concessions in Queensland, as metered consumption is one of the eligibility criteria. [lxix] This includes both unmetered electricity as well as unmetered gas.
- Renters with reticulated LPG or bottled gas are not eligible for gas concessions in Queensland.
- Renters accessing bulk hot water arrangement are not eligible for any concessions to assist with the cost of heating their water in Queensland.

There are also practical barriers which prevent renters from accessing concessions. For example, there are situations in Queensland where the lessor retains the electricity account in their name, generally so they can recoup Solar Bonus Scheme feed-in tariff payments (See example in Attachment A). In this scenario, the renter must apply for the Electricity Rebate or Home Energy Emergency Assistance Scheme (HEAAS) directly through their lessor.

This is something renters are unlikely to do because:

- There is a power imbalance between renters and lessors which means renters are unlikely to pursue their rights with their lessor for fear of eviction or rent increase.
- There is limited awareness of this requirement and no clear independent information provided by the AER, RTA or any other sources which renters can provide to their lessor or property agent to support their claim.
- Even if the lessor is aware of their obligations, they are unlikely to be able to have the concession applied to the bill, as there is no clear process to follow and their electricity retailer is likely to refuse the request as retailers can only apply a concession if the account holder is eligible.
- The electricity account may be in credit (due to the solar payments being received by the lessor) which means that concessions such as HEEAS, which are applied where there is a debt owed, would not be able to be applied to the account – even if the tenant, who is responsible for paying the energy costs, was unable to pay the bill.

The Queensland Government's concessions scheme was designed at a time when energy supply arrangements were largely standardised. Given the growing diversity in arrangements, especially for renters, it is essential that the concessions framework continues to evolve to keep pace with changes.

7.3. Access to appropriate dispute resolution

Given the complexities across the different legislative frameworks, there are barriers for renters in accessing free, independent and timely dispute resolution around their energy issues. Depending on the specific arrangements, renters with an energy related dispute may be referred to:

- Energy and Water Ombudsman Queensland (EWOQ)
- Residential Tenancies Authority (RTA)
- Queensland Civil and Administrative Tribunal (QCAT)
- Body Corporate and Community Management Dispute Resolution Service
- Department of Justice and the Attorney General Dispute Resolution Centre
- Office of Fair Trading
- Department of Energy and Water Supply.

As described in **Attachment A**, dispute resolution under several of the above agencies is not free or timely, and often their decisions are not enforceable unless both parties voluntarily agree to participate in the process. While there are a limited number of individual complaints recorded by the relevant agencies, given the complexity and cost of navigating the various channels it would not be surprising if customers did not pursue complaints, or did not understand their rights sufficiently to make a complaint in the first place.

Research by SACOSS[lxx] found that the conduct of 'exempt sellers' is not always compliant with the AER's Guidelines, but that residents had limited awareness of their rights to identify this as non-compliance. We agree and consider there are likely to be many 'exempt sellers', including private lessors, property agents, bodies corporate, caravan park operators and community housing providers, who are undertaking on-selling activities without an understanding of their obligations under the AER Guideline or other relevant Acts.

Further, even if a tenant did have a dispute and raise it with the appropriate agency, that agency is likely to only have responsibility for monitoring compliance with their own Act, rather the considering the tenant's situation as a whole. This issue affects not only dispute resolution, but systemic monitoring of compliance and enforcement.

For example, SACOSS identified that the AER may not have the capacity to monitor compliance with their Guideline, much less take enforcement action in the event of non-compliance. This is particularly the case with deemed exemptions as the AER has no line of sight to these situations. However, even if the AER could effectively monitor and enforce compliance with the Guideline, they are not responsible for monitoring compliance with the other relevant Acts that apply to these situations in Queensland.

QCOSS believes that energy disputes must be resolved through EWOQ as an independent energy-specific Ombudsman Scheme, as it ensure a free and timely channel for resolution of disputes about energy issues. There is work underway to achieve this. For example, the Queensland Government consulted on a regulatory impact statement considering extending the jurisdiction of the EWOQ to on-supply customers in 2015[lxxi]. Overall, stakeholders supported the proposal including QCOSS and EWOQ. The government has yet to announce a decision on the matter.

7.4. Rights as 'energy consumer' vs 'tenant'

With the proliferation of new business models and energy technologies being integrated into the home, the overlap between the rights of an individual as an energy consumer are increasingly blurred with their rights as a tenant. This occurs in a number of ways.

Where lessors are involved in the billing or supply of energy, the power imbalance between renters and lessors has an impact on the energy outcomes for the tenant. As explained earlier in this report, insecure tenure inhibits renters from making complaints or enforcing their rights as energy consumers. Renters are less likely to pursue an outcome as an energy consumer if they may fear implications for their tenancy – such as eviction or rent increase.

This means that even if a renter has consumer rights under energy legislation, they may be unlikely to pursue those rights if they perceive there may be a risk to their tenancy. An example of where this might occur is in relation to the introduction of contestable metering. Several tenants and tenancy stakeholders interviewed as part of our consultation were of the view that an electricity meter is a 'fixture' and therefore the tenant would need agreement from their lessor to have one installed. This finding was supported by Mojo Power who offer a digital meter as part of their EnergyPass product [lxxii] and who provided feedback in our consultation that their sales representatives have difficulty engaging renters as they tend to believe they need permission from their lessor to have a digital meter installed.

While the RTA and DEWS have advised QCOSS that tenants *do not* require lessor permission to have a digital meter installed, there is currently no independent information published on the RTA or DEWS websites that renters or lessors can refer to confirm this.

Even if lessor permission is not required, there are instances where the installation of a new meter can trigger the identification of faulty electrical boards, asbestos or other wiring issues. These issues may need to be rectified by the lessor immediately and at their own cost (due to safety reasons), or may result in the renter being unable to have a new meter installed unless the lessor agrees to rectify the issues. Retailers have highlighted this to customers – for

example, Origin Energy's website states: "*If our technician finds any pre-existing problems with your wiring, they'll let you know – and you might need to contact your lessor so they can organise an electrician to fix the issues*".[lxxiii]

As highlighted earlier, the insecure nature of tenancies in Australia means that renters are often reluctant to take any action which may have implications for their tenancy. Even if renters have rights under energy legislation, they are unlikely to assert those rights if the action could risk triggering a problem or dispute with their lessor under tenancy law. This overlap is relevant for many new and emerging energy products and services that help consumers control their energy costs, such as solar panels and digital meters, which are integrated into the home. Therefore, the lack of adequate protections under tenancy law risks resulting in renters being unable to confidently and actively participate in, and benefit from, emerging opportunities in the energy market.

Recommendation: Address barriers to equitable access to consumer safeguards for renters by:

- reviewing legislation related to energy, residential tenancy, body corporate, retirement villages and manufactured homes to ensure consistency and equity in outcomes for renters as energy consumers;
- publishing clear and independent information so all parties (renters, lessors, property agents and exempt sellers) clearly understand their rights and obligations; and
- improving access to energy consumer safeguards for renters, including concessions, EWOQ, price protections for energy services where there is no competition and consumer protections for renters with non-standard energy supply arrangements.

8.0 Conclusion

Market reforms and technological innovation are changing the way consumers interact with the energy market, giving them greater choice and control over their energy costs. However, with the growth in technologies such as solar panels and batteries which must be wired into the home, renters face barriers to actively participating in the energy market, and risk being left behind.

Given renters have less control over their energy arrangements once they are renting a property and more frequently find themselves living in properties with non-standard energy arrangements, it is critically important that they are well-informed when comparing rental properties and making informed decisions when commencing a new lease.

Currently, renters receive limited information about the energy features of rental properties to allow for an informed comparison and decision making. This includes information about energy efficiency of the property, fuel types, energy supply arrangements, and the associated implications of these arrangements on their energy costs and access to consumer safeguards.

Empowering renters to make better choices about the properties they rent can be achieved through the mandatory disclosure of relevant information. However, in a tight rental market where renters may have limited options to choose from, improved information will not be sufficient to achieve tangible outcomes. For these reasons, there must also be options to

protect renters who have been unable to exercise choice as energy consumers due to their lack of choice in the rental market. Additional measures include developing and introducing minimum energy performance standards for rental properties.

The need to obtain lessor permission to make changes to the property or fixed appliances represents a significant barrier to renters taking control over their energy costs, and adopting new technologies. Options to address this include removing requirements for tenants to seek lessor permission for improvements to the energy performance of the home where there is no cost to the lessor. The prevalence of short and insecure leases in the Australian private rental market is also a barrier to renters making their own investments to improve the energy affordability of their homes. Even if renters are willing and able to pay the cost of significant improvements to the home, they rarely have the security of knowing they will live in the same rental property for long enough to recoup the initial cost of the investment through energy savings.

The proliferation of new technologies and business models in the energy market risks complicating the consumer safeguards available for renters. Renters are more likely than owner occupiers to live in units or apartment complexes where non-standard energy supply arrangements are more common. While some of these arrangements may be beneficial for renters, others may result in them being worse off due to lack of access to effective dispute resolution, hurdles to accessing concessions, or removal of choice and control over their energy use and costs. There is also a complex mix of energy and tenancy legislation, which can be confusing and conflicting, and which makes it more difficult for renters to understand and access their consumer rights.

Ensuring equitable access for renters to the competitive energy market is critical. To achieve effective demand-side participation, the large and growing proportion of the population who rent must be able to choose their energy supply arrangements, control their energy usage, respond to price signals, access consumer protections and safety nets, and participate equitably in markets for innovative energy products and services. This is not the case currently. Solutions will require an integrated response across both energy and tenancy policy at a state and national level.

Attachment A

The table below illustrates examples of the energy supply scenarios experienced by Queensland renters. While best efforts have been made to ensure the accuracy of this information, the intersection between the different legislation is complex. Thus, the purpose of this table is to demonstrate the complexity of the legislation that applies, and the nuances that exist across different energy supply scenarios.

EXAMPLE SCENARIO	Conditions around pricing, fees and charges	Access to hardship assistance and concessions	Monitoring, compliance and dispute resolution
Scenario: The renter lives in a unit where electricity supply is not individually metered. The situation is most commonly encountered by renters in older-style 6-pack units, granny flats or where an lessor has converted a house into separate units. **Relevant legislation:** • ***AER Exempt Selling Guideline, Exemption Class D6 (deemed registration)* – lessor can charge for unmetered electricity. Lessor does not have to register with the AER but must comply with the Guideline.** • ***RTRA Act* – the lessor can charge the tenant for unmetered energy as long as the way energy charges are calculated is included in the tenancy agreement. However, a lessor is not permitted to charge for unmetered energy if the renter is living in a moveable dwelling or rooming accommodation.**	**AER Guideline, Condition 7:** The lessor must not charge the tenant *"tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises".* ***RTRA Act*, Section 165 (Residential tenancies):** *"If the premises are not individually metered…, the tenant may be required to pay an amount for the outgoings only if the agreement states—* *a) the service or facility for which the outgoings are payable; and* *b) how the apportionment of the outgoings to the tenant will be worked out; and* *c) how the outgoings may be recovered by the lessor from the tenant.* *The tenant may not be required to pay an amount for the outgoings that is more than— if the premises are not individually metered—the amount worked out under the agreement".* ***RTRA Act* Section 167 (Moveable dwellings):** *"The tenant may be required to pay an amount for the outgoings only if the premises are individually metered for the service or facility".* ***RTRA Act*, Section 170 (Rooming accommodation):** *"A provision of a rooming accommodation agreement requiring the resident to pay an amount for a utility service is of no effect unless the resident's room is separately metered for the utility services by an appliance approved by the supplying entity, and the amount the resident is required to pay is not more than the amount that the provider is charged by the supplying entity for the utility service used by the resident".*	**Hardship:** The lessor is responsible for meeting all the obligations under the AER Guideline relating to the provision of hardship support. **Concessions:** Under Condition 12 of the AER Guideline, the lessor must apply for, and pass on, any concessions the tenant is eligible for. However, the Queensland Government website states that applicants must "*show that your electricity or reticulated natural gas is paid on the basis of metered consumption*". Therefore, renters in this situation are not eligible for the following energy concessions: Electricity Rebate, Medical Cooling and Heating Concession Scheme or Home Energy Emergency Assistance Scheme.	**AER Guideline:** The AER undertakes monitoring, compliance and enforcement of the AER Guideline. Although, Class D6 is a deemed exemption so the AER does not have registration information of these exempt sellers to enable active monitoring and enforcement of compliance. The AER does not undertake individual dispute resolution for complaints related to the AER Guideline. ***RTRA Act*:** The RTA can investigate alleged offences under the RTRA Act. A tenant can lodge a complaint with the RTA which offers free independent dispute resolution. However, the RTA cannot compel a person to participate in the process. If the dispute is not resolved through the RTA, the tenant can make an application to QCAT. However, this process is not free with application fees of up to $569.20.

Scenario: The renter lives in a house where the lessor retains the electricity account in their own name and on-sells electricity to the tenant. This type of scenario typically occurs in Queensland where the lessor has solar panels on the property which are generating Solar Bonus Scheme feed-in tariff payments. **Relevant legislation:** • ***AER Exempt Selling Guideline Exemption Class D2 (deemed registration)* – lessor is acting as an exempt seller in this situation as they are selling metered energy to residential customers within the limits of a site that they own, occupy or operate. As it is a deemed registration class, the lessor does not have to register with the AER, but must comply with the Guideline.** • ***RTRA Act* - While the RTRA Act does not specifically refer to solar, this is covered under the provisions for energy charging.**	**AER Guideline, Condition 7:** The lessor must not charge the tenant *"tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises".* ***RTRA Act*, Section 165:** The lessor must not charge the tenant more than *"the amount charged by the relevant supply authority"* for the quantity of energy supplied to or used at the premises. It is not clear from the RTRA if the 'amount charged' is the total cost of the bill, or the total cost less any solar payments. However, according to the RTA the following options are permissible under the RTRA Act: • Lessor has the electricity account in their name. They pay the bill, receive the feed-in tariff and/rebate, and ask the tenant to reimburse them the full amount. • Lessor has the electricity account in their name. They pay the bill and ask the tenant to reimburse them the full amount minus the solar feed-in tariff payments. • Lessor has the electricity account in their name. They pay the bill and agree to pass on part of the solar feed-in tariff payments to the tenant. There is no requirement under the RTRA Act for this charging arrangement to be disclosed in the tenancy agreement. However, the RTA website "s*trongly recommends the property manager/owner and the tenant negotiate at the start of the tenancy how the electricity will be charged when a rental property has solar power. Details about electricity charging should be included in the tenancy agreement, which is agreed and signed by both parties at the start of the tenancy."*	**Hardship:** The lessor is responsible for meeting all the obligations under the AER Guideline relating to the provision of hardship support. **Concessions:** Under Condition 12 of the AER Guideline, the lessor must apply for, and pass on, any concessions the tenant is eligible for. However, it is not clear how the lessor is able to comply with this – as the lessor is the Account Holder – and the electricity retailer is only able to apply the Electricity Rebate to the bill if the account holder meets the eligibility criteria. According to DEWS, HEEAS is available to on-supply customers so the lessor must also apply for HEEAS on behalf of the tenant if they wish to apply and are eligible. However, it is not clear how the lessor is able to comply with if this – especially if the bill is in credit as the electricity retailer is only able to apply HEEAS to the bill if the account is in debt.	**AER Guideline:** As above. Class D6 is also a deemed exemption so AER does not have registration information to enable active monitoring and enforcement of compliance. The AER does not undertake individual dispute resolution for complaints related to the AER Guideline. ***RTRA Act*:** The RTA can investigate alleged offences under the RTRA Act. A tenant can lodge a complaint with the Residential Tenancies Authority (RTA) which offers free independent dispute resolution. However, the RTA cannot compel a person to participate in the process. If the dispute is not resolved through the RTA, the tenant can make an application to Queensland Civil Administrative Tribunal (QCAT). However, this process is not free with application fees of up to $569.20.

Scenario: The renter lives in a large apartment complex (more than 10 residences) where the body corporate operates an embedded network and on-sells energy to residents based on their metered consumption. **Relevant legislation:** • ***AER Exempt Selling Guideline Exemption Class R2 (individual exemption)* – the body corporate is acting as an exempt seller in this situation and must register with the AER.** • ***RTRA Act* - It is also permitted under the RTRA Act. Although there is no requirement under the RTRA Act for this charging arrangement to be disclosed in the tenancy agreement.** • ***BCCM Act and Standard Regulation Module* – the body corporate legislation essentially prevents the body corporate from profiting from the sale of energy.**	**AER Guideline, Condition 7:** The lessor must not charge the tenant *"tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises".* ***RTRA Act*, Section 165:** The lessor must not charge the tenant more than *"the amount charged by the relevant supply authority"* for the quantity of energy supplied to or used at the premises. ***BCCM Act*, Section 96:** *"A body corporate must not carry on a business… however the body corporate may engage in business activities to the extent necessary for properly carrying out its functions"* ***BCCM Act*, Section 158*:*** The body corporate *"may supply, or engage another person to supply, services for the benefit of owners and occupiers of lots in the way, and to the extent, authorised under the regulation module applying to the scheme".* ***BCCM (Standard Module) Regulation 2008*:** *"The body corporate may, by agreement with a person for whom services are supplied, charge for the services (including for the installation of, and the maintenance and other operating costs associated with, utility infrastructure for the services), but only to the extent necessary for reimbursing the body corporate for supply the services".*	**Hardship:** The body corporate is responsible for meeting all the obligations under the AER Guideline relating to the provision of hardship support. **Concessions:** Under Condition 12 of the AER Guideline, the body corporate must apply for, and pass on, any concessions the tenant is eligible for.	**AER Guideline:** The AER undertakes monitoring, compliance and enforcement of the Guideline. The AER does not undertake individual dispute resolution for complaints related to the AER Guideline. **RTRA Act:** Through the RTA and QCAT as above. **BCCM Act and Regulation:** The BCCM Dispute Resolution Service (under the Department of Justice and Attorney General). The tenant can apply for conciliation where an independent person employed by the Department of Justice and Attorney General helps the parties to resolve the dispute. However, this process is not free and fees up to $160.70 apply. The outcome of conciliation is not enforceable under the Act. If the tenant is unable to resolve their dispute through conciliation, they can make an adjudication application. However, an adjudicator cannot decide a dispute about a debt owed to the body corporate. Decisions about debt can only be made by a specialist adjudicator or QCAT.

Scenario: The renter lives in a large apartment complex (more than 10 residences) where the body corporate has engaged a retailer to supply each residence with hot water heated via a centralised boiler and unmetered gas for stovetop cooking. The bulk hot water and gas charges appear on the same bill from the same retailer. **Relevant legislation:** • ***AER Exempt Selling Guideline Exemption Class D5* – the sale of unmetered gas to individual residences for limited purposes such as stovetop cooking is covered under the AER Guideline. As it is a deemed registration class, the lessor does not have to register with the AER, but must comply with the Guideline.** • ***Fair Trading Act 1989 (Qld)* – for the sale of bulk hot water.** • ***BCCM Act* – may apply where the body corporate owns and operates the system and passes on charges onto the residents.**	For the gas component of the bill: **AER Guideline, Condition 7:** The retailer cannot charge the tenant a price for the gas that is *"higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises".* Because the gas is supplied on an unmetered basis (and generally as a fixed daily service free) it is not clear how the retailer would comply with this Condition. For the bulk hot water component of the bill: **Fair Trading Act:** The sale of bulk hot water is subject to the trade practices, enforcement and remedies provisions of Parts 3 and 5 of the Fair-Trading Act. If a supplier has a direct retail relationship with a customer, there are no restrictions on how much they can charge. In Victoria, suppliers must use a conversion factor to clearly explain how the cost of bulk hot water relates to the price of gas/electricity; however, there is no such requirement in Queensland. **BCCM Act:** If the body corporate owns and operates the system and passes on charges onto the residents the provisions of the BCCM Act also apply.	**Hardship:** The gas retailer is responsible for meeting all the obligations under the AER Guideline relating to the provision of hardship support for the gas component of the bill. However, there are no hardship obligations for the provision of bulk hot water. **Concessions:** Under Condition 12 of the AER Guideline, the gas retailer must apply for, and pass on, any concessions the tenant is eligible for. However, the Queensland Government website states that applicants must "*show that your electricity or reticulated natural gas is paid on the basis of metered consumption*". Therefore, renters in this situation are not eligible for the Reticulated Natural Gas Rebate or HEEAS. There are no concessions available in Queensland to assist with the cost of bulk hot water.	**AER Guideline:** The AER undertakes monitoring, compliance and enforcement of the Guideline. However, Class D5 is a deemed exemption so AER does not have registration information of these exempt sellers to enable active monitoring and enforcement of compliance. The AER does not undertake individual dispute resolution for complaints related to the AER Guideline. **Fair Trading Act:** The Office of Fair Trading is responsible for dispute resolution for bulk hot water **BCCM Act and Regulation:** Through the BCCM Dispute Resolution Service (under the Department of Justice and Attorney General), as described above.

Scenario: The renter lives in an apartment complex where a community housing provider operates an embedded network. Energy is charged at a fixed amount and collected with the rent. **Relevant legislation:** • ***AER Exempt Selling Guideline Exemption Class R2 (registrable exemption)* – may apply in some situations** where the • *RTRA Act* - It is also permitted under the RTRA Act. Although there is no requirement under the RTRA Act for this charging arrangement to be disclosed in the tenancy agreement. • ***BCCM Act and Standard Regulation Module* – the body corporate legislation essentially prevents the body corporate from profiting from the sale of energy.**	**AER Exempt Selling Guideline:** Only applies if the community housing provider does a 'true-up' at the end of the quarter to charge the tenant for the difference between the fixed amount and their actual energy usage charges. If this occurs, the community housing provider must not charge the tenant "*tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises".* **RTRA Act, Section 165:** The lessor must not charge the tenant more than "the amount charged by the relevant supply authority" for the quantity of energy supplied to or used at the premises. The BCCM Act and Regulation may also apply.	**Concessions:** If the community housing provider does a 'true-up' at the end of the quarter which means renters are charged according to their metered consumption, the community housing provider would need to comply with Condition 12 of the AER Guideline, which requires them to apply for, and pass on, any concessions the tenant is eligible for. This includes the Electricity Rebate as well as HEEAS.	**AER Guideline:** The AER undertakes monitoring, compliance and enforcement of the Guideline. The AER does not undertake individual dispute resolution for complaints related to the AER Guideline. **RTRA Act:** Through the RTA and QCAT as above. **BCCM Act and Regulation:** Through the BCCM Dispute Resolution Service (under the Department of Justice and Attorney General), as described above.

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