

Climate change and the rental sector: Mapping the legislative and policy context:

National



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SUSTAINING RENTAL LIFE SERIES NOTE

The Briefing Paper series of the '**Rental housing, climate change and adaptive capacity: a case study of Newcastle NSW**' project seeks to provide readers with access to current research on rental sector adaptation to climate change. Briefing Papers produced by the project team are working documents that provide a forum on theoretical, methodological and practical issues related to climate change adaption in rental housing. The project is funded by the National Climate change Adaptation Facility (NCCARF) for 2012. The publication as a 'Briefing Paper' does not preclude subsequent publication in scholarly journals, books or reports. Unless otherwise stated, 'Rental housing, climate change and adaptive capacity' publications are presented as contributions to debate and discussion and represent our developing thinking about the research. We are hoping that they may facilitate feedback from readers, researchers, renters and housing managers.

Briefing Papers are available in electronic format and may be downloaded from the Sustaining Rental Life website:

<http://www.newcastle.edu.au/research-centre/urban-and-regional-studies>

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INTRODUCTION

This briefing paper is one of a series that supports our research project on climate change and the rental sector, focusing on the Newcastle and Lake Macquarie areas of New South Wales.

The research project takes an asset-based approach (see Briefing Papers 1 and 2) to identify the skills and capacities of tenants to contribute to climate change adaptation and sustainability.

The project also examines those conditions which either enable, or act as barriers to, adaptation and sustainability in the rental sector. In addition to obtaining advice on these issues during interviews and focus groups, we examine in Briefing Papers 5-8 the wider context of legislation and policy at all levels of government.

Briefing Papers 5, 6 and 7 provide an overview of Commonwealth, State or Local Government's policy and legislative role, focusing on:

- ecologically sustainable development (ESD)
- response to climate change
- land use planning
- affordable and sustainable rental housing
- sustainability of services such as water, energy and transport
- incentives to encourage sustainable housing, communities and households.

These Briefing Papers canvas policy, regulation and programs which are likely to affect the capacities of tenants, landlords or property managers to

engage in sustainable practices and to adapt to climate change.

This Briefing Paper is the first in the set of four on this topic, and provides an overview of the Commonwealth's role.

State and Local Government legislative and policy roles are discussed in Briefing Papers 6 and 7 respectively.

Briefing Paper 8 analyzes the implications of this legislative and political context for the capacity of tenants, landlords and property managers to adapt to climate change.

COMMONWEALTH GOVERNMENT AND THE ENVIRONMENT

1. Ecologically sustainable development

The Commonwealth Government has identified itself as taking a leadership role in several policy areas which will have direct or indirect impacts on the capacity of the rental sector to adjust to climate change. The Government's commitment to principles of ecologically sustainable development is an important factor in many of these policies and in their impact on the rental sector.

The first formal commitment by the Commonwealth Government to sustainability occurred around the time of the UN Earth Summit in Rio de Janeiro which produced the Rio Declaration of 1992 (see box), and was consistent with the Rio definition of ecologically sustainable development.

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Rio Declaration – key principles

The Commonwealth Government's ESD Strategy objectives are consistent with the principles of the 1992 Rio Declaration on Environment and Development (UN Conference on Environment and Development 1992), in particular:

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment (UN Conference on Environment and Development 1992)

The Commonwealth Government's National Strategy for Ecologically Sustainable Development (1992) (DSEWPC 1992) defined ecologically

sustainable development as: 'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased'. The Strategy also stated that its core objectives were:

- *to enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations*
- *to provide for equity within and between generations*
- *to protect biological diversity and maintain essential ecological processes and life-support systems (DSEWPC 1992)*

The 1992 Intergovernmental Agreement on the Environment was endorsed by Commonwealth State and Territory Governments, and by the Australian Local Government Association. It stated that:

The parties consider that the adoption of sound environmental practices and procedures, as a basis for ecologically sustainable development, will benefit both the Australian people and environment, and the international community and environment. This requires the effective integration of economic and environmental considerations in decision-making processes, in order to improve community well-being and to benefit future generations (DSEWPC 2010).

This Agreement outlined the role of the Commonwealth Government as "safeguarding and accommodating national environment matters" including:

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- *matters of foreign policy ...and, in particular, negotiating and entering into international agreements...*
- *ensuring that the policies or practices of a State do not result in significant adverse external effects...*
- *facilitating the co-operative development of national environmental standards...* (DSEWPC 2010).

2. Climate change adaptation

There has been a series of Commonwealth Government responses to 'greenhouse' and climate change issues since the early 1990s.

The 1992 Intergovernmental Agreement on the Environment endorsed emission reductions of 20% by 2005, as the basis for a National Greenhouse Response Strategy (no longer in circulation but cited, for example, in Wilkenfeld et al. 1995). The Agreement also acknowledged the importance of social equity in implementing a greenhouse strategy and that this would require "coordinated and effective action by all levels of government and the community" (DSEWPC 2010).

The National Greenhouse Response Strategy was superseded by the 1998 National Greenhouse Strategy (quoted in NSW EDO 2008) which had the following objectives:

To limit net greenhouse gas emissions, and to meet Australia's international commitments.

To foster knowledge and understanding of greenhouse issues.

To lay the foundations for adaptation to climate change (NSW EDO 2008).

The 1998 Strategy has effectively also been superseded by a number of other Commonwealth documents, including the Government's Position Paper on Adapting to Climate Change (DCC 2010), COAG's National Strategy on Energy Efficiency discussed below (COAG 2010), and the Government's 2011 Climate Change Plan (Australian Government 2011a) which accompanied the 2011 Clean Energy and carbon pricing legislation.

Emissions reduction targets have been upgraded to reducing emissions by at least 5% compared with 2000 levels by 2020, with a long-term reduction of 80% by 2050 (Australian Government 2011a).

The Government stated in its 2010 Position Paper that its priorities for addressing climate change are based on an assessment of potential impacts in certain areas, the need for early action, Commonwealth responsibilities and the need for Commonwealth leadership.

It identified the following as initial national priorities:

- coastal management
- water
- infrastructure
- natural systems of national significance
- prevention, preparedness, response and recovery with regard to natural disasters
- agriculture (DCC 2010).

Moreover, reflecting the equity principle of the 1992 Intergovernmental

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Agreement, the Position Paper states that a “strong safety net will be essential” for more vulnerable groups, to be provided through the existing social welfare system (DCC 2010).

The general approach taken by the Government in its 2010 Position Paper consists of:

- ‘embedment’ of climate change responses into policy more widely
- providing ‘public good science and other information’ on a national scale eg through the National Climate Change Adaptation and Research Facility
- cooperation between levels of government eg through the Council of Australian Governments (COAG)
- monitoring the effectiveness of policy measures through a five-yearly Climate Futures Report (DCC 2010).

The Department of Climate Change and Energy Efficiency has published an ‘A-Z’ of government initiatives to support the following 3-pillar strategy:

- mitigation—to reduce Australia’s greenhouse gas emissions
- adaptation—to adapt to the climate change we cannot avoid
- global solution—to help shape a collective international response (DCCEE 2012e).

The Department’s programs and initiatives include the LivingGreener portal and Home Energy Saver Scheme, the Solar Cities program, and the ‘Your Home’ renovator’s guide, buyer’s guide and technical manual (see the ‘incentive and demonstration

programs’ section at the end of this paper). It has also provided ‘Local Adaptation Pathways’ grants to Councils to identify climate change risks and develop responses (DCCEE 2012e).

The Commonwealth Government works with State and Territory Governments through the Council of Australian Governments (COAG) to coordinate or standardise approaches to climate change adaptation. Various COAG agreements are discussed in later sections of this paper.

COMMONWEALTH ROLE IN LAND USE PLANNING

3. Planning, and development

State and local governments have primary responsibility for land use planning and development. COAG and the Local Government and Planning Ministers Council (LGPMC) are federal forums for coordinating responses to planning issues such as those presented by climate change.

A 2011 report by the Australian Productivity Commission to COAG noted a growing number of issues with impacts on land-use decisions, including population pressures, climate change and risks posed by fires and floods (Productivity Commission 2011a).

The Commission’s report on Planning, Zoning and Development Assessments (Productivity Commission 2011b) compared regulatory frameworks, land supply processes, developer contributions, and assessment processes, governance, community engagement and transparency and accountability.

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The report identified 'leading practices' for improved processes and outcomes, such as completing planning of greenfield areas before development commences and engaging the community and business as partners and clients in planning (Productivity Commission 2011a).

There has not yet been a response by COAG to the Commission's report which was released in May 2011.

COAG also directed the LGPMC Sub-Group on Development Assessment Reform to draft a set of performance measures then annually assess the 'health' of development assessment systems across jurisdictions. Criteria included "the effectiveness of policy objectives against development assessment outcomes" (LGPMMA 2011).

The first report by the Subgroup (LGPMMA 2011), using 2008-9 data, noted that it was difficult to obtain comparable data across jurisdictions. Rather than evaluating the success of development assessment outcomes in meeting policy objectives, the report's findings for NSW, for example, were that:

- Councils report to the Department of Planning on the number and type of variations to development standards they allow
- statistics are collated annually for all development applications and analysed with annual report (LGPMMA 2011).

The impacts of both the Productivity Commission report and the LGPMC report on improved planning and

development therefore remain to be seen.

There are however significant changes proposed by the NSW Government for planning and approval processes. In particular, changed opportunities for community engagement in planning and approval processes, and proposed streamlining of development approvals will have impacts on the rental sector's access to affordable and sufficient housing stock, and the responsiveness of communities and housing to climate change. These changes are discussed in Briefing Paper 6.

4. Integrated Coastal Zone Management

The roles of State and local government in responding to rising sea levels are discussed in Briefing Papers 6 and 7 respectively. However the National Resource Management Ministerial Council in 2003 agreed on a framework for a national cooperative approach to Integrated Coastal Zone Management (ICZM), and to an Implementation Plan in 2006.

Nevertheless, in a 2010 discussion paper, Maddocks law firm noted that:

...governance arrangements for the Australian coastal zone have been characterised as complex, highly fragmented and, at times, inconsistent. A report issued by the bipartisan House Standing Committee on Climate Change, Water, Environment and the Arts (Parliamentary Committee) in 2009 on the climate change and environmental impacts on coastal communities...stressed the need for national leadership to promote sustainable use of Australia's coastal

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zone and address growing concerns about climate change impacts on the coast (De Sousa et al. 2010).

The Commonwealth has also funded several demonstration ‘Coastal Management Decision Pathways’ projects (DCCEE 2012b).

5. City strategic planning and urban policy

While the 1992 National Strategy for ESD identified wide ranging needs for industrial adjustments, changes to transport, urban form guidelines, and recycling methods, “[b]y the mid 1990s the NSESD had retreated into a handful of land use programs” (McKay and Rauscher 2005).

This focus on land use and resource management policy is also reflected at State and Local Government level (see Briefing Papers 6 and 7). However the Commonwealth Government has, in more recent years, worked through COAG to address urban planning and ESD in buildings, as the following sections indicate.

Equity and inclusion in adapting to climate change, and in future quality of life, are principles of the Commonwealth Government’s 2010 discussion paper *Our Cities—building a productive, sustainable and liveable future* (DIT 2010).

The Government has since released *Our Cities, Our Future: a national urban policy for a productive, sustainable and liveable future* (DIT 2011), which addresses “a number of long term challenges: the need to improve productivity growth; provide affordable and accessible housing; create safe

community spaces; meet the needs of a growing and ageing population; ensure an inclusive and cohesive society; and address the implications of climate change” (DIT 2011).

The objectives of the National Urban Policy include:

- *Increase resilience to climate change, emergency events and natural hazards by:*
 - *Climate change science and research*
 - *Mitigation and adaptation*
- *Advance the sustainability of Australia’s natural and built environment through better resource and risk management (DIT 2011).*

In 2009, COAG asked its Reform Council to review State and Territory capital city strategic planning systems against nine criteria which included the capacity to address national significant policy issues such as “climate change mitigation and adaptation” and ‘housing affordability’.

While the final recommendations of the Reform Council’s review (COAG Reform Council 2011) were very general, some particular issues were highlighted in the body of the report as not yet been adequately addressed in city planning:

- *demographic change*—which has implications for the nature, distribution and diversity of housing stock, for transport and other public services, and for labour market participation
- *housing affordability*—which remains a significant concern in need of an evidence-based and

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collaborative response from governments

- *social inclusion*—the spatial implications of which are poorly analysed and understood (COAG Reform Council 2011).

The Reform Council also suggested there needed to be a greater emphasis on public transport “to combat congestion and address social inclusion by integrating transport planning with land use decisions” (COAG Reform Council 2011) (see ‘Transport’ below).

Like the Reform Council’s recommendations, the May 2012 response by COAG’s Standing Council on Transport and Infrastructure was also presented in very general terms. The Council agreed to continue intergovernmental collaboration and that all governments “actively consider ways to improve the effectiveness of the frameworks for investment and innovation in capital cities” (COAG 2012a). Issues of housing affordability and adaptation to climate change, and equity and inclusion, were not specifically addressed.

The Commonwealth Government has however made strategic planning systems for capital cities a requirement on State and Territory governments as a condition of Federal infrastructure funding (Albanese 2011).

Another outcome of the COAG agreement to undertake reforms in capital city strategic planning is the Urban Design Protocol (DIT 2012b), which was released by the Government in late 2011. It is based on ‘five pillars’ of productivity, sustainability, liveability, leadership and design excellence.

The purpose of the Urban Design Protocol is “to encourage the highest standard of urban design” and provide a framework to “measure and improve best practice in urban design” (DIT 2012b).

COMMONWEALTH ROLE IN HOUSING

6. National Housing Affordability Agreement

The current shortage of affordable rental housing limits the market power of tenants to choose houses with more sustainability features, or houses which are more adaptive to climate change. The shortage of rental properties is related to the shortage of affordable housing for first-home buyers, which puts increased demands on the rental market, and reduces investment in housing.

In response to such concerns COAG signed a National Affordable Housing Agreement in 2009 (Cullen 2012). The nominated outcomes of the Agreement were:

1. People who are homeless or at risk of homelessness achieve sustainable housing and social inclusion
2. People are able to rent housing that meets their needs
3. People can purchase affordable housing
4. People have access to housing through an efficient and responsive market
5. Indigenous people have the same housing opportunities as other Australians
6. Indigenous people have improved housing amenity and

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reduced overcrowding, particularly in remote areas (COAG Reform Council 2012: xi).

As with other Agreements, the COAG Reform Council was tasked with providing 'evidence-based assessment and performance reporting' on progress to meet the objectives of the Agreement. Its third report presented in April 2012 focused particularly on home purchase affordability, rental affordability, and housing market efficiency and responsiveness. The Reform Council found that rental affordability had worsened, especially for those with the lowest incomes. The rate of rental stress in Australia had jumped from 49.2% in 2007-08 to 60.8% in 2009-10.

It also found that NSW had a higher proportion of low income households living in rental stress than the national average.

Homes had also become less affordable for buyers, which has implications for the numbers of people seeking rental accommodation and the number of homeowners buying investment properties for rental. One reason for reduced affordability for low and moderate income households was cited as the increases in mortgage interest rates during 2009-2011 (COAG Reform Council 2012).

COAG's response in July 2012 was to agree to governments working together to improve affordability, but to note that interest rates and market fluctuations "are largely out of the control of governments". It also noted that affordability had improved over 2011-12

because of lower interest rates and small declines in house prices (COAG 2012b)¹.

The National Housing Supply Council has recently been established to advise the Federal Minister for Housing on trends in land availability, construction activity and housing affordability, and ways of improving the supply response. It will publish an annual State of Supply Report (National Housing Supply Council 2012).

7. Housing and household appliance standards

The Commonwealth Government has noted that "a range of policies that are complementary to a carbon price is required to realise the energy efficiency gains that are technically possible" (Energy Efficiency Working Group of the Select Council on Climate Change 2012).

The Government, through COAG, has led national harmonisation of a number of guidelines, standards and accreditation systems which will influence the sustainability of the residential sector, and in particular the adaptability of new housing to climate change.

The Water Efficiency Labelling and Standards (WELS) Scheme was established under the Commonwealth *Water Efficiency Labelling and Standards Act 2005* (WELS Regulator 2012). It requires certain water-using

¹ In May 2012, the Australian Housing and Urban Research Institute (AHURI) released a detailed proposal, for consideration by government, for Housing Supply Bonds to fund increased investment in affordable rental housing (Lawson et al. 2012).

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products to be labelled for water efficiency. They must also be consistent with the WaterMark product quality certification scheme, which confirms that certain plumbing products comply with the requirements of the Plumbing Code of Australia (Energy Efficiency Working Group of the Select Council on Climate Change 2012).

As part of the National Strategy on Energy Efficiency, COAG requested the Australian Building Codes Board (ABCB) to develop more stringent energy efficiency provisions for new residential buildings in the Building Code of Australia (BCA). The BCA now requires a 6 star energy rating or equivalent for new residential buildings². The changes include energy efficiency requirements for hot water services and lighting in new houses and apartments. The provisions were enacted in State and Territory legislation from 1 May, 2010 (ABCB 2011).

However the Government has also drawn attention to the equity implications of the lack of incentives for landlords or tenants to adaptively retrofit rental housing, since a disproportionate number of poorer people live in rental properties (DCCEE 2011).

COAG is also reviewing a NSW Government report on five years of operating the Building Sustainability Index (BASIX) (COAG 2010). BASIX is a web-based assessment tool that calculates the water and energy efficiency of new residential

developments (NSW Government). BASIX certificates are now compulsory with all NSW development applications. The five year review was conducted by NSW in 2009 and estimated that to 2050, new BASIX certified dwellings will generate a positive benefit of between \$1.20 and \$1.60 for every dollar spent complying with BASIX, most of which will accrue directly to individual householders through lower energy and water bills, especially energy bills (DoP 2011).

COAG also tasked the Local Government and Planning Ministers Council to develop a standard layout for residential subdivisions to optimise passive solar design, and a strategy to encourage its adoption into planning approval processes (COAG 2010).

The *Your Home Technical Manual* was developed for those building, buying or renovating their home, as a guide for designing and building “a more comfortable home that has less impact on the environment” (Reardon et al. 2010). The Department of Climate Change and Energy Efficiency periodically reviews the *Your Home Technical Manual* (COAG 2010)³

While new buildings in NSW are required to comply with BASIX, the national sustainability rating system for existing buildings is NABERS (National Australian Built Environment Rating System), which is administered by the NSW Office of Environment and

² From May 2011 the BCA became Volume One and Two of the new National Construction Code (NCC), with the Plumbing Code of Australia being added as Volume Three of the NCC (Energy Efficiency Working Group of the Select Council on Climate Change 2012).

³ The Commonwealth Department of Transport and Infrastructure has also funded ‘Livable Housing Design Guidelines’ for safety and accessibility (Livable Housing Australia 2012).

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Heritage, on behalf of Commonwealth, state and territory governments:

NABERS measures and communicates the actual impact of a building in a simple and intuitive manner to building owners, tenants and the community. NABERS ratings are available for offices, shopping centres, hotels and households, for a range of environmental impacts including energy, water, waste, transport and indoor environment. The coverage of building types and environmental impacts considered is continually being extended (NSW OEH).

The Green Building Council of Australia (GBCA) is developing a new Green Star assessment methodology, known as 'Green Star – Performance', to assess the operational performance of existing buildings. The GBCA has announced that this will reference the NABERS benchmarks, and will rate a building's performance across all nine categories in an integrated manner.

In 2010, a memorandum of understanding was signed between GBCA, the Commonwealth Department of Climate Change and Energy Efficiency and the then NSW Department of Environment, Climate Change and Water. The MoU outlines the parties' commitment to share information on rating tool development, calculators, benchmarks and methodologies to strengthen both rating systems (Energy Efficiency Working Group of the Select Council on Climate Change 2012).

The most recent development in national improvements to building

standards is the Draft National Building Energy Standard-Setting, Assessment and Rating Framework which will address a subset of building-related measures:

- minimum building energy efficiency standards
- building assessment and rating processes that can be used in minimum building standards and other policies (Energy Efficiency Working Group of the Select Council on Climate Change 2012).

More details of the Framework, including implementation and funding arrangements will be considered by governments in the first half of 2013 (Energy Efficiency Working Group of the Select Council on Climate Change 2012).

Other national initiatives for improved sustainability standards in the housing sector include work on Residential Building Mandatory Disclosure (RBMD). This proposal is discussed below.

8. Residential Building Mandatory Disclosure (RBMD)

Under the National Strategy on Energy Efficiency, COAG proposed that owners of existing houses, flats and apartments provide energy, water and greenhouse performance information when selling or leasing their properties. This would allow buyers and renters to better compare different properties, and energy, water and greenhouse performance to be factored into property promotion.

The Australian Capital Territory has required existing homes to provide

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energy efficiency information to buyers and renters since 1999. Queensland's mandatory disclosure scheme is under review.

A draft Regulation Impact Statement (RIS) (The Allen Consulting Group 2011) was the subject of stakeholder and public consultation in 2011. The draft RIS noted a number of factors in the housing market which make it important for there to be better information about the performance of buildings:

- Energy, greenhouse and water performance is a difficult attribute to identify without specialist advice
- Residential properties tend to be large, one-off or low frequency investments where a purchaser cannot rely on significant previous personal experience
- The presence of 'totem' features such as solar hot water systems and rainwater tanks may provide a miscue
- Property owners with a poorly performing building have an incentive not to reveal this information
- Branding strategies are less practical in a market with large numbers of providers and many one-off products (The Allen Consulting Group 2011).

However the RIS also noted that little is known about the extent to which potential buyers/tenants would use energy efficiency information if it were available.

The draft RIS undertook a cost benefit analysis which also examined indirect benefits to society such as:

- health benefits associated with improved energy efficiency
- reduced water usage
- reduced peak load infrastructure demands
- the general increased provision of information about residential building performance (The Allen Consulting Group 2011).

It excluded increased property values for building owners because these "do not result in a net increase in overall wealth, rather, they result in a transfer in wealth from first-time home buyers to existing home owners" (The Allen Consulting Group 2011). (It should be noted that increased property values are also likely to put increased pressure on the rental market).

The draft RIS concluded that even with relatively low uptake rates, the option which provided for assessments by a qualified assessor, and a simplified simulation of thermal performance, would achieve net benefits to society (The Allen Consulting Group 2011).

After stakeholder consultation, the Federal Government in 2012 commissioned further work on the differences between single title, strata title, owner occupier and rental property markets before a 'decision' regulation impact statement is released for comment (DCCEE 2012d).

RBMD and social housing

The RIS made a number of statements about the value of a RBMD scheme for social housing.

It argued that RBMD was unlikely to inform or influence social housing

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tenants' choice of building, since social housing tenants' accommodation options are constrained and "rental rates are usually determined based on incomes".

It also concluded that the owners of social housing were less likely [than private sector owners] to recover their investments, and that the tenants would have little capacity to invest in efficiency measures, "[b]ecause they are not the owners of the property... and because they tend to have lower than average incomes" (The Allen Consulting Group 2011).

Nevertheless, the RIS noted that low income tenants are more vulnerable to rising energy and water costs, and suggested that "[i]nformation could be provided in a disclosure certificate on specific low-cost ways to reduce energy and water bills, such as installing water efficient showerheads, draught preventers, efficient lighting, or setting air conditioner set points to run more efficiently" (The Allen Consulting Group 2011).

Adopting this recommendation would mean that tenants of privately-owned housing would have access to information about the energy efficiency of their dwellings, but social housing tenants would receive advice only about taking responsibility for their own energy consumption.

The COAG National Strategy for Energy Efficiency has however proposed a rolling energy audit of social housing stock, and the draft RIS suggests that this should be reviewed for potential duplication if an RBMD scheme is

introduced (The Allen Consulting Group 2011).

9. Green Lease Schedules

The *Green Lease Schedule* (GLS) is a new type of leasing arrangement developed by the Department of the Environment, Water, Heritage and the Arts and the Australian Government Solicitor (AGS), currently only applicable to commercial buildings.

It contains mutual obligations for tenants and owners of office buildings to achieve efficiency targets. The GLS improves energy efficiency by setting a minimum, ongoing, operational building energy performance standard. It also provides methods for incorporating water and waste targets. The standard used is the *NABERS Energy rating* (DEWHA and DECC (NSW) 2009).

Green lease schedules have not yet been applied to residential buildings in Australia. However, particularly in the case of multi-residential buildings, they have the potential to reduce energy and water consumption by engaging both building owners and renters.

COMMONWEALTH ROLE IN SERVICE PROVISION

10. Water

Water policy at Commonwealth level is focused on gaining commitments through the Council of Australian Governments to environmental protection of natural waterways, and security and regulated pricing of urban water supplies. These commitments will have implications for future equity of access to water (availability and affordability) for all householders, and in

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particular those on low incomes, which are predominantly rental households.

The Intergovernmental Agreement on a National Water Initiative was signed at the 25 June 2004 Council of Australian Governments meeting. Under the Initiative, governments made commitments to:

- prepare water plans with provision for the environment
- deal with over-allocated or stressed water systems
- introduce registers of water rights and standards for water accounting
- expand the trade in water
- improve pricing for water storage and delivery
- meet and manage urban water demands (NWC 2011).

The Commonwealth Government also has a role in promoting more water efficient products (see 'Standards and Accreditation Systems' below).

11. Energy

Similarly, COAG's agreement in 1991 to develop a competitive national electricity market regulates both security of energy supply and future cost-of-living increases for those on low incomes. The National Electricity Market (NEM) became fully operational in 1998 (The Treasury 2001).

The COAG Ministerial Council on Energy now sets the policy agenda for energy market reforms in Australia. The Australian Energy Market Commission (AEMC) is responsible for development and regulation of national electricity and gas markets, and the Australian Energy Market Operator operates the wholesale

spot market for electricity and the wholesale gas markets (Ausgrid 2012).

The Australian Energy Regulator undertakes economic regulation of monopoly energy network businesses (distribution and transmission networks such as Ausgrid in the Hunter region), and monitors compliance with the National Electricity Law and Rules (Ausgrid 2012). Specific requirements relating to performance and safety, contracts, reporting requirements and customer protection are made under State legislation (see Briefing Paper 6).

National Strategy for Energy Efficiency

"Household action is an important part of Australia's climate change approach. This Strategy is designed to give consumers confidence to make better choices and promote behavioural change" (COAG 2010: 16).

The Commonwealth's role in reducing carbon emissions includes regulatory requirements for more efficient household appliances, cars and buildings, as well as the introduction of Clean Energy legislation ('Carbon Tax') and renewable energy targets.

COAG agreed in 2009 to a National Strategy for Energy Efficiency with the following four key themes:

1. Assisting households and businesses to transition to a low-carbon future
2. Reducing impediments to the uptake of energy efficiency
3. Making buildings more energy efficient

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4. Government working in partnership and leading the way (COAG 2010: 5).

Regulation of appliances, cars and buildings is intended to reduce energy costs for consumers as well as reducing carbon emissions. The phasing out of energy-inefficient light bulbs and hot water services, and expanded requirements for energy efficiency labelling of appliances, are parts of this Strategy.

Other components of the Strategy included a 'Green Car Innovation' fund (but not increased availability or use of public transport), more stringent environmental standards for new buildings, and a phase-in of mandatory disclosure of energy ratings of existing buildings. (Commonwealth Parliament passed the *Building Energy Efficiency Disclosure Act 2010* for commercial buildings on 24 June 2010. (For progress on residential buildings see the section in this paper on 'Residential Buildings Mandatory Disclosure').

The LivingGreener.gov.au web portal, which provides advice on sustainable living to householders, was also developed as part of the National Strategy for Energy Efficiency (Senior Officials Group on Energy Efficiency 2010).

'Carbon Tax' Clean Energy Legislation

The Commonwealth's Clean Energy Plan (Australian Government 2011b) consists of Clean Energy legislation, support for households to reduce use of fossil fuels, and support for renewable energy.

The Clean Energy Act (2011), known widely as 'the carbon tax', provides for the operators of carbon-emitting facilities and suppliers of fuel to purchase carbon units to cover their emissions. They are then charged for any shortfall in the number of carbon units when compared to their emissions.

However the coal industry and some other 'trade-exposed' industries receive free carbon units. Disadvantaged or poorer households are compensated for the impact of the carbon tax on the cost of living, in particular on energy prices (Commonwealth Parliament 2011)⁴ (see section on 'Commonwealth role in education and incentive programs' below).

The Clean Energy legislation has also set up the Clean Energy Regulator to administer the carbon pricing mechanism, and the National Greenhouse and Energy Reporting Scheme to track progress against Australia's target under the Kyoto Protocol (DCCEE 2012a; DCCEE 2012c). The Clean Energy Regulator also administers the Renewable Energy Target. It has been argued by parts of the energy industry that requirements for mandatory renewable energy targets (at present intended to achieve 20% of total energy by 2020) will increase energy costs for consumers, and, in the light of recent declines in energy consumption, result in more than 20% of total energy deriving from renewables. However the Australian Industry Group and the Clean Energy Council, for

⁴ Note however the NSW Government 'claw back' of some of these rebates through increased rents for public housing tenants www.abc.net.au/news/2012-06-14/nsw-government-blames-carbon-tax-for-housing-rent/4071448?section=nsw. This is discussed in Briefing Paper 6.

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example, have called for existing targets to be maintained to provide certainty for investments in renewable energy (Maher and Hepworth 2012; Hepworth 2012)

A recently released draft report by the Australian Productivity Commission (Productivity Commission 2012) made a number of recommendations to reduce future electricity cost increases for consumers. It recommended privatisation of state-owned electricity networks (such as Ausgrid in NSW) and a rollout of smart meters to enable differential pricing of electricity during times of peak demand and reduce the need for investment in peak-load infrastructure.

The Commission noted particularly a failure of regulatory authorities to engage sufficiently with consumers:

- the involvement of consumers in the processes of the National Electricity Market has been partial and intermittent
- consumer groups have been involved in attempts to decrease network charges but smaller groups do not have many resources, and do not believe that the much weight has been given to their views
- information flows to consumers could be improved
- a single consumer body with expertise in the economic regulation of energy markets could be established to represent *all* consumer groups (Productivity Commission 2012 (Overview)).

12. Transport

The 1992 National Strategy for ESD included as Objective 8.4:

... to improve the technical and economic efficiency of urban and non-urban transportation; encourage switching to alternative transport technologies or modes where this reduces greenhouse gas emissions per passenger or unit of freight and to optimise the modal mix of transport to achieve greater economic, environmental and social benefits

This included a commitment to more efficient road networks and motor vehicles, but also:

- to improve the efficiency of urban public transport
- to optimise the modal mix of transport with respect to economic, environmental and social benefits
- to support and promote the objectives of the National Bicycle Strategy (DSEWPC 1992)

The aims of the 2003 National Charter on Integrated Land Use and Transport Planning (National Transport Secretariat 2003) included wider choices in transport modes and reducing demand for vehicle travel.

The Charter focused on a number of recommendations intended to increase the use of public transport and non-motorised transport such as bicycles:

- transport routes and destinations should be managed so that priority can be given to sustainable transport modes

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- networks for non-motorised transport modes should also be further developed.
- planning policies and provisions at the various levels of government need to address how new developments can be orientated to support existing transit facilities.
- conversely, specific proposals for the development of transport infrastructure needs to address the changes in accessibility and development potential in the short and long term.
- new activity-intensive development should be located at public transport nodes and interchanges and ensure good connectivity to stations and stops.
- provision for sustainable transport should be given priority in new land use and transport decisions (and those at the early planning stages).
- the potential for parking strategies and congestion management techniques should be considered as a means of influencing vehicle travel demands in particular locations and routes or at particular periods.
- densities around public transport nodes should be increased and the possibility of reducing the provision for on-site parking in these locations should be considered.
- fringe development should be integrated with existing public transport routes.
- if new routes are required, the planning and development of new areas should be based on accessibility to these routes

(National Transport Secretariat 2003).

The Strategy notes that “[t]he responsibility for its implementation rests with each state, territory and the Commonwealth. Within each state and territory, local governments also play a central role in land use” (National Transport Secretariat 2003). Most of the recommendations listed above fall within areas of responsibility of State or local government.

The Commonwealth government has committed \$7.3 billion to modernise and extend the urban rail infrastructure in Melbourne, Adelaide, Perth, Brisbane and Sydney, and the Gold Coast (Albanese 2011).

The Council of Australian Governments has agreed on city planning policies to increase the use of public transport (see ‘City Strategic Planning and Urban Policy’ above). However public transport in Australia is primarily a responsibility of State Governments (see Briefing Paper 6).

The Commonwealth Government’s National Cycling Strategy 2011-2016 (following the 2005-10 Strategy) is managed by Australian Bicycle Council. It identifies responsibilities of all levels of government, community and industry stakeholders and aims to double the number of people cycling in Australia by 2016 (Australian Bicycle Council 2011). Pedestrian and bicycle networks however are generally a local government responsibility with some planning and funding assistance from State Governments (see Briefing Papers 6 and 7).

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Both Commonwealth and State Governments are involved in the operation of railways. Freight and interstate lines are leased by the NSW State Government to the Commonwealth-owned Australian Rail Track Corporation. Passenger rail services in the Sydney area are operated by State-owned corporation RailCorp, and regional passenger lines by contractor John Holland Rail (JHR) on behalf of the State department 'Transport for NSW' (DIT 2012a; Transport for NSW 2012).

The Commonwealth Government provides some direct transport funding to local government, for example through the road repair program 'Roads to Recovery' (over \$6M to Lake Macquarie City Council and over \$4M to Newcastle City Council in the period 2009-2014) (DIT 2012c). It also funds the Green Car Innovation Fund (see section on 'National Strategy for Energy Efficiency' above).

COMMONWEALTH ROLE IN EDUCATION AND INCENTIVE PROGRAMS

13. Sustainability education

"As climate change will impact on virtually every sector of the economy and society, the Commonwealth will need to take a leadership role in positioning Australia to adapt to climate change impacts that may affect national prosperity or security" (DCC 2010).

The Government's 1992 National Greenhouse Response Strategy included measures for "ensuring that the community understands the need for

early action on measures to reduce greenhouse gas emissions" (DSEWPC 2010).

The Government's National Action Plan for sustainability education (DEWHA 2009) aims 'to equip all Australians with the knowledge and skills required to live sustainably', and to help to achieve 'national sustainability objectives' (see section 2 above).

The education plan is also part of Australia's participation in the United Nations 'Decade of Education for Sustainable Development, 2005-2014' (DEWHA 2009). The strategies outlined in the plan include:

- equipping people to understand connections between environmental, economic, social and political systems
- participation is critical
- improve communication and networks between different sectors of society
- harnessing community spirit to act (DEWHA 2009).

Commonwealth action to support the education plan includes grants for community education projects, development of sustainability education best practice guides, use of the media and 'ambassadors' to communicate sustainability concepts to the public, and the funding of research and surveys to identify the most effective education approaches (DEWHA 2009).

14. Incentives for industry

Clean Energy Finance Corporation

The cost of energy for residential consumers will be influenced by the

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National Strategy on Energy Efficiency the Commonwealth Clean Energy legislation and the national Renewable Energy target discussed above.

In support of renewable energy, the Commonwealth Government has established the Clean Energy Finance Corporation (CFEC) to leverage private sector financing for commercialising renewable energy and energy efficiency technologies.

The CFEC's investment decisions are made by an independent Board, and the fund is expected to eventually become self-sustaining (Clean Energy Future 2012).

Demonstration projects

COAG's National Strategy on Energy Efficiency includes collating information from State and Territory governments on demonstration projects for more sustainable and energy efficient housing, such as the Queensland Sustainable (Display) Homes program and the 'Greensmart' program of the Housing Industry Association (COAG 2010).

15. Incentives for householders

Carbon tax rebate for households

Another component of the Commonwealth's Clean Energy Plan (Australian Government 2011b) and Clean Energy legislation is an assistance package for low income households to meet rising energy costs. This includes:

- an initial payment in May 2012
- tripling of the tax free threshold to \$18,200 from 1 July 2012

- permanent increases to regular government payments to commence in 2013-14.

The Package also includes extra support for those relying on essential medical equipment or medically required heating/cooling at home (FAHCSIA 2012c).

Home Energy Saver Scheme (HESS)

HESS is part of the Government's Clean Energy Plan, and is funded by the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs. It is intended to support vulnerable and low income households who are having difficulty paying energy bills, through home visits and telephone advice, for example about energy saving and available rebates. Funding for the Scheme is \$50.5 million over four years, until 2014-15 (FaHCSIA 2012b).

Residential Energy Metering program

The Commonwealth Government has funded a pilot study for a Residential Energy Metering Program (REMP) to meter detailed household energy use patterns at a selected sample across the nation.

A review of the REMP pilot study in 2010-11 noted that recruitment of households for the project had been difficult (Harrington and Brown 2010). The final report on the pilot program was published in March 2012 (Equipment Energy Efficiency Program (E3) 2012), and an expanded program has not yet been rolled out.

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Small Technology Certificates

At present, there are no direct federal rebates available for small-scale solar photovoltaic, wind power and micro-hydro systems.

However both landlords and renters (with landlords' consent) can install small-scale alternative energy systems and be eligible for support under the Renewable Energy Target (RET), managed by the Commonwealth Government's Office of the Renewable Energy Regulator.

The RET allows for the creation of Small Technology Certificates (STCs) for small-scale solar, small wind and micro-hydro systems, which will provide a discount off the upfront cost of installing these technologies. The trading of certificates through the renewable energy market can be 'sold on' by the purchaser to an approved agent such as the system installer (via an upfront discount on the capital cost) (Clean Energy Regulator 2012).

The scheme works by multiplying the number of tradeable STCs able to be created for eligible installations. The multiplier was reduced in 2011 from five to three, and will decrease by a factor of one each year until it reaches and stays at a multiplier of one from 1 July 2013 (ATA 2012).

Both renters and home-owners who purchase these systems are eligible to participate in the scheme⁵.

16. Incentives for affordable housing provision

There is a critical connection between housing shortages and the limited market power of renters to press for sustainable and climate adaptive housing. The Commonwealth Government has established several funding programs to address the housing shortage and to improve the environmental and social sustainability of housing.

As new housing is also required to meet more stringent environmental standards, increases in new affordable housing stock will also increase the sustainability of housing for both home-owners and renters.

Housing Affordability Fund

The Commonwealth Housing Affordability Fund committed \$400 million over five years to reduce the cost of new homes for homebuyers. It aimed to address two significant barriers to increasing the supply of affordable housing:

- the 'holding' costs incurred by developers as a result of long planning and approval times
- infrastructure costs, such as the laying of water pipes, sewerage, transport and the creation of parks (FaHCSIA 2008).

The Fund provided grants to state, territory and local governments, to work in conjunction with the private sector. Two funding rounds were conducted over 2008-2010 and program funding is now completed (FaHCSIA 2012d).

Seventy-five projects were funded nationally, including:

⁵ Email from Clean Energy Regulator to authors dated 4 September 2012.

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- 23 reform-based projects to promote and develop best practice local government planning and development assessment processes
- 52 infrastructure projects (FaHCSIA 2012e).

National Rental Affordability Scheme (NRAS)

The NRAS is designed to encourage large-scale investment in affordable rental housing. The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) is responsible for administering and implementing the scheme (FaHCSIA 2012f).

The NRAS offers tax and cash incentives to providers of new dwellings on the condition that they are rented to low and moderate income households at 20% below market rates.

These incentives are offered for a period of ten years. The incentive comprises:

- a Federal Government contribution in the form of a refundable tax offset or payment to the value of \$7,486 per dwelling per year in 2012-13
- a State Government contribution in the form of direct financial support or an in-kind contribution to the value of at least \$2,495 per dwelling per year in 2012-13 (ATO 2012a).

While the Federal Opposition has criticised the NRAS as failing to meet its targets for the year 2012, the Federal Housing Minister has stated that the Government remains committed to

delivering 35,000 new more affordable rental homes by 30 June 2014 and 50,000 by 30 June 2016 (Karvelas 2012).

Social Housing Initiative

The Commonwealth Government's Nation Building-Economic Stimulus Plan included a Social Housing Initiative which provided around \$5 billion additional funding from 2008-09 to 2011-12 for the construction of new social housing and a further \$400 million for repairs and maintenance to existing dwellings.

The states/territories agreed to a number of reforms as a condition of receiving funds under this Initiative. These reforms included:

- integration of public and community housing waiting lists
- better social and economic participation for social housing tenants by locating housing closer to transport, services and employment opportunities
- support arrangements to assist social housing tenants to transition from social housing arrangements to affordable private rental and home ownership
- reducing concentrations of disadvantage through mixed communities that improve social inclusion
- a national regulatory system for not-for-profit housing providers to enhance the sector's capacity to operate across jurisdictions
- consistent and comparable accounting and reporting standards across jurisdictions

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- social housing providers to be subject to independent prudential supervision
- improved tenancy management and maintenance benchmarks for social housing
- better matching of tenants with appropriate dwelling types and rent levels
- introducing contestability in the allocation of funds to encourage a range of new providers
- leveraging of government capital investment to enhance the provision of social housing
- better use of government owned land to provide more affordable housing opportunities for low income earners
- improved procurement practices to promote competition and opportunities for small and medium enterprises (FaHCSIA 2012a).

The Federal Minister for Housing and Homelessness stated recently that the Social Housing Initiative is nearing completion, and that around 19,700 new dwellings in Australia will be completed by the end of 2012, including 6,300 in NSW. 80,000 existing properties have also received maintenance and repairs, including 31,600 in NSW (O'Connor 2012).

By 2010, the National Affordable Rental Scheme, the Social Housing Initiative, and the Social Housing National Partnership Agreement⁶, had funded

200 new social housing dwellings and the upgrading of 897 existing dwellings in Newcastle (Grierson 2010).

17. Incentives for building owners

Tax incentives for sustainable rental property

Some tax deductions offered to landlords, while not specifically aimed at improving sustainability, are incentives for making rental dwellings more water or energy efficient.

For example a landlord can claim capital works deductions (a small percentage per annum for a specified number of years) on the construction of buildings and structural improvements. This includes for example insulation, water tanks, tapware, fly screens, window awnings, pelmets, and skylights. If an asset costs \$300 or less, it can be claimed for an immediate deduction in a single year (ATO 2012b).

Capital works do not include some sustainability features such as a solar hot water service, water pump, solar power generator or curtains, but these can be the subject of a 'decline in value' deduction over a nominal number of years (ATO 2012b).

Deductions are also available for expenses for repairs and maintenance, and servicing of equipment such as water heaters (ATO 2012b). The Australian Greenhouse Office has noted that repairs and maintenance can include repair of leaking water fixtures, installation of draft stoppers or sealing

⁶ Under the Social Housing Partnership, state/territory governments agreed to increase the supply of social housing by a total of 1600-2100 dwellings by 2009-10. Projects were required to be completed and ready for occupation within two years of funding being allocated.

This agreement provided the means of disbursing Commonwealth funding of \$200 million in 2008-09 and \$200 million in 2009-10. The agreement expired in June 2010 (COAG 2009).

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of cracks and gaps, and repair of insulation (AGO undated).

The interest paid on loans to purchase depreciating assets, or to pay for repairs or renovations, can also be claimed by landlords as a deduction (ATO 2012b).

18. Incentives for communities and local government

Regional Sustainability Planning (RSP) program and Regional Development Australia Fund (RDAF)

The Commonwealth Government has commenced a program to assist regional areas in planning for future population pressures on economic, environmental and social wellbeing.

The *Regional Sustainability Planning Program* is part of the Government's recently released population strategy 'Sustainable Australia – Sustainable Communities'. Funding from the program will assist development of Regional Sustainability Plans (RSPs) in up to seven (7) regional and/or coastal high growth centres where there is or will be, high development activity (DSEWPC 2012).

The objective of RSPs is long-term sustainability and community liveability, and increased certainty for developers and the community about development and conservation futures (DSEWPC 2012).

Local governments in an area approved as an RSP region will be invited to apply for funding with a maximum of one grant per RSP region. There is not yet any information on those local government authorities who will be invited to submit RSP proposals.

The RSP program is in addition to the Regional Development Australia Fund (RDAF) which funds projects that support economic and community growth, through partnerships across all levels of government, and the business and non-profit sectors. In New South Wales RDAF is funded by the Australian and NSW Governments. There are 14 RDA committees in NSW which have developed regional business growth plans, environmental responses to climate change and social inclusion strategies (RDA undated).

RDA Hunter has developed a Regional Plan 2010-2020 (RDA Hunter undated) discussed in Briefing Paper 6.

Solar Cities

The Commonwealth initiated the Solar Cities program in 2004 to support communities in a number of locations test a range of solar supply and energy demand-reduction options, in partnerships with industry and energy suppliers (Wyld Group 2011).

A key aspect of the Solar Cities projects was to test models for creating behavioural change by consumers of energy, as well as technology-based solutions such as ceiling insulation, low-energy lights, high efficiency appliances and load-control (Wyld Group 2011)

A mid-term review of the program concluded that it had been a success in meeting its objectives and that cross-learning between cities would be useful for future government programs. It also concluded that equipment such as in-home displays and smart meters could contribute, but were not sufficient, to produce behavioural change, and that

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PV systems, for example, would only become a 'value proposition' with sustained behaviour change as well as cheaper production (Wyld Group 2011).

In the Blacktown (NSW) Solar City project, a total of 177 photovoltaic energy systems had been retrofitted to houses by the end of the 2010-11 financial year (Blacktown City Council 2011). BP Solar, an industry partner in the Blacktown project has noted that, worldwide:

Solar power generation enjoyed spectacular growth in 2011, with a record 86.3% increase. Its overall share of renewable power remains low (6.5%), but 2011 marked the arrival of solar power at scale, contributing 20% of the growth of renewable power in 2011 (BP Global 2012).

Nevertheless, BP recently announced that it is winding down its solar energy business "to focus on those sectors of the energy industry where we can profitably grow our business" (BP Alternative Energy 2012). It will henceforth be focusing on wind and biofuels.

19. Incentives discontinued

A number of Commonwealth incentives for home-owners (including landlords) to make houses more thermally and energy efficient have been discontinued over the past 2 years.

As of the end of June 2012, households can no longer claim \$1000 for solar hot water systems and \$600 for heat pump systems (Dreyfus 2012).

The Green Start program, which provided energy assessments to assist

households to become sustainable through information and advice, was cancelled in December 2010 (Combet and Dreyfus 2010).

The home insulation rebate was cancelled after a report to Government on alleged fraud and health and safety issues relating to installation (Combet 2010).

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