

BRCT submission on Submission on the Healthy Homes Guarantee Bill (No 2)



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Government Administration Select Committee

Submission on the Healthy Homes Guarantee Bill (No 2)

Submitters' Names: Blueskin Resilient Communities Trust (attention: Scott Willis)

Address: 31 Hill Street, RD2 Waitati, 9085 Dunedin District

Phone (day): 03 4822048

Phone (evening): 027 4888 314

Email: office@brct.org.nz

Table of contents

1	About Us	2
2	General comment on Healthy Homes Guarantee Bill (no 2).....	3
3	Specific comments on Healthy Homes Guarantee	3
3.0	Section 13A.....	3
3.1	Section 132A.....	3
3.2	Section 45	4
4	Other Comments	5
4.0	Reliance on Tenancy Tribunals.....	5
4.1	Inclusion of tax deductions for HHGBS-related expenditures	5
4.2	High standards are pivotal to success	6
5	Final Statement	6

We wish to speak to our submission

1 About Us

The Blueskin Resilient Communities Trust (BRCT) is a registered charitable trust formed in 2008 to support sustainability and transition initiatives in a planned and structured way. We work as a legal body to provide a public benefit and achieve the long-term objective of building community resilience, particularly in the context of our changing climate. Our headline work is our community wind development and our core activity areas are in energy (we are one of the founding partners of the Cosy Homes Trust), climate change action, and provision of community services to all of Dunedin. We offer support to a number of community groups working in the field of sustainability. Jeanette Fitzsimons is our patron.

We are also the Community Energy Network's representative member in Otago, providing residential energy efficiency services. One of our projects, 'Climate Safe Housing' is about warm and cosy affordable homes suitable for our changing climate. Relevant community services we offer for Dunedin include:

- Free Cosy Energy Advice;
- Home Performance Assessments;
- Affordable provision of insulation and firewood.

We have been working to reduce fuel poverty and lower greenhouse gas emissions from households since 2008. Many people who come to us for advice or assistance are tenants, living in poor quality housing. Some landlords are responsible and responsive to their tenants' need, but for the most part, tenants and agencies such as ours have little power to ensure positive change in rental properties. We need enforceable law to assist the transition to warm and cosy homes for everyone.

As an active member of the Otago Chamber of Commerce and the Sustainable Business Network, we recognise the economic benefits of enforceable standards and we are particularly supportive of law that improves the health and wellbeing of New Zealanders, helps to reduce emissions, and encourages better use of the energy dollar. We aim to increase local resilience and ensure a thriving community and we work together to create local climate solutions.

2 General comment on Healthy Homes Guarantee Bill (no 2)

We are pleased to see that the new Residential Tenancies Regulations will start on July the 1st and look forward to updates from MBIE. In relation to the Healthy Homes Guarantee Bill (No 2), in general, we are supportive. The proposed bill indicates an increased understanding that warm, dry homes are essential to public health. This is clearly supported by robust empirical data and we are pleased to see legislators taking that evidence into account. Further, the changes outlined in the bill demonstrate an understanding that the only way to ensure New Zealand's private rental stock is healthy and efficient is to mandate it through the law.

We have specific comments to make in regards sections of the Residential Tenancies Act which this bill will amend or enhance, as well as some comments on potential issues surrounding the introduction of the measures in the bill.

3 Specific comments on Healthy Homes Guarantee

3.0 Section 13A

Although there is a strong preference to initiate the changes outlined in HHGB2 sooner rather than later, we acknowledge that an implementation timeline must be reasonable and accommodate good faith efforts by investment property owners. If the implementation is not phased appropriately, an unsustainable 'rush' on insulation and heating industries may create long waits, predatory pricing, and encourage well-meaning but poorly implemented DIY work to avoid queues. In order to avoid these scenarios, we suggest that in the first two years of the bill passing into law, when a new tenancy agreement is made and the property is not compliant, a work plan to make the home compliant within 12 months is filed with the Tenancy Tribunal along with the tenancy agreement, and a follow up report with evidence of a complete work plan required at the anniversary of that tenancy agreement.

3.1 Section 132A

In regards to clause 132A(a)(i) – standards for method of heating:

We support the provision of fixed heating appliances in all rental properties, with the following parameters:

- Measures that include provision of fixed heating appliances in all bedrooms should be considered by MBIE; heating only the lounge or main living area will

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not improve public health and will in fact simply perpetuate existing public health challenges.

Efficiency and affordability of operating fixed heating appliances must be considered when setting standards. MBIE should consider mandating a minimum EnergyStar rating for heat pumps or EECA-approved/recommended logburners, for example.

In regards to clause 132A(a)(iii) – standards for indoor temperature:

Attempting to regulate the indoor temperature of a given property for a given tenant will be nearly impossible regardless of how standards are designed. Rather, we believe that a well insulated property, with adequate ventilation measures, should be outfitted with heating appliances that have the capacity to achieve minimum indoor temperatures (18C in lounges, 16C in bedrooms) as suggested by the World Health Organisation. As mentioned in the comment regarding 'standards for methods of heating,' these measures should also consider the cost of operating heating appliances at a level that achieves WHO minimums. For example, tenants cannot be expected to operate a heater that would need to run on high for 24 hours a day in order to achieve a 16C temperature in a bedroom; the costs would be prohibitive and will result in creating or exacerbating financial hardship and reinforcing behaviours that leave homes cold, damp and unhealthy (i.e., not using heaters due to running costs).

In addition, because maintaining a healthy indoor temperature is largely a feature of tenant behaviour (assuming the property already possesses appropriate levels of insulation, heating and ventilation), and given that tenant behaviour can be affected by a number of issues, such as: economic stress, awareness of how a house functions, and tenancy certainty/uncertainties, we believe a well-designed and well-resourced education programme, implemented in partnership with sector stakeholders is necessary. Our national organisation CEN is willing to partner EECA with the development and implementation of this programme.

3.2 Section 45

We agree that a property owner's failure to comply with standards for heating, insulation and ventilation should be declared unlawful. Mandating the changes through enforceable law is the only way to make wholesale changes to the private rental market. However, the compliance process raises concerns that have been detailed below in section 4.

4 Other Comments

4.0 Reliance on Tenancy Tribunals

The proposed bill does not make changes to the process of enforcing compliance issues. This means the primary avenue for compliance is for tenants to lodge complaints with the Tenancy Tribunal when a property is lacking appropriate insulation, heating, ventilation, etc.

Relying exclusively on a tribunal platform for compliance places an unacceptable burden on tenants. Many tenants have poor relationships with their landlords, or are intimidated by the power imbalance – real or perceived – in the relationship. Tenancy Tribunal processes are burdensome for tenants, and may require tenants to take time off work to attend a hearing, or to arrange childcare in order to attend a hearing, for example. This also makes the assumption that tenants understand the Tribunal process and their rights, which many do not.

Although the Tenancy Tribunal does have its place in the compliance process, we do not agree that this will be a reasonable avenue to dispute resolution for many New Zealanders, particularly those from vulnerable populations. Instead we propose that random audits are undertaken in conjunction with the roll-out timelines dictated by the bill. Random audits are used to inspect insulation work carried out under the EECA Warm Up New Zealand insulation programme, and generally work well for property owners, insulation providers and EECA. A similar programme, involving existing qualified assessors, should be considered.

4.1 Inclusion of tax deductions for HHGBS-related expenditures

Under the current tax law, it is reasonable to expect most, if not all, of the changes required to bring a rental property up to standards set by the HHGB2 will be deemed capital improvements and not tax deductible. We acknowledge this creates a burden that may result in a large number of properties being sold off rather than improved, and could mean a further reduction in housing availability, which is already at a critical point in many parts of the country. This could also lead to property owners skirting compliance in order to avoid cash outlays. For these reasons, we advise Government to consider making the improvements that are necessary to be compliant with HHGB2 fully tax deductible.

4.2 High standards are pivotal to success

The standards set by MBIE must be robust, evidence based, specific and clearly communicated to property owners, property management companies and tenants alike. The process for setting the standards should be transparent, and include consultation with experts with deep knowledge of New Zealand housing conditions, climate, energy efficiency and associated costs. Without stringent and clear standards for heating, insulation, ventilation, drainage and draught stopping, this bill will be rendered ineffective, and fall short of its efforts to improve public health and reduce health care costs for the Government.

5 Final Statement

The changes proposed in the Healthy Homes Guarantee Bill (No 2) will have a positive impact on the residential environment. The extent of the positive impact for tenants however, will be largely governed by how the department translates the requirements into enforceable standards. We want to reiterate the importance of involving CEN, would like to see significant sector involvement in the setting of standards, including but not limited to EECA, the Community Energy Network, Public Health units across the country (particularly from colder climates), He Kainga Oranga at the University of Otago, and the Building Research Association of New Zealand. Sector involvement should aim to deliver standards that are science based, functional and accomplish the intended public health goals. We look forward to working with Government to ensure the sector is able to meet the challenges and opportunities discussed above.

We thank you for your attention to this submission

Yours sincerely,



Scott Willis
Manager
Blueskin Resilient Communities Trust