

SUBMISSIONS GUIDE AND TEMPLATE

Regulation Impact Statement on Residential Building Mandatory Disclosure

COAG principles of best practice regulation

Residential Buildings Mandatory Disclosure is a Council of Australian Governments (COAG) proposal.

The COAG has agreed that all governments will ensure that regulatory processes in their jurisdiction are consistent with the principles of Best Practice Regulation. These principles are outlined below and apply to decisions of COAG, Ministerial Councils and intergovernmental standard-setting bodies (including bodies established by statute, or administratively by government, to deal with national regulatory problem).

COAG PRINCIPLES OF BEST PRACTICE REGULATION

COAG has agreed that all governments will ensure that regulatory processes in their jurisdiction are consistent with the following principles:

1. establishing a case for action before addressing a problem;
2. a range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed;
3. adopting the option that generates the greatest net benefit for the community;
4. in accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:
 - a. the benefits of the restrictions to the community as a whole outweigh the costs, and
 - b. the objectives of the regulation can only be achieved by restricting competition
5. providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear;
6. ensuring that regulation remains relevant and effective over time;
7. consulting effectively with affected key stakeholders at all stages of the regulatory cycle; and
8. government action should be effective and proportional to the issue being addressed.

Source: COAG 2007.

The principles and assessment requirements apply to agreements or decisions to be given effect, whether at the Commonwealth or State/Territory level, or both, through principal and delegated legislation, administrative directions or other measures which, when implemented, would encourage or force businesses or individuals to pursue their interests in *material* ways they would not otherwise have done.

A Regulatory Impact Statement (RIS) is a central component of the COAG's regulation impact assessment process. It is a document prepared to assist with stakeholder consultation (COAG Principle 7).

The objective of any RIS is to formalise and provide evidence of the key steps taken during the development of a regulatory proposal, including an assessment of the costs and benefits of each option.

Consulting effectively with key stakeholders in the development of regulation is also a central part of the COAG Best Practice Principles.

Consultation on Residential Building Mandatory Disclosure

The RIS for Residential Building Mandatory Disclosure has been released for public consultation and is available at <http://www.ret.gov.au/Documents/mce/quicklinks/bulletins.html>

Public consultation meetings will be held in the following cities during August 2011:

- Parramatta - 2nd August, 12.30pm, Mantra Parramatta, Corner Parkes St & Valentine Ave, Parramatta
- Sydney - 3rd August, 12.30pm, Grace Hotel Sydney CBD, Corner of York & King Streets, 77 York Street
- Hobart - 5th August, 12.30pm, Mercure Hobart, 156 Bathurst Street, Hobart
- Bunbury - 8th August, 12.30pm, Clifton Hotel Bunbury, Corner Clifton & Molloy Streets, Bunbury
- Perth - 9th August, 12.30pm, Comfort Inn Bel Eyre, 285 Great Eastern Highway, Belmont
- Adelaide - 10th August, 12.30pm Mercure Grosvenor Adelaide, 125 North Terrace, Adelaide
- Brisbane - 12th August, 12.30pm Brisbane Mercure, 85–87 North Quay, Brisbane
- Darwin - 15th August, 10.30am Travelodge Darwin, 64 Cavenagh Street, Darwin
- Canberra - 16th August, 12.30pm All Seasons Olim's Hotel Canberra, Corner of Ainslie & Limestone Ave, Braddon

For those in regional areas unable to attend metropolitan sessions, separate web based seminars will be available. The current schedule is available at <http://www.climatechange.gov.au/government/submissions.aspx>. To register your participation in an online meeting, please email your details, including your location, to buildings@climatechange.gov.au.

Making Written submissions

Comments can be made on any aspect of the Consultation RIS. Of particular importance is feedback from stakeholders and interested parties on:

- *The extent of the 'problem' in residential building energy, greenhouse and water performance.* That is, to what extent are there market failures, which present a barrier to improved energy, greenhouse and water performance of residential buildings in Australia? Has the problem been accurately represented in this RIS?
- *The adequacy of the options assessed in the Consultation RIS in addressing the problem* — are there any other feasible policy options that should also be considered in the assessment?
- *The assessment of costs and benefits of options:*
 - Does the assessment fully reflect all potential costs and benefits of the options assessed?
 - Are there costs to industry that have not been accounted for?
 - Are the costs of the energy and water efficiency measures included in the RIS reasonable?
 - Are the assumptions underlying the analysis valid/reasonable?
 - Are the take-up rates for the proportion of sellers and lessors that invest in upgrades to their properties in each scenario reasonable?
 - The impact of the HIP upon the penetration of roof insulation in the stock of Australian residential buildings.
- *Identified risks and uncertainties associated with each option.*

A **submissions template** follows. It is advisable but not essential that you use this template in framing your submission. Forward your submission:

- via email (preferred) to: residentialdisclosure@climatechange.gov.au OR
- via mail to: Residential Energy Efficiency Team
Buildings and Government Energy Efficiency Branch
Department of Climate Change and Energy Efficiency
GPO Box 854
Canberra ACT 2601

Submissions should be received by 12 September 2011.

Any general enquiries regarding the Mandatory disclosure of residential building energy, greenhouse and water performance initiative should be directed to buildings@climatechange.gov.au.

Submission Template

Residential Buildings Mandatory Disclosure – Consultation Regulatory Impact Statement - July 2011

Overview

This submission template should be used to provide comments on Residential Building Mandatory Disclosure Consultation Regulatory Impact Statement (CRIS).

Contact Details

Name of Organisation:	Earth Building Association of Australia
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Date:	12 September 2011

Confidentiality

All submissions will be treated as public documents, unless the author of the submission clearly indicates the contrary by marking all or part of the submission as 'confidential'. Public submissions may be published in full on the Department of Climate Change and Energy Efficiency or other relevant Government websites, including any personal information of authors and/or other third parties contained in the submission. If any part of the submission should be treated as confidential then please provide two versions of the submission, one with the confidential information removed for publication.

A request made under the *Freedom of Information Act 1982* for access to a submission marked confidential will be determined in accordance with that Act.

Do you want this submission to be treated as confidential? Yes No

Submission Instructions

Submissions should be made by **close of business** on 12 September 2011. The Department reserves the right not to consider late submissions. Please restrict your submission to 4 pages of comments

Where possible, submissions should be lodged electronically, preferably in Microsoft Word or other text based formats, via the email address – residentialdisclosure@climatechange.gov.au

Submissions may alternatively be sent to the postal address below to arrive by the due date.

*Residential Energy Efficiency
Department of Climate Change and Energy Efficiency
GPO Box 854
Canberra ACT 2601*

Residential Buildings Mandatory Disclosure – Consultation Regulatory Impact Statement (CRIS)- July 2011

General/overall comments

The Earth Building Association of Australia supports all measures that will promote or achieve a more sustainable built environment. We would support any measures that encourage innovation and allow easier use of alternative sustainable construction systems.

There is no doubt something needs to be done. Even climate change sceptics respect the reality of rising energy costs pushed by higher demand. Fortunately it is likely rising energy costs will have a greater impact on reduction of GHG emissions than any regulatory measure has or will have.

We believe real gains will not and should not be achieved without a holistic approach that considers all of the following:

- New as well as existing buildings because new buildings represent 1.7%
- Health and Amenity at the same time as Energy Efficiency (Sick Building Syndrome)
- Safety and longevity of construction with a bonus for buildings >50 years
- Embodied Energy from cradle to cradle
- All operational energies not limited to heating and cooling but including hot water, cooking, lighting, appliances and any internal building services
- Water conservation, stormwater harvesting and wastewater reuse

It is a waste of time and resources, lost opportunity plus failure of duty of care to not consider all of the above because real gains will not be made and harm could result from ignoring a holistic approach.

We have made numerous submissions in the past to the old AGO and to the National Strategy on Energy Efficiency and we await any request for involvement or acknowledgement although we think many of our points have lead to advances to the accuracy and effectiveness of NatHers and useful contributions to the BCA.

We do welcome the recent release of a Handbook on Condensation from the ABCB although the title hides the potential greater problem of Sick Building Syndrome. We also welcome the letting of a tender (CSIRO) if it will analyse of the effectiveness of NatHers predictive ratings against actual energy consumption. We requested this as part of a Regulation Impact Statement to do with move to 6 stars. Unfortunately it follows rather than precedes the move.

We have, as an industry, had great difficulty with the deficiencies of NatHers since the introduction in 2003. We acknowledge there have been improvements in the way the tool weighs the effectiveness and benefit of mass in buildings though this is mainly due to changes in the Protocol rather than improvements to the tool itself. We would like to see minimum 1 to 2 air changes per hour included in the protocol so Health and Amenity is considered along with Energy Efficiency, as it should be. We believe high mass buildings minimise and conserve energy better than light insulated ones. This is especially the case when natural air changes are required. This oversight has prejudiced heavy mass designs. We would also like to see a further relaxation of required heating and cooling settings. Naturally conditioned buildings never aim for a precise temperature range. They are designed to achieve acceptable indoor comfort in relation to appropriate clothing, climate, time of day and time of year.

We can't yet endorse NatHers as a regulatory framework or for use in Mandatory Disclosure when assessment tools have been used in breach of Protocol and when valid research institutions back our claim and that of other similar mass construction industries that assessment is inaccurate when predicting heating and cooling energy loads in mass buildings. We can't endorse the use of NatHers when Health and Amenity have been ignored at the expense of Energy Efficiency. Unfortunately although the BCA is a performance based document there are few viable practical alternatives to using NatHers. We don't want to see it used in Mandatory Disclosure

We support mandatory disclosure of energy and water consumption in buildings at point of sale in principle. We believe this will give truly sustainable buildings a marketing edge and represent the buildings potential value over time. This is a very positive incentive. We support the measure only if it is mandatory disclosure of **actual energy consumption** as opposed to disclosure of a predictive NatHers Rating.

NatHers tools haven't been benchmarked against each other or against actual energy consumption and that is in breach of protocols. NatHers only deals with energy used in heating and cooling (estimated at 40%) so it is inadequately equipped to give potential buyers or renters an informative or adequate appraisal. There are more useful and accurate rating systems for existing buildings that provide actual energy consumption and water consumption.

In short we would support Mandatory Disclosure if an appropriate tool were used. We support the use of a rating such as a NABERS rather than NatHers in mandatory disclosure on sale or lease of residential buildings.

C-RIS Section number: <i>[insert section number eg 3.1]</i>	Comments