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**REAL ESTATE INSTITUTE OF NORTHERN TERRITORY INC.
RESPONSE TO THE CONSULTATION REGULATION IMPACT STATEMENT ON
MANDATORY DISCLOSURE OF RESIDENTIAL BUILDING ENERGY, GREENHOUSE
AND WATER PERFORMANCE**

BACKGROUND

A Consultation Regulation Impact Statement (RIS) for the mandatory disclosure of residential building energy, greenhouse and water performance was released on 21 July 2011 seeking stakeholder comment on a number of options, covering a range of models for the disclosure of energy, greenhouse and water information.

As part of the National Strategy on Energy Efficiency the Council of Australian Governments (COAG) agreed in July 2009 to phase in mandatory disclosure of residential building energy, greenhouse and water performance at the time of sale or lease, commencing with energy efficiency. The RIS has been prepared for this initiative.

The Real Estate Institute of Northern Territory Inc. (REINT) is the peak representative association for the real estate profession in the Northern Territory. The REINT's members are the real estate agencies and practitioners across the 1.3 million square kilometres of the Northern Territory. The REINT represents almost 100 percent of the real estate operations in the Northern Territory. It is also aligned to the Real Estate Institute of Australia (REIA) and Real Estate Institutes

(REI) in each state and territory, through which around 80% of real estate agencies Australia-wide are collectively represented.

The real estate profession employs approximately 77,000 persons with most agencies having less than 10 employees. The collective Real Estate Institutes across Australia represent an important element of the broader property and construction sector which together makes a significant contribution to Australia's social climate and economic development. Property contributes \$300 billion annually in economic activity.

RESPONSE TO CONSULTATION REGULATION IMPACT STATEMENT

The format of the REINT's response to the RIS is to identify the relevant Chapter and page number in the RIS and then provide a response to a particular point. A concluding comment and recommendation is also made.

Chapter 2: The nature and extent of the problem

The RIS contends that there is an "information problem" regarding energy and water performance in the market for existing residential buildings. Further the analysis and conclusions are premised on resolving this information gap.

The REINT and its members believe that assumption is highly flawed and therefore corrupts all other assumptions in this RIS.

Whilst the REINT understands the Government's objectives under the National Strategy on Energy Efficiency, it feels that unless the views of consumers, the very group that the measurement of energy efficiency is targeted at, are taken in to consideration it is possible that unnecessarily high costs with little benefit or justification could be imposed.

The experience of the real estate profession in marketing and leasing across Australia, and particularly in the Northern Territory, is that buyers and renters are aware of the factors that determine energy efficiency ratings (type of construction, insulation, orientation to the north, depth of eaves, glazing, type of heating and lighting, flooring, window coverings, the type and location of trees etc) and already assess and compare properties on these features without quantification.

And, we would add that these features vary quite dramatically across the Northern Territory which has extremes of climate and dwellings that differ greatly to meet those climatic differences.

Furthermore the experience of agents indicates that other attributes of the dwelling, such as location, access to infrastructure (including schools, transport, shopping, and entertainment), proximity to work, garden and standard of kitchen and bathroom(s), are considered to be far more important by buyers and renters than the energy efficiency of that dwelling.

The experience in the ACT, where mandatory reporting of energy efficiency ratings has been in place for a number of years, is a good case study of how consumers use/respond to the availability of a report on the energy rating of particular properties of interest.

ACT agents have reported that purchasers and renters of established dwellings have placed the greatest emphasis on the other attributes. Little, if any, consideration is given to the written energy rating in making a decision to buy or rent a particular property. Agents believe buyers and renters are, at best, ambivalent about the energy rating and indeed the majority of agents feel the necessity of an energy rating has imposed an unnecessary cost on sellers and landlords as the information contained within the energy efficiency report is largely ignored.

Indeed the RIS (Box 2.4, page 10) notes that a focus group study in the ACT found that only 15 percent of buyers considered the star rating important or fairly important.

The experience of the ACT would suggest that the basic premise of the RIS, that there is an “information problem” is questionable.

Chapter 4: Options to achieve government objective

The RIS suggests, and makes an assumption in its analysis, that a certificate of assessment (page 23) will include a summary of recommended upgrades and improvements identifying the most cost-effective investments.

The feedback that REINT, through various sources including the REIA and its fellow REI's, has had from assessors currently undertaking the types of

inspections covered by the options canvassed in the RIS is that whilst they will provide information on how to improve the energy rating of the particular property they do not, because of their reluctance to do so, provide advice on cost effective investments.

This reluctance is in part based on their inability to do so – they would need to know the lifestyles of the inhabitants, their power consumption etc – and the fear of litigation in the event that the advice turned out to be incorrect. When a property is being marketed for either sale or rental the assessor has no knowledge of whom the next inhabitant(s) will be, their appliances, their use of their appliances, number of occupants, time spent at home etc.

Therefore Government’s proposal to attempt to measure such activity and use it as some form of energy efficiency measurement is at best nonsensical and at worst opens various parties to potential litigation.

It would seem more sensible to have an assessment done by the new occupant of a dwelling, if that is what they wanted to do for their own piece of mind and not because it was required under legislation, as many of the variables are no longer unknowns and the assessor might thus be prepared to advice on cost-effective investments.

The assumption regarding the information to be supplied is an important one regarding implementation and thus the estimated benefits of the regulatory options in the RIS.

REINT believes the assumption that assessors will provide advice on cost-effective investments is unrealistic and has lead to an over estimation of the benefits from the regulatory options.

Chapter 5: Impact Analysis

It is unfortunate that the base case scenario does not include either any carbon pricing or the impact of the Government’s Home Insulation Program.

One only needs to look at recent reports by Ausgrid and the Australian Electricity Market Operator to gauge the impact that carbon pricing will have on household consumption of power. Against a trend of long term increases in consumption the past four years have seen reductions of 2% per annum with further cuts forecast

as a result of increases in the costs of power. Carbon pricing will exacerbate the reductions.

The impact of both these two initiatives will, without any further action by Government on energy efficiency measures, lead to reduced consumption of power by households and lower greenhouse gas emissions. The consequence is that the benefits under all the RIS options have been underestimated. Whilst the quantum of the underestimation will be the same for all options, proportionally they will be greatest for Option 5 – the non-regulatory option – meaning that the benefit-cost ratio for this option will have the greatest improvement.

REINT is of the view that the inclusion of carbon pricing and the Home Insulation Program in the analysis would improve the benefit-cost ratio of Option 5 the most.

The REINT notes that the RIS has recognised the important role that real estate agents would play in any scheme of mandatory disclosure of energy efficiency. However when it comes to including the efforts of agents in the costing REINT believes these have been greatly underestimated.

The RIS suggests that a real estate agent's time will be limited to ten minutes per property to make "one to two phone calls" (page 108). This estimate is predicated on the assumption that an agent's involvement will be limited to organising an inspection by an assessor.

From a Northern Territory perspective this is already a flawed argument as (a) the Northern Territory does not currently have assessors with the requisite skills available to undertake such work, and (b) experience in similar undertakings has shown that there is a limited uptake to training when it becomes available and then it is centred around Darwin with a sizeable section of the population in regional centres unable to access these services except at exceptionally high costs.

Additional to this an agent will have to educate each vendor and landlord of any requirements regarding energy assessment prior to marketing a property and as such fulfil an enforcement role as well - all requiring a far greater time than the assumed 10 minutes.

The costs of training the real estate agent as well as amending training packages also needs to be taken into consideration in the analysis of the RIS. Given the new Vocational Education Training requirements recently introduced by the Commonwealth Government, this undertaking is now a great deal more difficult

and expensive as it requires Registered Training Organisations (RTO) such as the REINT to increase their scope and therefore their costs of delivering the requisite training.

Further, it is assumed that the transition to any new arrangements will be seamless without any delays. In reality this is unlikely to be the case and the opportunity costs for real estate agents and home owners need to be taken into account in the analysis of the RIS options.

If for example, a home owner contacts an agent with the intention of having their house listed for sale (or rental) with an 'open for inspection' the coming weekend but is unaware of any requirement for an energy assessment it is most likely that the marketing campaign will be delayed. The agent will first need to educate the owner as to the new requirements and an assessor will need found and engaged before proceeding to listing the property and for the marketing to commence. It is almost a certainty that in the Northern Territory, where it will be at all possible to undertake, there will be a considerable lag in having the assessment undertaken until there are sufficient trained assessors. Where it is not possible to have the assessment done, this could result in the property not being able to be listed for sale or rental. These delays or opportunity costs to the home owner and agent cannot be ignored.

REINT believes the costs to an agent under any of the regulatory options have been greatly underestimated.

Chapter 5: Findings for discussion

REINT notes from Table 6.1 (page 63) that the two options with the highest Benefit/Cost ratios are options 4 and 5 – the Benefit/Cost ratios for the options 1 through to 5 are 0.54, 1.45, 1.61, 3.00 and 2.74 respectively. Given that there are a number of assumptions underlying the calculations one should be careful not to attribute spurious precision to these calculations. Rather they should be used to draw the general conclusions that: options 4 and 5 provide a greater Benefit/Cost ratio than options 1, 2 and 3; option 1 provides the lowest Benefit/Cost ratio by a considerable degree, and; there is not a great amount of difference in the Benefit/Cost ratios of options 4 and 5.

Whilst the REINT's absolute preferred position would be that the Government does not proceed at all with this ridiculous and unnecessary impost on the housing market, when one considers the likely impact that the inclusion of carbon

pricing and the Home Insulation Program would have on the Benefit/Cost ratios, option 5 would be the preferred option of those presented.

A comparison of the public spending and public benefits of each of the options is also a useful test for public policy, particularly when one considers the COAG objectives of this initiative. Doing this we see that **public spending exceeds the public benefit for all five options**. The net public costs for the five options are \$46m, \$43m, \$86m, \$56m and \$23m respectively.

This would indicate that if common sense were to prevail, none of the options proffered would be of economical benefit to the Australian public and that this whole proposal should be scrapped before any more of the taxpayers money is wasted on it. However, on the basis of net public benefit, assuming that an option needs to be nominated as 'preferred', then option 5 is preferred by the REINT.

The RIS calculates Benefit/Cost ratios for each of the jurisdictions (pages 156 to 163). Whilst the outcomes of this analysis is broadly consistent with that on a national basis the analysis identifies option 5 as having considerably higher Benefit/Cost ratios than option 4. Thus confirming that option 5 should be the preferred option.

REINT, whilst not supporting the proposed activities, would if required to, support option 5 – a non regulatory approach.

REINT notes that each jurisdiction may act unilaterally in implementing any of the options. With the planned introduction of national licensing for the real estate profession in late 2012 the REINT would question why it is that the states and territories would not be required to take a uniform approach on this matter. A National Occupational Licensing System for property occupations was agreed to by COAG as part of its broader agenda for regulatory reform to remove overlapping and inconsistent regulation between jurisdictions.

REINT advocates a consistent approach across all jurisdictions.

The REINT believes that the assertion of the RIS that under option 2, Mandatory Disclosure, improves housing affordability is misleading.

Housing affordability generally refers to the ability of a household with average household earnings to repay a mortgage given a median house price and prevailing mortgage interest rates. As such, under option 2 with a projected

increase, albeit very small, in the median house prices (Table 6.9, page 80) affordability decreases.

The RIS assertion is based on a calculation of the present value of the benefits of lower household running costs after the purchase offset against a higher purchase price. Whilst this may be true for home buyers it is the cost of attaining home ownership that is the more important factor. REINT's comments above regarding Chapter 2 are also relevant.

The claim that mandatory disclosure improves housing affordability is misleading.

CONCLUDING COMMENTS AND RECOMMENDATION

On the basis that the basic premise of the RIS, that there is an "information problem", is questionable, that the highest benefit cost ratio accrues from Option 5 and the desire to have conformity across jurisdictions the REINT strongly believes that of the options presented in the RIS, only Option 5, the non regulatory approach, offers anything approaching freedom of choice by the Australian home owner / renter / taxpayer, and whilst reiterating its objection to having this scheme imposed upon Australians in the first place, this would be the REINT's preferred option and it recommends its acceptance by all jurisdictions.



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