

## 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.

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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](mailto: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](mailto: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

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#### 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](mailto: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

If Residential Buildings Mandatory Disclosure is introduced based on the present energy rating schemes and the present BCA then the results will be flawed as there are numerous weaknesses in the information

Certainly energy programs that promote good design incorporate low embodied energy building products and supports people who take practical steps to reduce their ecological footprint is a responsible decision and should be included in legislation.

If COAG recommend policies developed that preclude providing equal rights to home owners and prejudice the possible sale of sustainable housing because of

- (a) Failure of government to support research into the true performance characteristics of sustainable housing.
- (b) Removal from the code any assessment of embodied energy of different building materials that require large inputs of energy during manufacture, ie. cement, kiln fired masonry, aluminium etc.
- (c) Failure to consider the health of occupants in residential and other buildings because of requirements for air tightness when mechanical heating and cooling is mandatory.
- (d) Failure to acknowledge the reduced levels of chemical omissions in earth buildings and the associated health benefits
- (e) Acceptance of energy rating schemes that are based on R ratings of materials which is not relevant for the testing of materials with high thermal mass ie Earth Walls.
- (f) Fail to acknowledge earth walled building can store and download energy (heat) as required to balance out occupied dwellings temperature requirements with minimal or nil additional of mechanical heat & cooling energy requirements
- (g) Failure to consider that owners of thousands of well designed sustainable earth walled houses have been specifically designed not to include mechanical heating and cooling and to allow for natural ventilation.
- (h) Unless a full assessment of actual energy use for periods of at least 12 months are compared for sustainable houses (most have been built from earth) and consideration given to the occupants comfort levels and lifestyle, any mandatory disclosure program would be discriminatory.

Household numbers, lifestyle choices, building size and design and use all form part of the overall energy requirements. If the parameters for disclosure are based on present thermal rating tools and the ABCB requirement that buildings have to be capable of being equipped with mechanical heating and cooling devices at another time, which then restrict the choice of wall materials and the rights of people to choose then the Government, COAG and associated bodies could face a major class action from tens of thousands of home owners.

Mandatory disclosure could indicate what the energy costs that the occupants had occurred over a period of time were. It would appear to be difficult to assess life style choices and occupiers adherence to good practice in the operation of their residence without considerable research as proposed by Prof. Terry Williamson University of S.A.

Any highly insulated residence could have very different energy requirements from one families use to another,

People who often spend considerable time in planning their sustainable home and then build with earth have considered their long term energy use and run their house to take advantage of the design and construction. The incorporation of high thermal mass walls, passive design ,good orientation, controlled cross natural ventilation, energy saving devices provide the basis for low energy requirements and are often stand alone without grid supply for electricity, water and gas. Under the present energy rating system their residence could have a low star rating and be considered unfavourably in any mandatory assessment..

There are so many other issues that are important when considering the efficiency of a residence that are not included in present thermal rating programs like NATHERS Accurate and others.

If a holistic system was used such as NABERS where the criteria is broader and took into consideration

- (1) Health related issues from choice of furnishings ,carpets, fittings, paints
- (2) Embodied energy in building products
- (3) Life cycle analysis
- (4) Ability of products to be recycled
- (5) Air quality amenity and ambience
- (6) On going maintenance costs
- (7) Sound reduction and humidity control
- (8) Fire safety and protection from radiant heat in bushfires
- (8) Location and /or self sufficiency
- (9) Suitability for low cost self build housing projects
- (10) Other factors that will reduce actual energy demand

Then a mandatory disclosure program could be worthy of support from COAG

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