

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).

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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.

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

General/overall comments

This submission addresses two main issues:

- the failure to recognise the importance and necessity of a technically and legally robust process to measure the inherent thermal performance of building shells (i.e. 'Option 1'), and;
- the failure to recognise that the results of the hedonic pricing analysis of Canberra housing prices (*Energy Efficiency Rating and House Price in the ACT*, DEWHA, 2008) show a significant private benefit to owners who respond to information from an energy audit and increase the energy performance of the dwelling before sale – such benefit should be incorporated into the overall benefit /cost analysis.

The Need for Robust Tools for Mandatory Disclosure of Energy Performance

Option 1 (as defined on page 25, and using AccuRate or other 2nd generation NatHERS tools) is critical to the future of any mandatory disclosure at point of sale. While occupant behaviour is a significant variable in terms of energy bills, and some sustainability issues can be observed by anyone (solar hot water, PV, rainwater tank), the main determinant of the inherent energy performance of the building shell and greenhouse emissions cannot be seen, and must be modelled. The value of mandatory disclosure is that it provides new information that cannot be assessed by a non-expert house buyer. Modelling provides an objective measure of building shell performance which can be repeated by another expert – this is critical in relation to a sale transaction that may be subject to robust legal action. Modelling by an independent and accredited expert assessor will meet the requirements of a legal contest. Buyers and sellers will come to expect that energy ratings are robust and repeatable because the evidence from the ACT is that the rating will be valued by the market. Owners of new houses will expect consistency between regulatory ratings of new houses and the disclosure ratings for existing houses.

Recent energy price increases, especially for electricity, and the future impact of carbon pricing are likely to strengthen consumer interest in financial implications of house energy ratings. While carbon pricing provides a real focus for consumer interest in electricity prices, the reality is that much greater cost increases in electricity prices are being driven by distribution and transmission costs in part related to the strong growth in summer peak – note that summer peak load (i.e. power, MW) is growing much faster than the total electricity demand (i.e. energy, MWh). This means disclosure might be valued more highly than the Real Estate industry thinks.

It will become increasingly important to have continuity between the regulatory rating for new houses and rating for existing houses – a single star rating scheme is useful in terms of consumer understanding and assessor training/skills set. It is critical to have legally and technically robust objective rating because the housing market is a legal minefield. A single rating tool is critical because it serves both new and second-hand dwellings for 50+ years. With appliances, the original rating label is irrelevant for re-sale as technology has moved on and the rating algorithm has changed. With houses, technology is generally locked in except for simple things like ceiling insulation that can be addressed at low cost. The virtue of AccuRate is that in range 0 – 10 stars it covers every existing thermally poor house through to zero conditioning energy requirements.

- Practicality

Energy modelling is a routine service from building professionals, based on plans of new houses or simple plans based on measurements of existing houses. The output is legally robust (can be checked for a legal contest) and updated after renovations. The ratings provide continuity over the life of the dwelling (irrespective of changing occupancy) and provide convergence between policy goals for new and existing houses.

- Communication of Rating

Using a simple and well understood star rating concept, the message on conditioning energy performance can be readily communicated to all stakeholders. Rising energy prices will make

consumers more sensitive to energy ratings in future so that legally robust energy ratings will become more important.

- Compliance

Compliance issues lie with State jurisdictions to ensure that all building industry professionals are trained, insured, and audited. The ACT is finally taking steps to institute a rigorous approach to regulating building energy assessors. Higher energy prices and the introduction of mandatory disclosure will place more pressure at all levels to ensure that consumers get what they pay for, so that building energy assessors will need to have similar regulatory obligations as building surveyors.

Simple subjective 'environmental' approaches to sustainability will not be legally robust, nor will they provide buyers with sufficient information to make an informed choice. Option 2 would not provide sufficient information, and in an attempt to simplify a complex process would become discredited – like the flawed tool of the proposed Green Loans Program. Options 3 and 4 seem to provide little more than the information available through an inspection. Option 5 is useful, but only in support of hard information available through Option 1. "Option 6" is a valid approach for dwellings that are very old, and expected to be knocked down or substantially renovated upon sale.

It should be noted that although the RIS equates the current ACT mandatory disclosure with Option 2, it is much closer to Option 1. The ACTHERS tool is based on the original Victorian First Rate energy rating tool. First Rate itself was based on about one million NatHERS modelling runs. AccuRate, the current 2nd generation NatHERS tool was developed to ensure consistency with the original NatHERS tool, especially around 4- and 5-star levels. Thus, there should be a reasonable correlation between ACTHERS ratings and AccuRate modelling.

ACT Experience with Mandatory Disclosure of Energy Performance

Background

The Productivity Commission Report on Energy Efficiency (*The Private Cost Effectiveness of Improving Energy Efficiency*, Productivity Commission Inquiry Report, No. 36, 31 August 2005) was commissioned by the then government in August 2004, and published in August 2005. The explicit focus was to examine and report on "the economic and environmental potential offered by energy efficiency improvements which are cost effective for individual producers and consumers", including those arising from minimum energy efficiency standards for residential and non-residential buildings. Some energy performance standards for residential buildings had already been introduced (Class 1, January 2003 – 3.5 or 4-star standard for housing; Classes 2-4, May 2005 – 4-star standard for apartments). During the period of the inquiry the Australian Building Codes Board (ABCB) with AGO support was developing energy performance standards for non-residential buildings (Classes 5-9), and, more contentiously, developing 5-star energy standards for residential dwellings.

In relation to building ratings and standards, the PC Report contained the following: Finding 10.1 (p. 211)
The Australian Greenhouse Office plans to commission an ex post evaluation of the ACT home energy rating scheme on behalf of all Australian Governments. The results should inform the Ministerial Council on Energy decision to mandate building energy ratings across Australia.

The PC Report supported the *ex post* evaluation of the ACT mandatory disclosure of energy rating of dwellings at the point of sale, while making the point that this work should inform the MCE decision to introduce mandatory disclosure across Australia (Finding 10.1). For this reason, considerable priority, effort and resources were expended on undertaking a statistically rigorous study through the Research Branch of the Australian Bureau of Statistics with the cooperation of the ACT Government. This work followed an initial unsuccessful attempt to establish a relationship between house prices and EER. The work proceeded through 2006 and 2007. It was completed in late 2007, and published in 2008. (*Energy Efficiency Rating and House Price in the ACT*, DEWHA, 2008)

The technique of hedonic pricing analysis was applied to explore whether a relationship existed between EER and house prices for all the detached dwellings built prior to 1996 (when a 4-star energy standard

was introduced for new houses) which were sold in the ACT in 2005 and 2006 (~5,000 houses in total). The aim was to explore for the typical existing housing stock (generally with EER in the range 0 – 3 stars) whether any statistical significance could be attached to EER after allowing for all other variables. The results showed EER was highly statistically significant as a determinant of a small share of the price, and each star explained about 3% of house price – or over \$10,000 per star at the median house price.

This means that in the ACT energy efficiency expenditure on an existing house is an investment, not a cost. There are savings in future energy costs, but in addition, an improvement in capital value. The results strictly relate to older dwellings in the 0 – 3 star range (i.e. the houses that need energy efficiency improvements). There is no expectation that the same relationship hold for 4 to 5 stars and 5 to 6 stars – in fact the statistical modelling explicitly shows a weaker relationship between star and price above 4 stars.

Implications for Mandatory Disclosure Benefit Cost Analysis

Despite an explicit recommendation from the PC that the analysis of the ACT scheme should inform the MCE “decision to mandate building energy ratings across Australia” there is no mention of the study and the potential private benefits to sellers who respond to energy audit information and invest in energy efficiency. The report, however, is in the list of references, and so must have been part of the RIS at some stage, until edited out.

If mandatory disclosure were to be introduced and promoted in other jurisdictions, it would not be expected that the results would be exactly the same as in the ACT. Due to climate similarities in much of Victoria and Tasmania as a result of high winter heating demands, similar results could be expected over time (i.e. in terms of the capital value ascribed to higher star ratings), but in moderate and warm climates the capital impact would be lower. The difficulty in modelling potential private benefits to sellers of dwellings does not excuse the decision not to flag the potential capital benefits to those who invest in energy efficiency.

Mandatory disclosure is about providing a market signal to dwelling owners and intending purchasers that energy efficiency saves money on energy costs, and is a sound investment. Such an informed market can then make decisions on the basis of perceived private benefits. In this way, over time, the average energy performance of the entire building stock is improved as a result of many individual decisions based on an expectation of private benefits.

Apparently, the cost benefit analysis was done on the basis of overall public benefits, in the sense that the zero sum result of a higher selling price was cancelled by a higher buying price. That is, the major private financial benefit resulting from mandatory disclosure was assumed not to exist.

What is the point of mandatory disclosure if the market is not informed of the main private benefit? Individuals respond to private benefits, not public or societal benefits.

In the case of an RIS on refrigerator labels, the benefit cost analysis is based on the savings in electricity over time compared to additional purchase costs. If a public/societal approach were to be taken, the reduced electricity demand would result in less sales and lower returns to the owners of the utility, with a need to increase prices, and ultimately a zero sum result. That is, if the approach of this RIS were followed in the RIS for all energy efficiency proposals nothing much would happen.

The RIS (page 38, 1st paragraph) seems to provide another excuse for not incorporating the findings of the ACT study in the sense that the existing mandatory disclosure in the ACT is part of the BAU base case, and therefore only changes would be modelled in the RIS for the ACT. This does not excuse the failure to mention the explicit capital benefits of mandatory disclosure in the ACT, and while such benefits are BAU in the ACT they would be significant additional benefits in all other jurisdictions, including Queensland. The statement that “both Queensland and the ACT already have residential mandatory disclosure arrangements in place” prioritises Queensland over the ACT, even though the ACT approach is equivalent to Option 1 in terms of building shell performance whereas the Queensland approach is Option 4 equivalent – probably less use than an inspection by a prospective buyer.

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