

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:	Alternative Technology Association
Name of Author:	John Knox / Damien Moyse
Phone Number:	03 9631 5417
Email:	damien@ata.org.au
Website:	www.ata.org.au
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 ATA suggest the following additional points:

- Consider an additional incentive – the option of the refund of a proportion of stamp duty if new purchasers increase the energy performance by at least 1 star within the first 12 months. A sliding scale could be used for better outcomes.
- Substantial real estate agent costs could be avoided by providing a brochure with self-help.
- How are GHG savings calculated? And on what basis are societal savings calculated?
- Give the seller/buyer options for more advanced performance information to be provided. Many consumers, particularly those close to / members of the ATA will seek this additional level of information.
- Make disclosure unnecessary if demolition is guaranteed.

C-RIS Section number: [insert section no. eg 3.1]	Comments
Box 2.2/2.3	The purchase/lease of a property is generally of a long term nature and done infrequently. As such, it is difficult to expect lay-persons without sustainability assessment experience, to gain the requisite skills to perform an accurate assessment. With this in mind, the ATA prefers either Options 1 or 2, as these are the only options that are likely to produce meaningful results.
4	ATA's concern with respect to Options 3 and 4 is that the program will likely receive false or inaccurate data – given the reliance on unskilled auditors. The ATA believe that if the program is to achieve measurable goals with respect to longer term sustainability and energy market goals, skilled labour with detailed assessments should be used.
4	What is the cost of re-assessing if improvements are made? Could this be reduced if re-assessment was made within xx number of months?
Table 4.1	We would question why this would not be considered a breach of contract?
4.1	On building types: the ATA questions the potential exclusion of different building types – e.g. residential buildings where facilities are communally provided; and/or houses or flats attached to a shop or office; and/or and remote and social housing. ATA believes the policy focus should be on upgrading the <i>entire</i> housing stock, rather than a sub-set of it.
4.1	The ATA suggest distance to local amenities/public transport could also be a worthwhile inclusion. Proximity to shops, services and in particular public transport has an impact with respect to the general sustainability of any home. Proximity to services and PT reduces the need for energy intensive transport options, as well as providing a major health benefit.
4.1 Option 1	Given our member's experience with sustainability assessments through various programs and individual projects, the ATA consider \$784 to be too high for an averaged assessment cost over time, under Option 1. Economies of scale and familiarity of process should provide

	<p>excellent opportunities for assessment cost reduction, and should provide assessors and householders sufficient time to work through the process in the level of detail required. The ATA would suggest a figure closer to \$500 - \$600 is realistic and very achievable.</p>
4.1 Option 1 - 4	<p>The ATA questions how long certificates are to be valid for under the program? Measures like insulation compact and lose their effectiveness over time, and this needs to be taken into consideration.</p>
4.1 Option 2	<p>This is dependent upon the amount of 'simplification' involved in the simplified thermal performance assessment. Shading of windows, insulation (at least ceiling and some rooms floor), pelmets/curtains and draught proofing can all be done readily post construction. It is important that the purchaser gets an idea of the overall performance of respective houses they are looking at. A home with good passive solar design should attract a better price than one without and purchasers should know why.</p>
4.1 Option 2	<p>The ATA believes \$183 to be too low for this assessment. Our expectation would be for at least as much time spent by an assessor as for the former Green Loans Program (i.e. \$250-\$300 + certificate lodgement fee would seem more in keeping.)</p>
4.1 Option 3	<p>ATA does not support this Option as we would have a lack of confidence in the results. (In particular,;</p> <ul style="list-style-type: none"> • How would assessors be regulated under this option? • How could the program tell if the property hadn't been self-assessed? • Why should an assessor undertake the cost of training/qualification when a self-assessment by totally unregulated sellers is an alternative?
4.1 Option 4	<p>ATA does not support this Option as we would have a lack of confidence in the results.</p>
4.3	<p>The ATA does not believe that mandatory disclosure should be opt-out for rental/lease properties.</p> <p>Renters / tenants have limited ability to make efficiency improvements to their building, and there is little incentive for landlords to perform efficiency retrofits currently. Renters may argue that landlords would be likely to increase rents to reflect the retrofit investment made, but this should be offset by a decrease in household running costs as a result of the investment.</p> <p>Leaving this sub-set of the housing market unregulated would be to miss out on enormous opportunity with respect to this policy.</p> <p>ATA suggest consideration of using negative gearing as a link to ensuring rental properties are linked to a base level performance (e.g. minimum 3 star rating for negative gearing eligibility). The landlord can then claim these improvements on their tax, an option not open to your home owner. The min. level for negative gearing eligibility could then be raised slowly over time, to ensure improved rental building stock.</p> <p>The ATA believe this should apply to remote & social housing also.</p>
5.1	<p>Direct costs and benefits:</p> <ul style="list-style-type: none"> • There is no mention of the benefit to the nascent energy efficiency retrofit industry (i.e. jobs). This segment of the market could expand considerably providing employment for many largely unskilled people and in sales of retrofit materials (i.e. insulation, draught proofing material, secondary glazing, pelmets, etc.) <p>Direct / Indirect costs and benefits:</p> <ul style="list-style-type: none"> • There appears to be no recognition of the direct benefit of decreased wholesale NEM

	<p>pool prices from increased energy efficiency across the residential market. 'Reduced peak load infrastructure demands' are discussed under indirect benefits (i.e. not captured within the modelling), however this is not the same as the benefit of decreased (either real or against BAU) wholesale electricity prices, which under various uptake scenarios would be a direct benefit to electricity consumers.</p> <p>This modelling was done for the Victorian Department of Primary Industries (DPI) for the expansion of the VEET scheme. The DPI modelling suggested that only taking into account 3 years of energy efficiency uptake under VEET (2011- 2014) would lead to a decrease in NEM pool prices and defer the requirement for new generation until 2017 / 2018. The ATA suggests that this additional benefit needs to be taken into consideration and can be included in the CBA / NPV modelling for this RIS.</p>
5.1	<p>Costs: Real estate agents' time.</p> <p>The ATA would be very surprised if real estate agents incurred anywhere near this level of impact. According to Table C7, for Options 1 & 2 this equates to almost an hour of 'overhead' from RE Agents – this is in stark contrast to the 10 minute estimate for RE Agent time in Table C6. The ATA questions any RE agent requirements above simply providing a brochure with details of what is required and a list of local assessors to contact.</p>
B4	<p>Modelling with a reduced cost for Option 1 may produce markedly different results in terms of CBA and NPV analysis. The ATA suggest modelling a \$500 - \$600 assessment cost, which is likely to be closer to the average required assessment cost over time.</p>
E	<p>Difficult to comment as assumptions made are unclear.</p>
F	<p>Difficult to comment as assumptions made are unclear.</p>

Holland, Teresa

From: John Knox [john.knox@ata.org.au]
Sent: Tuesday, 13 September 2011 11:12 AM
To: DCCEE - Residential Disclosure
Cc: Damien Moyse
Subject: Residential Mandatory Disclosure Submission - Addendum
Attachments: ATA Submission - Residential Mandatory Disclosure - addendum.docx; ATA Submission - Residential Mandatory Disclosure - addendum.pdf

Dear Residential Energy Efficiency Team,

Please find attached an addendum to the submission from the Alternative Technology Association in regards to the Department's consultation on the Residential Mandatory Disclosure RIS (in both pdf and Word format). We hope these will be added to our prior submission.

Should you have any queries, please do not hesitate to contact us.

Kind regards,

John Knox

Work days: Tuesdays & Thursdays

ATA - Alternative Technology Association
Publishers of *ReNew* and *Sanctuary* magazines
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Submission Template

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Name of Organisation:	Alternative Technology Association
Name of Author:	John Knox / Damien Moyse
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Website:	www.ata.org.au
Date:	13 September 2011

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

General/overall comments

Further comments on information in the Appendices follow. We hope these will be added to our prior submission.

General comment: Rather than focus on the costs to industry, consider what are the economic **benefits** to industry and the wider community/environment of encouraging action to reduce energy/water waste?

C-RIS Section number: <i>[insert section no. eg 3.1]</i>	Comments
B4	Modelling with a reduced cost for Option 1 may produce markedly different results in terms of CBA and NPV analysis. The ATA suggest modelling a \$500 - \$600 assessment cost, which is likely to be closer to the average required assessment cost over time.
C6	Allowing a 30 per cent discount factor for the rebound effect seems somewhat pessimistic. We believe a more appropriate factor might be 15-20% given the perceived 'grief' a lot of people seem to be feeling with regards to energy costs. Energy costs are still incredibly cheap in Australia <i>cf</i> other countries, especially as there is a large externalisation of the environmental costs of using coal for energy production.
Table C8	We expect Options 1 & 2 to have higher uptake rates (provided ROI information is given – see below) and Options 3 & 4 to be lesser as there has not been an assessor involved (with the reduction in confidence in results this would entail).
C8	<p>Providing details on expected return on investment times in the “part III – suggested upgrades” section of the assessment might encourage improved response rates. The average lay-person is unlikely to understand how quickly they will recoup their expenses and spelling out the rapid nature of this will assist them to make a proper value judgement on the benefits of taking action.</p> <p>Having a qualified assessor undertake the assessment lends credibility to the assessment and to the upgrades suggested. This is another reason why we prefer Options 1 & 2.</p>
E	Insurance: why is the cost of insurance assumed to be the mid-point between the current Association of Building Sustainability Assessors rate and the rate applicable to Electricians rather than just the ABSA rate? This rate would also be dependent upon the complexity or otherwise of the assessment.
E	Compliance: noting the relative number of assessments that are outside the norm for the type of dwelling may be a way of weeding out unscrupulous assessors.
E	Assessment tool: could there be any synergies with the Green Loans Program tool – could these, if they exist, be leveraged to reduce the overall cost of producing a brand new tool?
E	Communications cost: is this entirely necessary? How do sellers/leasers get information on their current obligations – surely a glossy (or not) brochure and web link would be all that would be required. This would also allow updates to be created and distributed in a timely fashion.