

City of Melbourne Submission

Residential Building Mandatory Disclosure Consultation Regulatory Impact Statement



City of Melbourne welcomes the opportunity to provide a submission to the Department of Climate Change and Energy Efficiency regarding the Residential Building Mandatory Disclosure Consultation Regulatory Impact Statement (CRIS).

We strongly support the proposal under the National Framework for Energy Efficiency (NFE) to introduce mandatory disclosure of building energy, greenhouse and water performance at the point of sale or lease for residential properties to improve information in the market, so long as the benefits of doing so outweigh the costs.

In general, the CRIS appears to be adequately robust regarding its:

- evaluation of existing market failures and need for government intervention;
- diversity of regulatory options assessed; and
- assessment process of costs and benefits for each option.

However, we note one area where additional work is warranted to investigate additional costs and benefits to industry. How mandatory disclosure might operate – and the associated impacts – within the multi-unit residential sector (i.e. strata-titled buildings) does not appear to have been explored. This area of investigation is required considering the multi-unit sector's increasing prevalence in Australia's residential building stock and its unique complexity in property ownership and decision-making frameworks compared to single family homes. This point is explored in more detail later in this submission.

In summary, City of Melbourne supports the findings in the CRIS and the need for Residential Building Mandatory Disclosure more broadly to address critical market failures.

Specifically, we are encouraged by the multitude of beneficial outcomes reported in the CRIS regarding implementation of Option 2 – simplified thermal assessment at point of sale and lease, including:

- more than \$800 million in energy savings to Victorian households in net present value (NPV);
- an overall improvement in housing affordability and cost of living in *all* Australian jurisdictions;
- over \$540 million of additional investment in the energy and water efficiency sector of Australia; and
- a reduction of greenhouse gas emissions across Australia of approximately 14 Mt CO₂-e.

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 CRIS?

City of Melbourne agrees with the finding in the CRIS that significant information failures exist in the market for residential property purchases and rentals. Experience gained through multiple City of Melbourne programs – including 'Sustainable Living in the City', 'Energy Savers – it all starts at home', and 'Higher density Residential Efficiency Solutions (Hi-RES)' – have highlighted information gaps as one of the single most important factors leading to under-investment in energy and water efficiency across Melbourne's residential building stock.¹ This is particularly true within both the multi-unit and rental markets, of which over 71 per cent and 50 per cent of residential dwellings in the City of Melbourne sit within, respectively.²

As a consequence, City of Melbourne strongly supports the assertion in the CRIS that the residential property market seems unable to provide the necessary incentives to encourage efficient investment in building energy and water performance. These information failures offer a compelling case for appropriate government intervention to improve information in this market and incentivise increased investment in energy and water efficiency across Australia's residential building stock.

¹ City of Melbourne, *Developing Sustainable Solutions for Apartments*, 2011, 31 August 2011
<<http://www.melbourne.vic.gov.au/Environment/WhatCanIDo/Pages/SustainableLivingintheCity.aspx>>.

² Anton Griffith, *A profile of high-rise apartment dwellers in City of Melbourne as of 2006*, Melbourne City Research, 2010, p. 4,18.

Identified risks and uncertainties associated with Option 2

The CRIS does not address the multi-unit residential property sector adequately regarding the operation of mandatory disclosure within this sector. This sector of the residential market is experiencing significant growth across Australia and is positioned to experience considerable benefits from a mandatory disclosure scheme that is designed with this sector in mind.

Risks regarding implementation

Most multi-unit residential buildings contain common property and shared services, which are not controlled by one single owner. The management and maintenance of common property is overseen by an *owners corporation*. An owners corporation (OC) is automatically created when a plan of subdivision containing common property is registered. The plan of subdivision shows the parcels of land that can be sold separately. These are called 'lots'. All lot owners automatically become members of the owners corporation for the property.³

Section 6.2 of the CRIS sets out that, under Option 2, an assessment of the energy, greenhouse and water performance of a building would take account of:

- thermal performance and the building shell;
- fixed heating and cooling systems;
- hot water systems;
- lighting;
- clothes line and clothes drying areas;
- outdoor living areas;
- information on the availability or installation of water usage and efficiency performance, on-site renewable energy system, peak load and pools and spas; and
- suggestions in improvements or upgrades that could be undertaken to improve the property's rating.

Most of the above aspects for assessment can, and often will, include both common property and private property in many multi-unit residential buildings. Taking this into consideration, it may be necessary to require two levels of assessment in these buildings/developments:

1. *Lot assessment* – assesses the energy, greenhouse and water performance of all aspects specific to the lot and under the direct control of that lot owner.
2. *Common property assessment* – assesses the energy, greenhouse and water performance of common property and shared services under the direct control of the owners corporation.

To ensure minimal costs, the onus to undertake a common property assessment must rest with the owners corporation and be made available to all lot owners to use in case of sale or lease of a lot. This makes sense as any decisions to implement the suggestions for improvements or upgrades that could be taken to improve the property's rating that involve common property must be made by the owners corporation.

Lot assessments would function similar to assessments undertaken for single-family homes where the onus to undertake the assessment rests with the property owner and would not involve the owners corporation.

It would need to be decided whether prospective buyers and tenants of a lot within a multi-unit building/development would be presented with two separate ratings, or an averaged rating taking into consideration the outcomes of both assessments. This – among other administrative issues – warrant further investigation to ensure confusion and costs are minimised.

While the unique ownership structures and decision-making frameworks within the multi-unit residential building sector bring with it additional complexities around mandatory disclosure, it also offers an extraordinary opportunity. OCs operate as a commercial entity and as such there may be more opportunity to affect change in this sector. This sector particularly suffers from information asymmetries due in part to these complexities. Residential Building Mandatory Disclosure, if developed with this sector in mind, offers an opportunity to dramatically improve the performance of this growing sector of Australia's built environment. Inner-city Councils are likely to have a large proportion of this sector under their jurisdiction. As such, any support mechanisms considered as part of the implementation of Mandatory Disclosure should consider using local councils as the delivery agent.

³ Consumer Affairs Victoria, *Guide to owners corporations – owning, managing and living in a unit or apartment*, 2010, 1 September 2011

<[http://www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Owners_Corporations/\\$file/owners_corporations_guide.pdf](http://www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Owners_Corporations/$file/owners_corporations_guide.pdf)>