

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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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

The Australian Institute of Architects welcomes the opportunity to comment on the Residential Buildings Mandatory Disclosure – Consultation Regulatory Impact Statement (CRIS). The Australian Institute of Architects (the Institute) is an independent, national, member organisation with approximately 11,000 members across Australia and overseas. The Institute exists to: advance the interests of its members, their professional standards and contemporary practice, and to expand and advocate the value of architects and architecture to the sustainable growth of our community, economy and culture. The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and sustainable design.

The Institute supports the proposal to introduce mandatory disclosure of environmental performance for residential buildings. There has been increased focus over the past decade on improving the thermal performance and energy efficiency of new housing stock, but little attention has been paid to existing housing. In any given year, new houses represent less than 2% of the total housing stock. If significant gains are to be made in reducing the environmental impact of households, then the condition of existing stock must be improved.

Research undertaken in recent years by the Australian Sustainable Built Environment Council (ASBEC), namely the Second Plank Report (2008) and its Update (2010), demonstrates the significant potential for greenhouse gas (GHG) emissions abatement in the building sector. The reports show that the building sector is responsible for nearly a quarter of Australia's GHG emissions (at 23%) with the residential sector being responsible for 13%. It was also found that through energy efficiency measures in the building sector, GHG emissions could be reduced by up to 30% by 2030.

In line with the ASBEC research, the Institute agrees with the CRIS that there is significant under-investment in improving the environmental performance of residential buildings, especially given the existing capacity for improvements eg, through known technology, skills and available products/materials. This under-investment results from a number of the market barriers identified in the second plank reports, and the Institute recognises that the mandatory disclosure proposal as presented in the CRIS aims to address one of those barriers, namely information shortfalls.

The Institute believes that the provision of thorough, accurate, credible, property specific information is the first step required to help overcome the barriers to property owners investing in environmental improvements for their property.

The Institute, while supportive of the proposal, has a number of observations and recommendations in relation to the proposal outlined in the CRIS. These include; the regulatory and non regulatory options, the cost benefit analysis modelling, environmental performance ratings tools, the accreditation of property assessors, information provided under the disclosure, and the importance of complementary measures in the suite of government activity to improve the environmental performance of the residential buildings sector.

Regulatory and Non Regulatory Options

The CRIS canvasses four regulatory options and two non-regulatory options, the Institute's comments on these options follow.

The Institute believes that Options One and Two will offer the most useful information to householders and will maximise the desired outcomes of the mandatory disclosure scheme, ie, a reduction in the residential sector's GHG emissions. Option One appears to provide the most thorough, accurate, property specific information under the proposal and the Institute believes that this option will contribute more to achieving GHG abatement potential than option two.

Options Three and Four, based on householders' self assessment, are not preferred by the Institute. For the mandatory disclosure proposal to achieve its stated aims, the thoroughness, accuracy and credibility of the information is critical. We think that new home owners wishing to make environmental performance improvements to their property would not be well served by the level of information provided under these options, for a number of reasons. Only well trained, skilled assessors are able to provide the quality of information required under Part three of the information provision, ie, suggested modifications/improvements specific to the property. A self assessment undertaken by untrained householders may result in significant inaccuracies or the absence of important information. The lack of householders' knowledge of the factors contributing to a property's environmental performance such as solar orientation, eave overhang, materials used etc is likely to result in missed information and missed opportunities for education and improvements. In addition, for the disclosure information to be acted upon, it must be valued by the community and must be credible, thorough and trusted. A perceived conflict of interest could arise where sellers are undertaking their own property's assessment, knowing that this will influence a buyer's decision whether to proceed with the purchase of a property.

As with option six, the 'opt-out' option, the Institute recommends that if the government's aim is to improve conditions/knowledge with the aim of leading to a reduction in GHG emissions, than options three, four and six are inferior options. The barrier to be addressed under this proposal is an information shortfall barrier and the Institute believes that options three, four and six provide in varying degrees, information which will be of little or no use to homeowners as a basis for action on property improvements.

Option five is presented as a non-regulatory option based on a public information education campaign. The Institute does not support this option as an alternative to options one and two, as existing and previous education campaigns have fallen short in that they have not provided property specific information for property owners. However, the Institute does recognise that an accompanying information/education campaign will need to be introduced at the same time as any mandatory disclosure scheme as the residential property market will need to be informed of new responsibilities, the intent of the scheme, information so that the seller/buyer can understand the property rating in the context of the wider market and ratings tools, and the supporting sources of advice available for property owners wishing to improve the environmental performance of their property.

Cost/benefit analysis modelling

The Institute acknowledges that under the cost/benefit modelling analysis within the CRIS, that option one (the Institute's preferred option) is found to have a negative net benefit. The Institute wishes to make a number of observations about the assumptions and factors underpinning the modelling as we believe that if considered, these observations may affect the resultant cost/benefit analysis.

Firstly, it is the Institute's understanding that the modelling does not factor in a price on carbon nor any impact of increasing fuel prices over time. The likely effect of a carbon price is considered but because of uncertainty surrounding the form of its introduction, is excluded from the analysis.

In relation to fuel costs, Section c.4 of the appendices states that the only effect included in the costs assumptions for fuel prices relates to increases in network upgrade costs. The other major determinant to fuel costs – for instance a rise in costs due to supply/demand changes in response to a growing international market for coal and gas – is seemingly ignored. It is the Institute's opinion that excluding these factors from the modelling could result in an underestimation of the benefits available to consumers by their uptake of the environmental improvements recommended under the mandatory disclosure proposal.

The Institute also questions the large gap between estimated costs to undertake option one and two. We refer to the submission lodged by Archicentre Limited, the building advisory service of the Institute. Archicentre provides nationwide inspection, design and advisory services to Australian households and businesses. We note Archicentre's estimation, based on their experience of providing quality inspections and reports from properly qualified professionals, that a cost of around \$500 is a more likely fee to be charged for delivering similarly qualified assessments under the mandatory disclosure proposal.

Another potential factor which may impact the cost/benefit analysis and potentially narrow the cost/benefit gap between options one and two, is that it is unclear to the Institute whether a new rating tool would need to be developed in order to provide the level of information proposed under option two. It is the Institute's understanding that existing ratings tools and software are currently available to undertake option one, (acknowledging that there may need to be some amendments to accommodate a water rating, etc). If new rating tools/software are required to be developed under option two, with the associated supporting infrastructure such as training, accreditation etc than these costs need to be factored into the modelling for option two.

We note the conservative assumption used in modelling the potential up-take rate of environmental improvements to homes and refer to Archicentre's submission which advises of an approximately 75% uptake rate for the health and safety home modification recommendations to aged/disability pensioners they undertake for the Victorian Department of Human Services. We recognise the difference in motivation for householders in implementing 'ageing in place' recommendations may be based to a large degree on necessity rather than the discretionary choice for householders in considering undertaking environmental performance improvements, however the advice from Archicentre is useful for consideration in two respects. Firstly it points to a correlation between a level of high quality information assessments/reports and a high uptake of modifications, and secondly, the government may wish to explore further the Victorian health and safety modification scheme and uptake rate to assess whether it helps inform the assumptions for an uptake rate under this proposed mandatory disclosure scheme.

Assessors/Accreditation

Under the proposed mandatory disclosure scheme, the assessment process must be transparent, independent, skilful and able to be relied upon by both the home owner and potential purchaser – high quality information is likely to engender a more positive uptake of environmental improvements.

The Institute highly recommends that assessments only be carried out by architects, engineers and appropriately licensed /registered building practitioners who are regulated to facilitate high performance, and are trained and accredited in the specialised rating tools/software relevant to the assessment required under the mandatory disclosure proposal.

Architects, engineers and licensed/registered building practitioners' skills and knowledge in building related matters are necessary for applying the rating tool skills to the proposal for improvement of housing stock.

The transparency of the property assessment can be achieved by requiring assessors' compliance with an associated code of conduct, which would include appropriate sanctions for any transgressions. Further, the quality of the assessors' work, and available redress if necessary, can be assured by compulsory professional negligence insurance.

Ratings/ Tools for Assessment

Chapter 4 describes the three parts proposed to be used in the assessment process, and differentiates elements in Part 1 (thermal performance of building shell; hot water system, fixed heating & cooling; lighting; clothes drying; outdoor areas) from those of Part 2 (water usage and efficiency; on-site renewable energy; impacts on peak [power] loads; pools and spas).

The reasoning for this split lacks definition at present, in that both Parts contain information relating to energy use and site-related factors. Adopting a rationale similar to BASIX (where there is a clear definition between building shell, appliance energy and water efficiency) could make the transfer of information to the purchaser much more comprehensible.

The BASIX-style analysis also allows for easy integration of thermal shell performance data produced by existing NAtHERs tools for a more comprehensive result.

Information to householders

As we have stated earlier, the Institute considers the type and quality of information to be provided under the mandatory disclosure proposal is crucial to achieving and maximising GHG abatement outcomes. In this regard, we support the proposition that information provided to householders includes detailed information on specific ways in which their property can be modified for environmental performance. As Archicentre have outlined in their submission, to help encourage the voluntary uptake of improvement recommendations, it is suggested that clear estimates of improvement costs and benefits should be included with the assessment reports, eg, information on the potential savings on energy and water bills, payback periods for investment in performance improvements etc. The effectiveness of the proposal will be determined by its capacity to improve a consumer's ability to see and quantify opportunities for monetary savings and improved comfort levels.

As we also mentioned earlier, an accompanying information/education campaign for the public will be required with the introduction of any mandatory disclosure scheme. This will of necessity entail a variety of information, some of which we have mentioned already such as; informing the residential market of the new responsibilities under the scheme, the intent of the scheme, information so that the seller/buyer can understand the property rating in the context of the wider market and ratings tools, and the supporting sources of advice available for property owners wishing to improve the environmental performance of their property.

Based on the mandatory disclosure experience in the ACT, as part of the information campaign consideration needs to be given to addressing the potential confusion created by using different software to rate new and existing homes, with attendant discrepancies in the results produced. There will need to be a clear explanation of the potential for differences between the rating achieved under a design rating (e.g. required to facilitate a building permit) and that from an as-built rating (e.g. required to facilitate a mandatory disclosure requirement). This is not a direct cost to the consumer, but certainly reduces public confidence in the veracity of the results produced, and has, on occasions, led to litigation between vendors and purchasers where claims of misrepresentation have been made. If a two tier system is used, clear differentiation between the rating scales for new and existing houses would be a necessary design characteristic required to overcome apparent conflicts in results. Using the same software (and rating scales) for both new and existing would greatly simplify the interpretation of results and allow direct comparison across the entire housing stock.

The importance of complementary measures

The outcome of the mandatory disclosure proposal will be judged by the level of improvement in the energy efficiency of building stock and resultant GHG emissions reductions. Encouraging the voluntary uptake of improvement recommendations is critical to the success of the mandatory disclosure scheme and concomitant desired objective – a reduction in GHG emissions.

As we have noted in our submission, recent research shows that there are a number of barriers that prevent the GHG abatement potential in the residential buildings sector being achieved. In addition to the information shortfall barrier (which is being addressed by the mandatory disclosure proposal), there are also barriers including the payback period, ie, the length of time before an investment in environmental upgrades is paid back through savings in energy/water bills, the split incentive or landlord/tenant issue, ie, the mandatory disclosure cost is borne by the seller (or landlord) while the main benefits through energy and water saving costs are accrued by the purchaser (or tenant).

Although the mandatory disclosure proposal will help overcome one of the barriers to GHG emission abatement in the residential buildings sector, the Institute wishes to emphasise the importance of additional complementary measures which will facilitate a greater uptake of environmental performance in the residential sector.

The ASBEC second plank reports have clearly identified the need for complementary measures and have recommended a mix of incentives and regulatory options. Within the residential buildings sector, the second plank reports recommend the introduction of a national white certificate scheme. The Prime

Minister's Taskgroup on Energy Efficiency has also recommended a national energy efficiency savings initiative as a model for energy efficiency obligations, also known as white certificates.

The Institute submits that such an initiative is necessary within the suite of government activity to achieve the abatement potential available within the residential buildings sector.

Other issues

- The Institute believes that if implemented, the proposed mandatory disclosure scheme provides great potential to gather information on the condition of existing building stock, and a means by which to monitor the change in that stock over time, with the benefit of informing future government policy in this area.
- The CRIS states that the introduction of a mandatory disclosure scheme would be implemented at State/Territory levels at their discretion of the option to be implemented. The Institute strongly encourages the implementation of a nationally consistent scheme. In the Institute's opinion, a nationally consistent scheme will generate a number of benefits including; consistency of information for buyers and sellers, landlords and tenants, comparability of properties across states/territories, and the possibility of nationally consistent data about existing housing stock. We recognise that there may need to be some differentiation of assessments/information due to climatic differences across the country, but we believe that this can easily be accommodated within a nationally consistent scheme.
- The Institute recognises that social housing tenants have limited accommodation choices however believes that a requirement for the social housing provider (whether government or not for profit providers) to comply with the proposed mandatory disclosure scheme should be strongly considered for inclusion in the legislation. The mandatory disclosure scheme will help to inform social housing providers on ways in which to improve the GHG emissions impact of the housing they provide and will also inform them of opportunities through which to improve the affordability of their housing through lower expected energy and water bills etc for their tenants. The Issue Paper on Social Housing accompanying the CRIS, notes that social housing tenants tend to have lower than average incomes and they are particularly vulnerable to rising energy and water costs. It is imperative therefore that the providers of such housing are aware of the true living costs of their properties and of ways in which to improve their environmental performance and reduce operating costs.

In line with our earlier commentary on the need for complementary measures, the incentives that are available for social housing providers to improve the environmental performance of the properties they provide, should be considered, rather than automatically excluding social housing from the mandatory disclosure scheme.

In addition, excluding social housing (largely government provided) from the proposed mandatory disclosure scheme could have unintended consequences such as signalling to the residential market that environmental improvements to houses is an expensive undertaking and really only an option for higher income groups within the community.

- The Institute also recommends that the suite of government policy activity directed at energy efficiency would benefit from the implementation of an aspirational target for energy efficiency. This is in line with the Prime Minister's Taskforce on Energy Efficiency report which states, "*an aspirational target for energy efficiency informed by a realistic estimate of what additional energy efficiency policies can achieve, could help track progress towards a step change, providing motivation and guidance for action and contributing to a shared understanding of Australia's energy efficiency goal*".

A number of countries have set such targets and the Institute would argue that the setting of short, medium and long term targets would assist the Government in its progress towards its GHG emissions reduction target of 80% reduction by 2050.

