

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:	Green at Heart
Name of Author:	Sophie Barrett
Phone Number:	0740383558
Email:	sophie@greenatheart.com.au
Website:	www.greenatheart.com.au
Date:	11-9-11

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

This has to be implemented seriously if it is to work. Only Options 1 or 2 should be considered.

Sustainability Declarations in QLD

We have experienced the Sustainability Declaration in Queensland which was introduced as the precursor to Mandatory Disclosure. Originally, there was a lot of panic as people thought there would be a lot of work involved. Agents were unsure about it and there was not a lot of support provided by the government. It was also **bought in too quickly** and over a Christmas period, **not giving agents and assessors enough time to prepare.**

There was also a **lack of information available to RE agents.** Green at Heart held information forums for the real estate industry and the public which were well attended.

The **fact that it was not enforced** has meant that 95% of the agents we had initial contact with are just **advising their clients not to worry about the SD**, and to just list one or two things on it if they want to and to leave the rest blank.

This has **devalued the service.** Many of the agents we have talked to have just advised the clients to just sign it and leave it blank. We think this is due to the clause where it has to be filled in to the best of their ability and they can just claim that they don't know anything about it.

A few of the **agents were asking** us, when we offered them the service to help the client with the SD **“What's in it for me”?**

To use a “self assessable” model leaves it open to abuse or even just to not be taken seriously by the real estate industry. The industry needs good education and support and to understand the value of the MD system.

There was also a lot of confusion with people about how to fill it in, hence the need for an independent qualified assessor.

Any model to be considered must be enforced by an external body. A register of energy ratings could be provided in a central location for each property. Maybe an online version.

Assessors should be well trained having at least software qualifications in BERS or equivalent **and** Certificate 4 in home sustainability Assessment, to stop just anyone conducting assessments. Their needs to be a quality standard set to make sure that the data is valid. Builders, pool fence installers and tradespersons all started offering to do sustainability declarations with no previous experience or qualification to do so.

Option 1 seems overpriced, whereas option 2 seems a bit underpriced.

We would consider that a home could be measured, and a drawing by the assessor completed (that would be accurate enough to model in BERS) in about 1 hour. Other information gathering would take about 1 hour. We would then allow 1-2 hours for the assessment and recommendations. So allowing 4 hours at \$100 ph, would make this about \$400 + GST for the assessment.

The advantage of option 1 is that you can use the existing software packages (eg.BERS Pro) and be able to compare the energy rating with that of new homes (or course with the addition of appliances to the new homes modelling).

Option 2 taking 2 hours would be around \$200 +GST.

It is hard to see how this could be achieved and be viable without some plan data being used to determine shading of windows, orientation etc.

Other feedback we have received from doing energy efficiency ratings on new buildings is that it is hard to compare two properties where one uses the BCA DTS method and the other uses the Star Rating.

In Summary

We see the key purpose of Mandatory Disclosure is to make the existing stock of residential houses more energy efficient and give buyers and sellers an economic incentive to upgrade their homes as they will be worth more and be more attractive to renters due to lower energy costs. To be successful in achieving this outcome it has to be an independent assessment. Agents or owners should not be able to complete the assessment as it would **not be truly independent (conflict of interest for agent)** and they also **lack the qualifications**.

Aim is also to encourage people with low rated homes to upgrade them to make them more energy efficient. A client recently (for a new construction) spent about \$1000 to 1 ridge & 4 eaves vents, tinted windows and 1400 fans rather than 900mm raised the rating from 6 ½ Star to 8 Star. It is not expensive to make minor changes to improve the energy efficiency of a building as verified by the ABSA studies.

The primary objective of any option would be to be able to upgrade your home at a minimum cost and achieve more back for sales. For example, to be able to spend say \$2000 to increase your property 2 stars (where each star adds around \$10K to the value of the home) you may increase the value by \$20K. This gives it a commercial value and makes your initial investment worthwhile.

COSTS/BENEFIT ANALYSIS

Assessment cost- \$200- \$400 +GST for basic to detailed assessments

Cost to upgrade home \$2000

Benefits – Potentially \$20,000 additional sales value

Net benefit should outweigh costs if Mandatory Disclosure is implemented correctly and enforced.

Any question please give us a call.

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