

## Submission Template

### Residential Buildings Mandatory Disclosure – Consultation Regulatory Impact Statement - July 2011

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| <b>Confidentiality</b><br>Do you want this submission to be treated as confidential? | <b>NO</b>                             |

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

### 1. General/overall comments

Overall, the RIS does appear to accurately represent the ‘problems’ in understanding the disclosure of information associated with energy efficiency information at point of sale or lease. These problems need to be understood in terms of access to transparent, transportable and audit-able (relevant) information. The manner in which the information is produced and disseminated, the target audience and regulations that support clear and consistent outcomes and the management of information gathering and analysis are thus all of a concern.

While Sustainability House supports and encourages the implementation of a Mandatory Disclosure scheme our concerns as to the RIS are outlined below.

Many of these concerns revolve around how the scheme will function and are (unfortunately) related to the state of the energy assessment and building modeling market as it is currently. We would like to see a Mandatory Disclosure scheme that is focused on the professional development of accredited assessors (for example what *should* be the basis of Option 1 and 2). For this to work and be of a high standard that produces clear and consistent outcomes, the market as it is currently will need further regulation and improvement.

There is a wide spread agreement within the energy assessment industry that there is a greater need for regulation and auditing of reports that are currently being done. The industry is very much ‘self regulated’ and has rouge elements who have little or no understanding of building physics, design or construction. The concern of Sustainability House is thus - if this is not corrected before the introduction of a scheme that these players will want to participate in, then the outcomes of the scheme could be severely jeopardized by those undertaking the work.

To elaborate, some operators seeking involvement in the Mandatory Disclosure scheme may have done a thermal assessment course, and know how to use an accredited software package, but have little understanding of the implications of the work that they are doing. There is also an entrenched situation of assessors working within various building company offices passing their own work (which could be seen as a conflict of interest). For this to be translated into a Mandatory Disclosure framework then the implications could result in vendors “fudging” the figures to get the best possible outcome and assessors employed by agents to produce disclosure documents on their behalf. Not an ideal situation when reduced liability and transparency of assessments should be paramount.

Essentially, the upshot of all this concerns an energy assessment industry that needs to be ‘got in order’ before any scheme like Mandatory Disclosure is rolled out, as the implications of failure could be acute, long lasting and highly damaging, both politically and financially.

Sustainability House supports the proposition that energy modeling and the implementation of mandatory disclosure assessments (under Option 1 or 2) needs to be done by trained professionals who subscribe to a professional industry code of conduct (and one that is enforced!) The reports need to be transparent, audit-able and accountable and based on the training and development of professional who hold recognised qualifications.

If a scheme was implemented with anything less then it would be open to abuse by those seeking to gain an advantage in a playing field that was never properly leveled from the beginning.

Below are a small number of comments based on our initial reading of the RIS documents and attendance at the industry briefing.

Thank you for the opportunity to participate in this feedback.



| C-RIS Section number: | Comments  |
|-----------------------|---|
| Box 2.3               | In some cases the basis of an extended choice in residential tenancy decisions is negated by the number of properties on the market in which to make a choice from – having to effectively “take what you are given” - particularly in the market segment focused on low – medium income rentals. In addition, other 'choices' such as location efficiency and rental outlay per week can be more important for the end consumer rather than energy efficiency. It would be worthwhile considering how energy efficiency associated with mandatory disclosure could be factored into this decision framework and if it was even possible considering the choices available to the consumer. |
| Section 2.2 (p15)     | This is a very important point – identifying cost effective energy efficient opportunities in the building sector needs to be applied to new and existing building stocks. In endeavoring to more efficiently direct activity within the building industry, there could be great opportunities for industry development, building product manufacturing and innovation.   |
| Section 4.1           | Sustainability House supports the introduction of Option 1 and / or Option 2 as a framework for mandatory disclosure assessments. We believe that the industry needs accountable regulation and that Options 3 and 4 would not meet this requirement, leaving assessments open to abuse.  |
| Box 4.1               | From the above - it is vitally important that the tools used for Mandatory Disclosure encourage a level playing field in which the data entered is consistent and the results predictable within a low (agreed) error margin. Sustainability House would be in favor of the NatHERS tools being used as the basis of predictive thermal performance that is correlated against actual and past assessments (as part of Options 1 or 2)  |
| Section 4.2           | Sustainability House does not believe that Option 5 should be used as a mechanism to assist in getting building owners to submit to Mandatory Disclosure. We do believe that it will be very important to develop (better) industry and consumer understanding of the importance of mandatory disclosure. Part of the industry education campaign should be about developing industry professional knowledge about building better buildings and working with the consumers of these buildings to develop greater awareness of what to be considering regarding energy efficiency when undertaking purchases and lease agreements.  |
| Section 4.3           | Allowing owners to “opt-out” - while we agree that allowing vendors to opt-out of an assessment when the future of the property is in question (it being scheduled for demolished for example) - caution needs to be advised that the whole mandatory disclosure data-set is not jeopardized by this.   |
| Section 6.2           | Option 2 - while we support the thermal performance aspect of Option 2 there is a concern as to the proposal that this assessment could be conducted with the absence of floor plans. Particularly when required to assess the thermal performance of the building shell - how this will be   |

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|  | <b>achieved in a cost effective predictive modeling framework WITHOUT floor plans is highly questionable.</b> |
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