

REAL ESTATE INSTITUTE OF AUSTRALIA'S RESPONSE TO THE CONSULTATION REGULATION IMPACT STATEMENT on MANDATORY DISCLOSURE of RESIDENTIAL BUILDING ENERGY, GREENHOUSE and WATER PERFORMANCE

BACKGROUND

A Consultation Regulation Impact Statement (RIS) for the mandatory disclosure of residential building energy, greenhouse and water performance was released on 21 July 2011 seeking stakeholder comment on a number of options, covering a range of models for the disclosure of energy, greenhouse and water information.

As part of the National Strategy on Energy Efficiency the Council of Australian Governments (COAG) agreed in July 2009 to phase in mandatory disclosure of residential building energy, greenhouse and water performance at the time of sale or lease, commencing with energy efficiency. The RIS has been prepared for this initiative.

The Real Estate Institute of Australia (REIA) is the peak national association for the real estate profession in Australia. The REIA's members are the State and Territory Real Estate Institutes, through which around 80% of real estate agencies are collectively represented. The real estate industry employs approximately 77,000 persons with most agencies having less than 10 employees. The REIA represents an important element of the broader property and construction sector which together makes a significant contribution to Australia's social climate and economic development. Property contributes \$300 billion annually in economic activity.

RESPONSE TO CONSULTATION REGULATION IMPACT STATEMENT

The format that the REIA's response to the RIS is to identify the relevant Chapter and page number in the RIS and then provide a response to a particular point. A concluding comment and recommendation is also made.

Chapter 2: The nature and extent of the problem

The RIS contends that there is an "information problem" regarding energy and water performance in the market for existing residential buildings. Further the analysis and conclusions are premised on resolving this information gap.

Whilst the REIA understands the Government's objectives under the National Strategy on Energy Efficiency, it feels that unless the views of consumers, the very group that the measurement of energy efficiency is targeted at, are taken in to consideration it is possible that unnecessarily high costs with little benefit or justification could be imposed.

The experience of the real estate profession in marketing and leasing across Australia is that buyers and renters are aware of the factors that determine energy efficiency ratings (type of construction, insulation, orientation to the north, depth of eaves, glazing, type of heating and lighting, flooring, window coverings, the type and location of trees etc) and already assess and compare properties on these features without quantification.

Furthermore the experience of agents indicates that other attributes of the dwelling, such as location, access to infrastructure (including schools, transport, shopping, and entertainment), proximity to work, garden and standard of kitchen and bathroom(s), are considered to be far more important by buyers and renters than the energy efficiency of that dwelling.

The experience in the ACT, where mandatory reporting of energy efficiency ratings has been in place for a number of years, is a good case study of how consumers use/respond to the availability of a report on the energy rating of particular properties of interest. ACT agents have reported that purchasers and renters of established dwellings have placed the greatest emphasis on the other attributes. Little, if any, consideration is given to the written energy rating in making a decision to buy or rent a particular property. Agents believe buyers and renters are, at best, ambivalent about the energy rating and indeed the majority of agents feel the necessity of an energy rating has imposed an unnecessary cost on sellers and landlords as the information contained within the energy efficiency report is largely ignored.

Indeed the RIS (Box 2.4, page 10) notes that a focus group study in the ACT found that only 15 percent of buyers considered the star rating important or fairly important.

The experience of the ACT would suggest that the basic premise of the RIS, that there is an “information problem” is questionable.

Chapter 4: Options to achieve government objective

The RIS suggests, and makes an assumption in its analysis, that a certificate of assessment (page 23) will include a summary of recommended upgrades and improvements identifying the most cost-effective investments.

The feedback that REIA has had from assessors currently undertaking the types of inspections covered by the options canvassed in the RIS is that whilst they will provide information on how to improve the energy rating of the particular property they do not, because of their reluctance to do so, provide advice on cost effective investments. This reluctance is in part based on their inability to do so – they would need to know the lifestyles of the inhabitants, their power consumption etc – and the fear of litigation in the event that the advice turned out to be incorrect. When a property is being marketed for either sale or rental the assessor has no knowledge of whom the next inhabitant(s) will be, their appliances, their use of their appliances, number of occupants, time spent at home etc.

It would be more sensible to have an assessment done by the new occupant of a dwelling as many of the variables are no longer unknowns and the assessor might thus be prepared to advice on cost-effective investments.

The assumption regarding the information to be supplied is an important one regarding implementation and thus the estimated benefits of the regulatory options in the RIS.

REIA believes the assumption that assessors will provide advice on cost-effective investments is unrealistic and has lead to an over estimation of the benefits from the regulatory options.

Chapter 5: Impact Analysis

It is unfortunate that the base case scenario does not include either any carbon pricing or the impact of the Government’s Home Insulation Program.

One only needs to look at recent reports by Ausgrid and the Australian Electricity Market Operator to gauge the impact that carbon pricing will have on household consumption of power. Against a trend of long term increases in consumption the

past four years have seen reductions of 2% per annum with further cuts forecast as a result of increases in the costs of power. Carbon pricing will exacerbate the reductions.

The impact of both these two initiatives will, without any further action by Government on energy efficiency measures, lead to reduced consumption of power by households and lower greenhouse gas emissions. The consequence is that the benefits under all the RIS options have been underestimated. Whilst the quantum of the underestimation will be the same for all options, proportionally they will be greatest for Option 5 – the non-regulatory option – meaning that the benefit-cost ratio for this option will have the greatest improvement.

REIA is of the view that the inclusion of carbon pricing and the Home Insulation Program in the analysis would improve the benefit-cost ratio of Option 5 the most.

The REIA notes that the RIS has recognised the important role that real estate agents would play in any scheme of mandatory disclosure of energy efficiency. However when it comes to including the efforts of agents in the costing REIA believes these have been greatly underestimated.

The RIS suggests that a real estate agents time will be limited to ten minutes per property to make “one to two phone calls” (page 108). This estimate is predicated on the assumption that an agent’s involvement will be limited to organising an inspection by an assessor.

An agent will however have to educate each vendor and landlord of any requirements regarding energy assessment prior to marketing a property and as such fulfil an enforcement role as well - all requiring a far greater time than the assumed 10 minutes.

The costs of training the real estate agent as well as amending training packages also needs to be taken into consideration in the analysis of the RIS.

A complication is that whilst training of new entrants as to the requirements will be included in their training, coverage for already qualified practitioners would require compulsory professional development – something that may not occur under national licensing which is to commence in 2012 if the current recommendations of a Government Taskforce are implemented.

Further it is assumed that the transition to any new arrangements will be seamless without any delays. In reality this is unlikely to be the case and the opportunity costs for real estate agents and home owners need to be taken into account in the analysis of the RIS options. If for example, a home owner rings up an agent with the intention of having their house listed for sale (or rental) with an open for inspection the coming weekend but is unaware of any requirement for an energy assessment it is most likely that the marketing campaign will be delayed.

The agent will first need to educate the owner as to the new requirements and an assessor will need to be engaged before proceeding to listing the property and for the marketing to commence. It is possible that there will be a considerable lag in having the assessment undertaken until there are sufficient trained assessors. These delays or opportunity costs to the home owner and agent cannot be ignored.

The costs to an agent under any of the regulatory options have been greatly underestimated.

Chapter 5: Findings for discussion

REIA notes from Table 6.1 (page 63) that the two options with the highest Benefit/Cost ratios are options 4 and 5 – the Benefit/Cost ratios for the options 1 through to 5 are 0.54, 1.45, 1.61, 3.00 and 2.74 respectively. Given that there are a number of assumptions underlying the calculations one should be careful not to attribute spurious precision to these calculations. Rather they should be used to draw the general conclusions that: options 4 and 5 provide a greater Benefit/Cost ratio than options 1, 2 and 3; option 1 provides the lowest Benefit/Cost ratio by a considerable degree, and; there is not a great amount of difference in the Benefit/Cost ratios of options 4 and 5.

When one considers the likely impact that the inclusion of carbon pricing and the Home Insulation Program would have on the Benefit/Cost ratios, option 5 would be the preferred option.

A comparison of the public spending and public benefits of each of the options is also a useful test for public policy, particularly when one considers the COAG objectives of this initiative. Doing this we see that public spending exceeds the public benefit for all five options. The net public costs for the five options are \$46m, \$43m, \$86m, \$56m and \$23m respectively. Again, on the basis of net public benefit, option 5 is preferred.

The RIS calculates Benefit/Cost ratios for each of the jurisdictions (pages 156 to 163). Whilst the outcomes of this analysis is broadly consistent with that on a national basis the analysis identifies option 5 as having considerably higher Benefit/Cost ratios than option 4. Thus confirming that option 5 should be the preferred option.

REIA supports option 5 – a non regulatory approach.

REIA notes that each jurisdiction may act unilaterally in implementing any of the options. With the planned introduction of national licensing for the real estate profession in late 2012 the REIA would prefer that the states and territories take a uniform approach. A National Occupational Licensing System for property

occupations was agreed to by COAG as part of its broader agenda for regulatory reform to remove overlapping and inconsistent regulation between jurisdictions.

REIA advocates a consistent approach across all jurisdictions.

The REIA believes that the assertion of the RIS that under option 2 mandatory disclosure improves housing affordability is misleading.

Housing affordability generally refers to the ability of a household with average household earnings to repay a mortgage given a median house price and prevailing mortgage interest rates. As such, under option 2 with a projected increase, albeit very small, in the median house prices (Table 6.9, page 80) affordability decreases.

The RIS assertion is based on a calculation of the present value of the benefits of lower household running costs after the purchase offset against a higher purchase price. Whilst this may be true for home buyers it is the cost of attaining home ownership that is the more important factor. REIA's comments above regarding Chapter 2 are also relevant.

The claim that mandatory disclosure improves housing affordability is misleading.

Concluding Comments and Recommendation

On the basis that the basic premise of the RIS, that there is an “information problem”, is questionable, that the highest benefit cost ratio accrues from Option 5 and the desire to have conformity across jurisdictions the REIA strongly believes that of the options presented in the RIS Option 5, the non regulatory approach, is the preferred one and recommends its acceptance by all jurisdictions.

PREPARED BY

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