

Monday, 8 March, 2010

Mr John Hawkins
Secretary
Senate Economics References Committee
Parliament House
CANBERRA ACT 2600

Email: john.hawkins@aph.gov.au

Dear Mr Hawkins

***Safe Climate (Energy Efficient Non-Residential Buildings Scheme) Bill 2009
Supplementary Submission***

This is a supplementary submission backing up my testimony given to the Senate Economics Legislation Committee on Thursday, 25 February, 2010.

During that testimony, Senators asked some specific questions – these are answered here.

The Property Council reconfirms its commitment to improving the energy efficiency of buildings and lowering their greenhouse gas emissions (GHGs).

In particular, we have proposed incentive schemes, such as accelerated depreciation, that would speed up the retro-greening of existing stock.

We have also supported tougher regulation.

The solutions outlined in our earlier submission to the Senate were simpler and more practical alternatives to the complexity of the proposed legislation.

The current bill is flawed for the following reasons:

1. There is no cost-benefit case for proceeding

The Bill has not been subject to a cost-benefit assessment.

There is no independently verified study that quantifies the carbon that would be abated by the legislation or the cost of doing so in comparison to alternative approaches.

The legislation has no clear target – how much GHG does it propose to abate and at what cost?

2. The Bill adds belts to braces

COAG has already announced schemes that aim to address many dimensions of energy efficiency and GHG in buildings. Most of these are contained in the 2009 *National Strategy for Energy Efficiency*. Appendix A summarises those programs.

The Voice of Leadership

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In addition, the Federal Government is introducing mandatory disclosure in mid-2010.

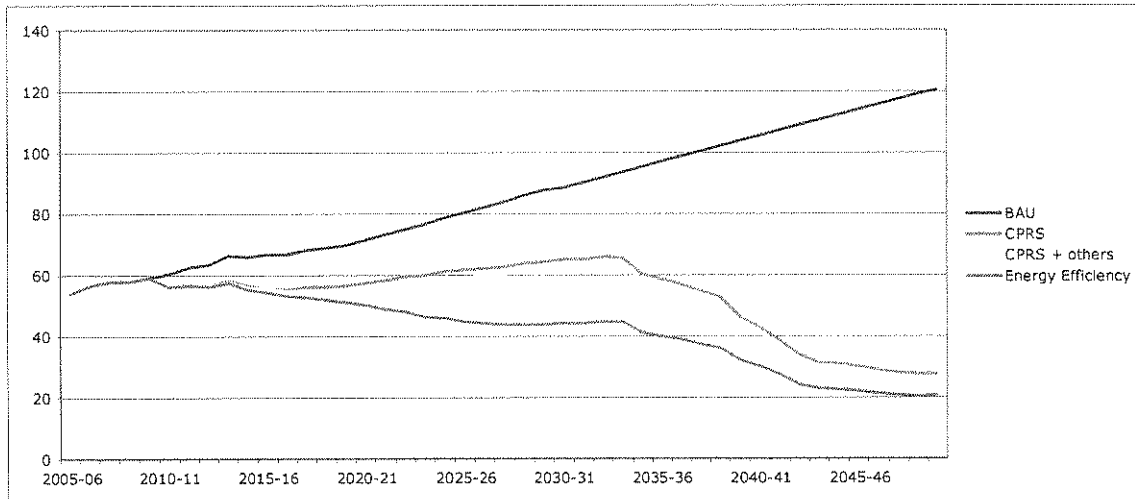
These manifold schemes should be fully operationalised and assessed before further regulation is introduced.

Furthermore, the bill does nothing to rationalise or optimise the panoply of existing schemes.

3. The Bill ignores the impact of the proposed CPRS

According to research conducted by the Allen Consulting Group for the Australian Sustainable Built Environment Council, the CPRS will have a major impact on the non-residential sector.

Commercial sector GHG emissions, Mt CO₂-e (Treasury's estimates)



Source: *The Second Plank Update* – 10 December 2009 (unpublished), Allen Consulting Group

The analysis, using Treasury/ABARE updated coefficients, shows that the CPRS will do a lot of the heavy lifting in the building sector.

The CPRS will reduce GHG emissions in the building sector by 74.6% against the 'business as usual' (BAU) scenario by 2049/2050.

Already announced government policies add a further 3.8 percentage points and additional energy efficiency measures could add a five percentage points of abatement.

In short, the sector's potential is an 83.4% improvement on BAU, with the CPRS doing the majority of the work.

This represents considerably more than the 60% abatement figure called for by many commentators.

A copy of the updated ASBEC *Second Plank* report is attached. This report incorporates recent Treasury/ABARE assumptions.

The evidence submitted by other parties that have referenced the *Second Plank* report does not, and is therefore obsolete.

Please note the published version of the report provides data to 2030.

4. The proposal is inequitable

Under the Bill, property investors will be penalised for owning buildings that fail to meet a performance benchmark.

There is no science to this benchmark – it is a mathematical average that gets progressively tougher (based on a yet to be determined methodology).

By definition, 50% of space will fail to meet the standard in the first year. Ultimately, the majority of space will fail to meet the benchmark.

There is no equity in a mathematical average. There are dozens of reasons why a building will not meet an average – climate, site orientation, type of tenant, operating hours, complying with public sector OH&S requirements, plant type etc.

These factors will impact on similar buildings in the same precinct in totally different ways.

The behaviour of tenants will also have a huge impact on a building's overall energy load, which means owners will be held responsible for factors over which they have little control.

Senator Cameron specifically sought data about the relationship between building age and GHG emissions intensity.

In a recent Australian study, "Office building characteristics and the links with carbon emissions"¹, Sara J Wilkinson and Richard G Reed analysed this relationship for Australian buildings.

They conclude that older buildings consume more energy and emit more GHGs per square metre.

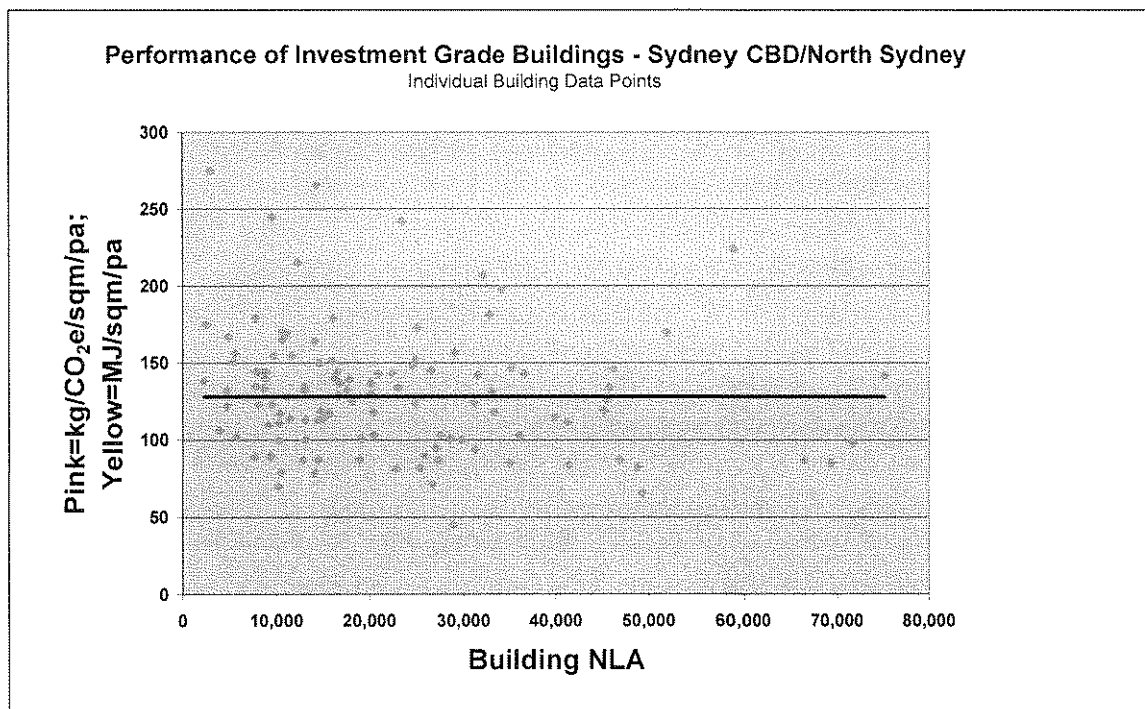
As they note, there is a "... *positive correlation between age and obsolescence, with older buildings severely disadvantaged due to varying degrees of unavoidable obsolescence including functional, economic and technological*".

Senators may also wish to note that smaller buildings are also far less efficient than large premises, and so are likely to be unjustly penalised by the proposed scheme.

For this reason, the legislation is fundamentally unfair.

Here is the distribution of 115 investment grade buildings in Sydney in terms of the greenhouse gas intensity.

¹ In *Structural Survey*, Vol.24 No.3, 2006, pp. 240-251



Under the legislation, owners of every building that records more than 127 kg of CO₂-e per annum will pay money to the owners of every building below that meaningless average.

The Bill proposes to toughen the benchmark every year. Average performance will only be good enough to protect owners from this new tax in the first operating year of the scheme.

In addition,

- it is unlikely there will be enough certificates to trade in the first year, given the typical distribution of buildings noted above; and
- owners are likely to stockpile certificates given the annual increase in stringency proposed by the scheme.

5. The legislation creates a churning system of credits and compliance cost

The legislation aims to establish a mechanism that transfers value from 'brown' building owners to 'green' building owners.

The principal targets of the CPRS involve less than 1000 participants. This scheme will capture tens of thousands of property investors in a massive tax and transfer churning system.

The overwhelming majority of non residential building owners by number are SMEs.

A simpler approach would provide an incentive for the owners of older (brown) buildings to upgrade, rather than penalise them.

Building owners taxed by the proposed scheme will inevitably seek to recover those costs from their tenants.

6. The proposal is expensive

As noted, the legislation has not been subject to a cost-benefits analysis.

Some proponents argue the scheme will only cost \$500 per building to administer. However, this fails to account for:

- the scheme's extensive record keeping, reporting and auditing requirements; and,
- the fact that, by definition, **more than half the space covered by the scheme will be subject to a penalty**. The proportion of penalised property will increase, by definition, every year.

In short, the scheme represents a huge impost, on top of the CPRS, on top of existing regulatory requirements and on top of the \$32 billion in annual taxes already paid by the property sector.

It should also be noted that penalties paid by property investors to the Government are not hypothecated to the greening of the property sector.

7. Double Counting and Additionality

Supporters of the Bill argue that the CPRS and the Bill's 'energy efficient mechanism' are fungible and that there is no double counting.

The Bill *does not* address the double counting issues raised by Garnaut and others. In particular, energy saved through buildings does not reduce the cap for principal polluters targeted by the CPRS.

Arguably, the failure to do so makes it easier for polluters to meet their obligations without purchasing additional permits.

Nor does the Bill address the rebound effect, whereby improvements in energy efficiency simply result in higher spending (consumption) in other sectors.

These matters need to be sorted prior to introducing further complexity into the policy mix.

8. Voluntary Approaches Have Not Been Tried

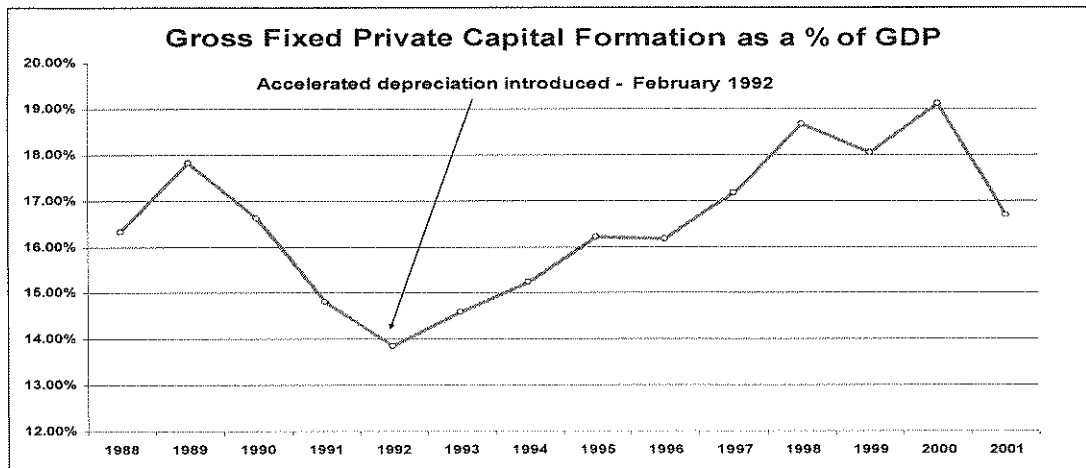
Some argue regulation is needed because voluntary approaches have failed.

This ignores the fact that it is widely acknowledged that commercial building energy intensities have improved incrementally and inexorably for the past 30 years.

Therefore it is wrong to say that voluntary schemes do not stimulate energy efficiency improvements.

In addition, no country has implemented a comprehensive accelerated (green) depreciation.

The last time Australia implemented accelerated depreciation, in 1992, it had an immediate positive impact on private investment. Tying the measure to a green performance target is a far simpler approach to the high churn, high compliance mechanism proposed by the legislation.



White certificate systems have not been tried comprehensively in Australia. We need a national approach that specifically targets the property sector. White certificate systems have been successful in Europe, particularly in Italy.

Conclusion

The Property Council has proposed an integrated approach to improving energy efficiency in buildings and precincts. Its package of measures comprises regulatory and voluntary approaches, including:

- accelerated (green) depreciation;
- a nationally integrated energy efficiency certificate system;
- a nationwide building tune-up program;
- smarter regulation via building and planning codes;
- rate relief and development incentives for green buildings; and,
- red tape reduction strategies.

The Property Council is very happy to elaborate on any aspect of this submission.

Yours sincerely

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Australian Government/COAG Sustainability Programs for the Built Environment

Version 4.2: 18 January, 2010

<p>1. Building Codes</p> <ul style="list-style-type: none"> Devise a standards setting and assessment framework (the National Buildings Framework). Upgrade BCA energy requirements for residential buildings. Upgrade BCA requirements for commercial buildings. 	<p>2. Reporting</p> <ul style="list-style-type: none"> Implement mandatory disclosure of energy use in commercial buildings. Develop mandatory disclosure regime covering energy/GHG and water for residential buildings. Implement NGERs. Enhance EEO scheme. NFEE energy efficiency data project (Baseline Study). ABS energy, water and environment survey. 	<p>3. Rating Tools</p> <ul style="list-style-type: none"> Improve and Expand NABERS. Enhance the governance of NABERS Develop draft framework for the home sustainability assessment scheme (to complement Green Loans). 	<p>4. Incentives & Market Transformation</p> <ul style="list-style-type: none"> Establish Green Loans scheme. Establish energy efficiency homes package - homeowner insulation, low emissions assistance plan for renters and solar hot water rebate. Launch Solar Credits scheme. Maintain Green Building Fund. Energy efficiency mechanism. Establish the Australian Carbon Trust, including an energy efficiency trust. Institute an energy efficiency savings pledge fund. Climate Change Action Fund (CCAF) – establish an early action energy program designed to identify energy efficiency opportunities. CCAF – roll out a business information package. CCAF – launch capital investment grants for community organisations. Energy efficient housing options – demonstration homes and Your Home. Examine the energy efficiency of existing housing stock. Roll out Green Precincts Fund. 	<p>5. Government Procurement</p> <ul style="list-style-type: none"> Improve the environmental performance of government buildings – EPCs, green lease policy and national framework government office buildings. Implement energy efficiency government operations (EEC targets). Conduct energy efficiency at of public housing stocks. Implement guidelines for improving procurement practice
<p>6. Appliances</p> <ul style="list-style-type: none"> Expand MEPS. Phase-out inefficient lighting products. Phase-out inefficient greenhouse intensive hot water systems. Mandate the requirement for star rating of appliances. Develop a high efficiency HVAC strategy. 	<p>7. Innovation</p> <ul style="list-style-type: none"> Green Building Fund. Built Environment Industry Innovation Council. R&D Tax Credits. 	<p>8. Renewable & Distributed Resources & Smart Grids</p> <ul style="list-style-type: none"> Establish the Clean Energy Initiative, including solar flagship program. Continue with solar cities program. Launch Smart Grid, Smart City program. Establish national forum on CHP issues in the commercial building sector. Conduct a “demand side participation review” through the Australian Energy Market Commission. House of Reps inquiry into smart infrastructure. 	<p>9. Skills</p> <ul style="list-style-type: none"> Establish Skills for the Carbon Challenge. Rationalise the national training framework for relevant energy efficiency skills after rationalising energy audit and assessment procedures. Develop a National Energy Efficiency Skills Initiative (NEESI). 	<p>10. Planning</p> <ul style="list-style-type: none"> Climate Change Adaptation Community of Interest. National Climate Change Adaptation Research Framework Major Cities Unit urban strategy PM&C Land/Transport Work Party. Capital Cities Kinesis project Metropolitan Governance Convention. Department of Climate Change proposed cities policy.

