



Building Newsflash

PUBLIC BENEFIT TEST– EXISTING RESIDENTIAL CARE BUILDINGS

Purpose

The purpose of this Newsflash is to advise local governments and other residential care industry stakeholders the Departments of Local, Government, Planning, Sport and Recreation and Emergency Services are considering a fire safety improvement strategy for Queensland's existing residential care buildings.

Background

The improvement strategy is the next phase of a fire safety investigation program which began following the Childers' backpacker fire in June 2000.

In July 2006 the State Coroner, during the inquest into the Childers backpacker fire, encouraged clear and enforceable fire safety measures to safeguard residents of high occupation buildings.

Public Benefit Test (PBT)

A PBT is being undertaken to assess the impacts, benefit and costs of an education program or potential regulatory options. Economic Associates Pty Ltd has been engaged to conduct the PBT and consult with industry on the need for, and the suitability of a range of cost effective improvement options.

The PBT will be advertised in the Courier Mail and regional papers on 19 May 2007. Stakeholders will be invited to participate in workshops and/or provide written submissions.

A copy of the Terms of Reference for the PBT is attached.

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TERMS OF REFERENCE FOR RESIDENTIAL CARE IMPROVEMENT STRATEGY

1. A review of the restrictions on competition in the *Building Act 1975* is required to comply with the *Competition Principles Agreement* which Queensland recommitted to under the National Reform Agenda. The review will be undertaken in accordance with Queensland's *Public Benefit Test Guidelines* and will examine restrictions on competition including/comprising:
 - **restrictions on entry to a market, such as licensing or registration requirements** e.g. regulations which impose defined standards on the right to provide a service or to operate a business which provides a service;
 - **requirements for prescribed quality or technical standards to be observed, or specified equipment to be used** e.g. required defined standards to be met prior to the issue of a licence or authority to engage in a particular activity, and making lawful continuation of that activity dependent on compliance with those standards;
 - **restrictions on the conduct of a business** e.g. restrictions on such things as: hours of operation, size of premises, provision of specified facilities etc.
2. The guiding principle is that legislation (including Acts, enactments, Ordinances or regulations) should not restrict competition unless it can be demonstrated that:
 - (a) the benefits of the restriction to the community as a whole outweigh the costs; and
 - (b) the objectives of the legislation can only be achieved by restricting competition.
3. Without limiting the terms of reference of the review, the review should:
 - (a) clarify the objectives of the legislation;
 - (b) identify the nature of the restriction on competition;
 - (c) analyse the likely effect of the restriction on competition and on the economy generally;
 - (d) assess and balance the costs and benefits of the restriction; and
 - (e) consider alternative means for achieving the same result including non-legislative approaches.
4. Without limiting the matters that may be taken into account, the following matters shall, where relevant, be taken into account:
 - (a) government legislation and policies relating to ecologically sustainable development;
 - (b) social welfare and equity considerations, including community service obligations;
 - (c) government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
 - (d) economic and regional development, including employment and investment growth;
 - (e) the interests of consumers generally or of a class of consumers¹;

¹ In November 2000, CoAG determined that when examining matters governments should give consideration to explicitly identifying the likely impact of reform measures on specific industry sectors and communities, including expected costs in adjusting to change.

- (f) the competitiveness of Australian businesses; and
- (g) the efficient allocation of resources.

5. The improvement strategy will investigate a range of cost effective fire safety measures, including potential regulatory options or an education program.

The scope of the impact (approximately 608 known buildings) and the potential cost means the proposals may have a significant impact on the residential care sector in Queensland.

6. The review should examine whether similar regulatory schemes exist in other jurisdictions and report on any similarities and differences.
7. Consultation should occur with interested parties and the general public, as appropriate.
8. It is anticipated a review report will be presented to the Minister for Local Government, Planning and Sport by 15 October 2007.