

## IS NEW GOVERNANCE THE SILVER BULLET? INSIGHTS FROM THE AUSTRALIAN BUILDINGS SECTOR

### WORKING PAPER

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#### **Abstract**

*New governance is gaining momentum in the addressing of environmental risks. It is often expected that new governance arrangements will achieve higher levels of effectiveness than traditional forms of environmental policy. The current research questions this assumption based on a series of 53 interviews with experts in 15 new governance arrangements in the Australian buildings sector. It finds that these arrangements have, so far, achieved limited success in terms of increased numbers of buildings with high levels of environmental performance. Some lessons are drawn to increase the effectiveness of (future) new governance arrangements.*

#### **Key words**

New governance, environmental governance, public-private policy making, environmental behaviour change

## Is new governance the silver bullet? Insights from the Australian buildings sector<sup>1</sup>

### Abstract

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### 1 Introduction

There is little time remaining to respond to the ecological and social challenges resulting from climate change. One of the biggest risks, a global average temperature increase above pre-industrial levels of over 2 degrees Celsius, may be prevented if the global carbon emissions are significantly reduced by 2050, that is, by a 50 to 80% cut in emissions as of the 2000 levels (e.g. Lynas, 2008; New, Liverman, Schroder & Anderson, 2011; Steffen et al., 2005).

The buildings sector is considered to be an area for quick wins in terms of reduced carbon emissions and addressing environmental risks. This sector presently accounts for roughly 23% of Australia's carbon emissions (CIE, 2007), but with the current technologies reductions of up to 50% of carbon emissions may be achieved in a cost-effective way and without losing the utility of our built environment (Newman, Beatley & Boyer, 2009). The achievement of such reductions through more sustainable construction and use of buildings is addressed in Federal policies and programmes, yet these policies and programmes are criticized for having a limited reach and for moving too slowly to take up the challenges faced and exploit the potential the buildings sector holds to reduce Australia's carbon emissions significantly (Bond, 2011).

In addition to Federal policies and programmes, state and local governments and industry bodies have introduced a wide range of governance arrangements that aim to achieve higher levels of environmental performance in the Australian buildings sector (Beatley, 2009). These arrangements follow what is described in the literature as a novel trend of 'new governance': governance arrangements that are the outcome of a collaborative decision-making process in which governmental and non-governmental actors work together to solve shared environmental problems (e.g. Holley, Gunningham & Shearing, 2012).

Much is expected from such new governance arrangements. Scholars repeatedly refer to these as providing an opportunity for greater legitimacy and effectiveness than traditional modes of governance – that is, steering through direct regulation (Backstrand, Khan, Kronsell & Lovbrand, 2010). However, the literature is critical as well. With new governance gaining momentum, we need to determine whether or not new governance arrangements indeed live up to their expectations. In the face of the environmental risks faced, time seems too short to wait with our studies on the effectiveness of new environmental government arrangements until they have fully crystalized over the next decennia. In other words, the sooner we can report on the success or failure of these

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arrangements, the sooner we can flesh out the design characteristics that may add to successful experiences or change the trajectory of these arrangements for the better (cf. Hoffmann, 2011).

This, then, is the aim of this article. Based on an intensive study of fifteen new governance arrangements in the Australian buildings sector, it questions whether these arrangements are able to achieve significant reductions of carbon emissions. It does so based on a series of in-depth interviews with over fifty representatives of and participants in these arrangements. The article commences with a short discussion of the new governance literature, to introduce the reader to this novel trend and to assess the fit of the various arrangements studied within this trend. It continues with the introduction of the fifteen arrangements studied, and an assessment of these follows. It finds that the overall success of these fifteen arrangements, in terms of the number of buildings with high levels of environmental performance, may be considered low. The article concludes with lessons for the future development and implementation of new governance arrangements.

## **2 New governance: a brief review of the literature**

The literature on new governance avoids drawing up fixed definitions of the concept (cf. De Búrca & Scott, 2006; Holley et al., 2012); it does, however, present a range of characteristics that may be considered to typify new governance arrangements. In the following, these are referred to as characteristics that address the *development process* of a new governance arrangement and the *structure* of a new governance arrangement. It should be noted that not all characteristics need to be fulfilled in order to refer to an arrangement as fitting new governance (cf. Gunningham, 2009a). Finally, this review section concludes with some concerns about new governance as expressed in the literature.

### *2.1 Development process of new governance arrangements*

The first set of characteristics addresses the development of new governance arrangements. A distinction is often made in processes in which new governance arrangements are developed (i) by state actors taking a leading role (Darnall & Carmin, 2005) – a situation that may be typified as ‘old governance’ (Pierre, 2000, p. 3); (ii) through collaborative development processes with an equal power balance between state actors and non-state actors – often resulting in covenants or negotiated agreements (Ansell & Gash, 2008); or (iii) by non-state actors taking a leading role, leaving state actors largely outside the process – often resulting in voluntary programmes or self-regulation (Auld, Balboa, Bernstein & Cashore, 2009).

Although these actor constellations may differ, the actual development process of new governance arrangements is repeatedly found to be characterized by:

- *Participation, participatory dialogue and deliberation*: new governance arrangements are generally the outcome of a flexible and experimental negotiation process involving a wide range of stakeholders (De Búrca & Scott, 2006; Hoffmann, 2011; Lobel, 2004);
- *Collaboration and consensus-building*: the development of new governance arrangements is repeatedly found to be characterized by a move away from interest group competition towards collaboration between different actors and consensus-building rather than full agreement of all the actors involved. Ideally, such consensus-building highlights the advantages and disadvantages for the actors involved, and may help to bridge the diverse and sometimes rival views of them (Blomgren Bingham, Nabatchi & O’Leary, 2005; Bulkeley & Mol, 2003; Healy, 1996);
- *Heterarchy*: the development of new governance arrangements is often considered to be

less hierarchical than traditional governing mechanisms and more heterarchical in nature – i.e. a sharing of power between different actors (Scott & Trubek, 2002; Walters, 2004);

- *Devolved decision-making*: new governance arrangements are often developed and tailored to meet local needs, and decision-making responsibilities are moved towards those agencies and organizations that are actually involved in implementation and execution (Cairney, 2009; HMT, 2004);
- *Context-based integration*: new governance arrangements are considered to take into account the specific social, political and legal characteristics of the context in which they are embedded (Sarra, 2011);
- *Ongoing learning and readjustment*: new governance arrangements are repeatedly found to be flexible and open to readjustment as a result of mutual learning by the actors involved (Hertier, 2002; Scott & Sturm, 2006).

## 2.2 *Structure of new governance arrangements*

Whereas the above set of characteristics focuses on the development of new governance arrangements, the second set of characteristics discussed in the literature centres on the actual structure or design of the arrangements. The following characteristics recur throughout the literature:

- *Flexibility*: whereas traditional governing relied on direct regulation, new governance arrangements come in a wide range of forms to meet local characteristics, actors and interests – i.e. from information disclosure to self-imposed performance standards, and from competitive grants to administrative or legal support (Hoffmann, 2011; Holley et al., 2012);
- *Transparency*: as a result of the particular development process and the (assumed) power balance between the actors involved, new governance arrangements are considered to achieve high levels of transparency. That is, power is shared between the participants, and, by working together, all the actors involved have access to information on the development process. Further, whereas traditional governing relied on state actors to obtain compliance information from those regulated, many new governance arrangements rely on compliance information supplied by their participants (Ansell & Gash, 2008; Carrigan & Coglianese, 2011).
- *Soft law mechanisms*: instead of relying on sanctions for non-compliance, mechanisms such as benchmarking, sharing of best practices and guidelines, and peer pressure through naming and shaming are used to ensure that participants follow the new governance arrangement's internal rules (Scott & Holder, 2006; Scott & Trubek, 2002).
- *Target and results orientation*: aiming for the development of innovative solutions by their participants, new governance arrangements do not rely on prescriptive regulations, but are characterized by an outline of targets and expected results, along with the statement of a deadline to meet these (Carrigan & Coglianese, 2011; Darnall & Carmin, 2005; Jänicke & Jörgens, 2006).

## 2.3 *Critique of new governance: is new governance a panacea for situations in which markets or hierarchies fail?*

Although much is expected from new governance in terms of successfully addressing environmental risks, the literature is critical of new governance as well. As a *practice* new governance may be

criticized for lacking the political accountability structures of more traditional forms of governing: 'The heterarchical character of new governance makes it an uneasy fit with the idea of principal-agent democratic accountability' (Smismans, 2008, p. 875). Also, to a certain extent, new governance is outside the realms of law, which may strengthen this accountability deficit (Scott & Holder, 2006). Further, in practice new governance generally entails the establishment of elitist rather than democratic networks. As a result of self-selection, already powerfully positioned actors gain more power (De Burca, 2010). Then, the ability of businesses to manage the environmental risks they create may be overstated. Theoretically, self-regulation, or self-management, may be expected to result in innovative risk-reduction solutions; however, the empirical evidence shows that businesses have difficulty in dealing with the freedom provided (Hutter, 2011). Finally, in practice new governance arrangements appear to be based on ideological preferences (i.e. deregulation, privatization, collaboration) rather than on a careful assessment of the problems at hand and the actors and interests involved (Delmas & Young, 2009).

As a *theory* new governance is criticized for being too totalizing, too open and setting expectations that are too high. This may partially be due to a scholarly tendency to focus on success stories, leaving aside the opportunity to learn from failures. New governance may run the risk of being considered a panacea for complex societal problems in which markets or hierarchies have failed (De Burca, 2010). As the empirical research shows, new governance is not a one-size-fits-all solution. A particular new governance arrangement may be a success in one context but not in another, or it may be a success for a certain set of actors in a context but not for other actors in that context (e.g. Holley & Gunningham, 2011; Hutter, 2011). Further, as empirical research often fails to support the theoretical claims made (De Burca, 2010; Delmas & Young, 2009; Gunningham, 2009a, 2009b; Holley & Gunningham, 2011), new governance theories may, like the practice, be criticized for being merely normative (Backstrand et al., 2010; Hoffmann, 2011).

### **3 New governance arrangements in the Australian buildings sector**

New governance arrangements in the Australian buildings sector appear to have emerged to fill up gaps in the Federal policies and programmes in the buildings sector. These Federal policies and programmes seek to improve the environmental performance of the buildings sector. From 2003 energy efficiency standards were introduced in the *Building Codes of Australia* (BCA, regulating the construction of new buildings in Australia), aiming to reduce the carbon emissions attributable to the operation of buildings (ABCB, 2010). Over the years these energy efficiency standards have increased in stringency. Further, in 2004 the *National Framework for Energy Efficiency* was introduced (Australian Government, 2004). This National Framework has a strong focus on the construction sector and aims to improve the levels of minimum energy efficiency of design standards; to bring energy efficiency measures to the attention of key-decision makers; and to demonstrate the benefits of energy-efficient technology. Also, in 2009 a *National Partnership Agreement on Energy Efficiency* was signed by the States and the Federal Government, which, again, introduced more stringent standards for the energy efficiency of buildings (COAG, 2009). Finally, in 2010 the *Building Energy Disclosure Act* was introduced. This Act mandates the disclosure of the energy performance of commercial office spaces larger than 2000m<sup>2</sup>. The Act follows on from and formalizes an earlier voluntary energy disclosure tool, the *National Australian Built Environment Rating*, or NABERS (NSW Government, 2011).

Nevertheless, various studies on the Australian buildings sector question whether these Federal policies and programmes are sufficient for meeting the complex problems faced (for an

overview, see Bond, 2011). Two conclusions recur in these studies (AGO, 2006; Johanson, 2011; Maller & Horne, 2011): the existing policies, legislative requirements, and regulations in the Australian buildings sector pay too limited attention to potential improvements of the environmental performance of the residential sector, and they pay too little attention to the existing building stock.

*The various new governance arrangements studied and data collection*

Various authors have discussed the implementation of governance arrangements, which add to the above-discussed Federal policies and programmes, and which aim to improve the environmental performance of the Australian buildings sector (e.g. Beatley, 2009; Kubler, 2007; Newman et al., 2009). The current research builds on a stratified sample of fifteen of such policies and programmes in the Australian buildings sector that show a number of characteristics of new governance arrangements.

These 15 arrangements were selected based on an extensive Internet search using key words such as ‘sustainable development AND Australia’, ‘sustainable building AND Australia’, ‘green building AND Australia’, ‘sustainable construction AND Australia’ and ‘green construction AND Australia’. Based on this extensive Internet search and existing data on new governance arrangements in other countries and other sectors, it is expected that the larger population of these arrangements in the Australian buildings industry may consist of 40 to 100 arrangements (cf. Backstrand et al., 2010; Beatley, 2009; Hoffmann, 2011). Appendix A provides a brief description of the individual arrangements studied and the number of interviewees who discussed the arrangement (note that the interviewees were often aware of and involved in more than one arrangement).

In order to understand the development process of the new governance arrangements, their particular form and their success/failure, a series of in-depth face-to-face interviews was carried out (McCracken, 1988; Richards, 1996). The interviewees were selected using snowball sampling (Longhurst, 2003). This sampling resulted in a pool of 53 interviewees from various backgrounds – i.e. policy makers, administrators, investors, developers, architects, engineers, and property owners. These interviewees were selected for their expert knowledge on and experience with one or more of the arrangements studied. The wider population of potential interviewees may be expected to be around a thousand if the participants in the programmes were to be included. Table 1 provides a brief overview of these interviewees.

Table 1 – Interviewees’ background

<b>Interviewee background</b>	<b>Government</b>	<b>Non-government</b>
Policy maker	4	
Administrator	22	12
Architect, engineer, advisor		5
Contractor, developer		3
Property owner		4
Other		3
<b>Total</b>	<b>26</b>	<b>27</b>

The interviews were based on a semi-structured questionnaire that provided a structure of checks and balances to assess the validity of the findings (cf. Silverman, 2001) – see appendix B for an overview of the interview questions. Further, the interviews were recorded and transcribed into a

report that was sent back to the interviewees for validation (Fielding & Fielding, 1986). Note that the interviewees were often aware of and involved in more than one arrangement. It is expected that this (partly) helps to overcome a sampling bias of arrangement administrators who are overly enthusiastic about their ‘own’ arrangement. Interestingly, many of these administrators were critical of the arrangements in which they were involved. The data were processed by means of a systematic coding scheme (Seale, Gobo, Gubrium & Silverman, 2004) and qualitative data analysis software. By using this approach the data were systematically explored and insights were gained into the ‘repetitiveness’ and ‘rarity’ of experiences shared by the interviewees. Finally, a document study of existing information on these fifteen arrangements and existing research on new governance was carried out to cross-check the validity of the data and findings.

*Assessing the success and failure of new governance arrangements*

Much of the existing literature on new governance arrangements studies the development process of new governance arrangements and questions the success of these processes in terms of the level of participation or collaboration (e.g. Backstrand et al., 2010; Gunningham, 2009a). Successful development processes, then, are those with high levels of participation or collaboration, or processes that are highly inclusive. Most of the arrangements studied in the current research do show high levels of participation and collaboration in their development process, as indicated in table 2.

Table 2 – Overview of the arrangements studied and their new governance characteristics

<b>Arrangement (implementation year* jurisdiction)</b>	<b>Characteristics** (see section 2)</b>									
	<i>Development process</i>						<i>Structure</i>			
	1	2	3	4	5	6	7	8	9	10
<i>Green Star</i> (2002, Australia wide)	x	x	x	x		x				x
<i>Green Port Guidelines</i> (2006, Sydney Ports)	x	x		x	x	x	x		x	x
<i>Sustainable Development Grant</i> (2007, Brisbane)	x			x	x				x	x
<i>Lord Major Sustainability Grant</i> (2007, Brisbane)	x			x	x				x	x
<i>Resource Smart</i> (2008, Victoria)	x	x		x	x				x	
<i>Building Innovation Fund</i> (2008, South Australia)	x	x		x	x				x	x
<i>EnviroDevelopment</i> (2009, Australia wide)	x	x	x	x		x				x
<i>Climate Smart Home Service</i> (2009, Queensland)	x	x		x	x				x	
<i>1200 Buildings</i> (2010, Melbourne)	x	x			x	x	x	x	x	x
<i>CitySwitch Green Office</i> (2010, Australia wide)	x	x		x			x	x	x	x
<i>Environmental Upgrade Agreements</i> (2011, Sydney)	x	x			x	x	x	x	x	x
<i>Green Door</i> (Queensland, 2011)	x	x		x			x			
<i>Better Buildings Partnership</i> (2011, Sydney)	x	x	x	x					x	
<i>Smart Green Apartments</i> (2012, Sydney)	x			x	x				x	x
<i>Energy Efficiency Program</i> (Adelaide, 2012)	x	x		x	x				x	

\* The year of implementation often does not correspond to the year when the development process of the arrangement started; the year of implementation is the year when the arrangement was formally announced as being open to participation.

\*\* 1=Participation, participatory dialogue and deliberation; 2=collaboration and consensus-building; 3=heterarchy; 4=devolved decision-making; 5=context-based integration; 6=ongoing learning and readjustment; 7=flexibility; 8=transparency; 9=soft law mechanisms; 10=target and results orientation.

Note: an ‘x’ implies that the characteristic is present in the arrangement studied.

However, a successful development process is no guarantee that an arrangement will achieve success in terms of high environmental performance of the buildings to which it applies. Assessing new environmental arrangements' success in terms of high environmental performance as an *outcome* is, however, complicated. Given the newness of these arrangements, data are often lacking in terms of actual results – that is, in the buildings sector years and sometimes a decade pass between the design and the construction of a building, and then it often takes a year of occupation to be able to gain insights into a building's environmental performance. As many of the programmes studied were implemented less than five years ago, currently limited data on the environmental performance of the buildings within the programme are available. As such, the risk of research such as that presented here is that it cannot live up to its aim to make *a priori* statements regarding the success of the arrangements studied (cf. Dunn, 2003). Further, a number of ontological and methodological problems limited our possibilities to do so (e.g. Delmas & Young, 2009; Khanna & Brouhle, 2009). For instance, what would have happened without the new governance arrangement? Alternatively, how is the outcome affected by other factors than the new arrangement, and how do these factors interact with the arrangement?

To address this problem, the research reported here studied expert judgements, as expressed by the interviewees, on the *experienced* success or failure of the arrangements studied. Success here was defined as the impact of an arrangement in terms of the take-up by participants (i.e. market coverage), the actions participants take and are willing to take, the environmental impact these may have (i.e. installing a solar panel or fully retrofitting a building) and the speed of an arrangement's growth (i.e. exponential growth in terms of participants or buildings built). It is expected that these well-informed experts are most capable of discussing and understanding the potential impact and success or failure of the arrangements studied (cf. Dunn, 2003). In order to validate these expert opinions, the data were cross-checked with existing documentation (triangulation); causal narratives for each arrangement studied were built based on a range of interviews with different experts involved in the arrangement and secondary documentation (process tracing); and the findings and inferences were shared with the interviewees (member checking) (following on from Creswell & Miller, 2000; Payne & Williams, 2005; Venesson, 2008).

#### **4 Experts' judgements on the effectiveness of new governance arrangements in the Australian buildings sector**

##### *4.1 Limited success in terms of numbers, but a perceived new norm in the buildings sector*

The interviewees were critical regarding the impact of the new governance arrangements in terms of the numbers of buildings built or retrofitted (n=31, 58%). To give some examples, in its 10 years of existence roughly 400 projects have been certified under the *Green Star* arrangement, representing 18% of Australia's central business district (CBD) office space (GBCA, 2012); since its initiation in 2009 roughly 40 projects have been certified under the *EnviroDevelopment* arrangement;<sup>2</sup> roughly 350 tenants, representing about 400 office buildings, have entered into agreements with local councils under *CitySwitch*; fewer than 10 *Environmental Upgrade Agreements* have been signed in Sydney; and fewer than 50 buildings currently participate in the *1200 Buildings* arrangements in

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<sup>2</sup> Note: a project may consist of more than one building – even up to 300 homes in one of the *EnviroDevelopment* projects.



Melbourne.<sup>3</sup> These numbers are bleak when contrasted with the vast size of the Australian buildings sector. For instance, only in the state of Victoria yearly about 45,000 residential buildings are built, and currently Australia holds about 4,500 office buildings.<sup>4</sup>

Thus, in terms of actual buildings built or retrofitted under the various arrangements, it may be argued that new governance in the Australian buildings sector does not live up to expectations. However, as the interviewees explained, the new arrangements have created a noteworthy change at the top end of the commercial buildings sector, where property owners see the advantage of attracting clients who are willing to pay for the extra costs of buildings with high levels of environmental performance. In other areas of the buildings sector, and especially in the residential sector, the interviewee accounts report limited success as the owners of this kind of property do not see the economic value of high environmental performance of their buildings. Table 3 provides a number of typical quotes from the interviews.

Table 3 – Interviewees’ insights into the effectiveness of the new governance arrangements in terms of buildings built or retrofitted

Interview	Quote
Green Building Council of Australia, 15/2/2012 #39	<i>[Q: To what extent do you perceive a change towards more sustainable construction?]</i> For the office market, yes, but other building types have a long way to go.
Sydney City Council, 16/2/2012 #42	If you are not [in a new governance arrangement], if you do not have significant environmental [performance] then there is a very significant risk of actually not being able to attract the premium tenants, and not having the actual capital returns of your buildings that you could have if you were green.
Lend Lease (major developer), 17/2/2012 #47	However, I should note that we are talking about the top end of town here [where the new arrangements are taken up], e.g. government, blue-chip companies, financial institutions, lawyers and accounting firms. But there is another level where the consumers do not currently see the benefit of green [sustainable buildings] and they don’t want to pay for it. And even if they do see the benefit, they probably are not willing to pay a premium for it. This is the next major challenge.
Mirvac (major developer), 17/2/2012 #45	In the top end of the office market you have large tenants, major public companies or large private companies, who take multiple floors. They have made a public commitment to be a sustainable business. That’s driving it in terms of the outcomes of [the new governance arrangement], or energy savings. But in residential, the mums and dads, you don’t have groups of people who come in and say: ‘We all want to buy this.’

However, although the interviewees were critical of the success of the arrangements in terms of the actual number of buildings built or retrofitted, they held positive views about the existence of these new governance arrangements. Their positive views often related to earlier reported normative claims and expectations about new governance (see section 2, this article).

In general, in interviewees’ experience the new governance arrangements have changed the awareness about environmental performance in the Australian buildings sector (n=30, 57%). The new arrangements were considered to have changed, and to continue to change, the perceptions of those involved in the buildings industry (i.e. developers, constructors, financiers, property owners,

<sup>3</sup> Data from administrators in Sydney, 15/2/2012 #39; Brisbane, 2/2/2012 #30; Sydney 15/2/2012 #41; Sydney 16/2/2012 #42; and Melbourne 17/1/2012 #26.

<sup>4</sup> Data from: [www.hia.com.au](http://www.hia.com.au), [www.pulse.buildingcommission.com.au](http://www.pulse.buildingcommission.com.au) and [www.propertyoz.com.au](http://www.propertyoz.com.au).

homeowners, etc.) and to ensure ‘mainstreaming’ of buildings with high environmental performance in this sector. The interviewees stressed that high environmental performance was now considered to be the norm at the top end of the commercial buildings sector, and expect that the various arrangements studied will achieve a similar change throughout other areas in the buildings sector. Table 4 provides a number of typical quotes from the interviews.

Table 4 – Interviewees’ insights into the effectiveness of the new governance arrangements *not* in terms of buildings built or retrofitted

Interview	Quote
Sydney Ports, 15/11/2011 #19	The main aim of the [arrangements is] to initiate thought. To make companies start thinking about the sort of things that can be done, instead of saying to them ‘you have to do this’. And then to provide them with a range of options as examples. Then hopefully they can sit down and say ‘we have never thought of this, but that is a good idea’.
Sydney City Council, 15/02/2012 #34	The strength of [an arrangement] like this is that it creates a culture and a sense of this [high environmental performance in the buildings sector] is the normal way to do it.
Brisbane City Council, 31/1/2012 #27	You get to a tipping point where it becomes the norm. So we don’t have to actually intervene in what will happen naturally. It is about chipping away, and it is about finding our niches – where can we value add or facilitate [through new governance arrangements].
Urban Development Institute of Australia (industry interest group), 2/2/2012 #31	The cycle is very long, but the [commercial] projects that you see in the last two or three years ... I would say it is almost the norm of any project that you see, that it has on its very first page of the brochure that it has these features [as stipulated under a new governance agreement].

#### 4.2 *A need for governmental regulation as a backdrop for new governance arrangements*

Although the interviewees expressed high expectations of the potential of the new governance arrangements to change perceptions in the buildings industry, they are concerned that the new arrangements will not be able to fulfil their potential in a timely manner. The arrangements do not appear to attract participants quickly enough to ensure a 50% reduction of carbon emissions in the buildings sector by 2050. In other words, a changed perception about the importance of higher levels of environmental performance is one thing, but achieving actual results is something different. The interviewees questioned the value of the new governance arrangements in the Australian buildings industry as these are, commonly, not compulsory. That is, participation in most new arrangements is voluntary.

Time and again the interviewees stressed that the success of the new governance arrangements in terms of the actual buildings built or retrofitted would gain from a less voluntary and more compulsory approach (n=30, 57%). Voluntary or quasi-voluntary arrangements were considered to work only if those involved in them see an economical benefit from doing so. As highlighted above, at the top end of the commercial buildings sector property owners may see a clear financial advantage as buildings with high levels of environmental performance may attract a clientele that is willing to pay a premium; however, at the lower end of the commercial buildings sector and in the residential buildings sector this financial gain is often less clear to building owners, who thus are considered to be less willing to participate voluntarily in a new governance arrangement.

As a solution to these issues and the expectation of achieving the promise of the buildings sector to reduce its carbon emissions by about 50% by 2050 (see the introduction to this article), the interviewees, representing both governments and the buildings industry, expect more from government interventions, mandatory requirements and direct regulation. Table 5 provides a number of typical quotes from the interviews.

Table 5 – Interviewees’ insights into the role of government in the new governance arrangements

Interview	Quote
Australian Sustainable Built Environment Council (industry lobby group), 16/11/2012 #21	There was a recognition that we as an organization could only go so far, that industry could only go so far, and that we needed the Government to buy in to that. (...) We operate in an environment where the market drives a lot of things, but in certain areas there needs to be government intervention, or government regulation or government participation in order to push or progress the agenda to the point where it needs to move to.
Australian Green Development Forum, (industry interest group) 3/2/2012 #33	The speed with which we react is out of sync with the problems we face. Although a lot of voluntary programmes make sense, they are not fast enough in addressing problems. Regulation is needed. Yes, there is much change to be seen over the last ten years, but change has only occurred at the top end of the construction market. The change at the lower end of the market is well behind what we actually need.
Sydney City Council, 15/2/2012 #41	Mandatory is the way to go. And that probably is a funny answer from somebody who runs a voluntary programme. Well, there probably is room for both. But if we make the changes in the timeline in which we need to make them, then we’ve got to toughen up here.
Adelaide City Council, 21/3/2012 #50	Mandatory has got far more rigour. It has far more capability for industry to commit to it. It removes the uncertainty for parties. Parties go into something knowing that there is less flexibility and that there are fewer tradeoffs. ... While with [the new governance arrangement] it comes down to the negotiating capabilities of the parties involved.

Does this all mean that the interviewees would prefer traditional government approaches over new governance arrangements? Certainly not. The interviewees discussed the strengths of mandatory direct regulation and new governance arrangements working side by side.

The interviewees see strengths in new governance arrangements as they allow leadership to be shown and recognized as such. Many of the arrangements allow the participants to use a label or other sign indicating participation for marketing purposes. With this, participants can distinguish themselves from non-participating competitors in the market. As such, the new arrangements were considered to provide a market pull for leaders. However, the interviewees noted that laggards or less ambitious players in the market may need a government push to move into higher levels of environmental performance. Further, new governance arrangements allow for experimentation beyond the minimal regulatory requirements as laid down in the building codes of Australia, yet these building codes were generally considered to be necessary to guarantee, or at least stipulate, a minimal level of environmental performance for the buildings sector. The new arrangements were considered to set new benchmarks, which ultimately may increase the requirements as laid down in the building codes of Australia. Finally, the interviewees expect an increase in the uptake of the new arrangements with the recent introduction of carbon pricing in Australia – the ‘carbon tax’. The arrangements provide the participants with solutions to reduce their carbon emissions and help them to save costs. Table 6 provides a number of typical quotes from the interviews.

Table 6 – Interviewees’ insights into a combination of direct regulation and new governance arrangements

Interview	Quote
Melbourne City Council, 17/1/2012 #26	[Governmental] regulation is very hard to change. The building code is a five-year process to change. So you can say: all these things should be in regulation, but then it forces leadership into something traditional. You won't help businesses to build something that is leading or on the edge and a good investment at the same time.
South Australian Department of the Environment and Natural Resources, 22/3/2012 #51	You always need a pull and a push. Voluntary measures create a pull in the market, and then we come along with a push from minimum standards to get rid of the worst performers. But you still want to pull the people more at the [front end of the market], than having them just sitting above the minimum standards.
Sydney City Council, 15/2/2012 #41	Obviously, being involved in the programme isn't mandatory but with carbon pricing, it's becoming more important for businesses to prioritize energy efficiency.

## 5 Discussion and conclusion: lessons for the design and implementation of new governance arrangements

This article addressed the contemporary trend of new governance arrangements. The existing scholarship speaks highly of these arrangements in regard to their potential to achieve higher levels of effectiveness than traditional direct regulation. This hypothesis is however difficult to assess as many new governance arrangements are too novel to provide us with results that can be contrasted with the results from traditional direct regulation or 'old' governance. However, given the imminence of the environmental risks these arrangements aim to tackle, and the attention they currently attract in both scholarship and policy practice, we need to determine whether the first experiences with these new governance arrangements point in the direction of success or not. Put differently, will these arrangements help to reduce significantly (and possibly up to 50%) the global carbon emissions of the buildings sector by 2050 (as of 2000 levels)?

This then was the aim of the current article: to gain an early insight into the effectiveness of a range of new governance arrangements in the Australian buildings sector. A stratified sample of fifteen arrangements, which showed a number of new governance characteristics, was studied comparatively based on a series of interviews with over fifty experts within these arrangements. Understanding the care with which the mostly qualitative and anecdotal data collected need to be treated, three findings stand out that are relevant to our future thinking of new governance. Table 7 (page 13) provides an overview of these and relates these main findings to the various interviewees.

First, overall, the 15 arrangements studied here *do not live up to their theoretical expectations* in terms of effectiveness: a point stressed both in the interview accounts (n=31, 58%) and in the secondary data. Partly this relates to the infancy of the arrangements studied. Over half of these had been in force for less than 3 years. That said, even the success of the most prosperous and most mature arrangement studied, *Green Star*, may be considered moderate. Over its 10-year life span, roughly 400 projects have been certified as meeting criteria that indicate higher levels of environmental performance – with the highest take-up in the office market (18%). In short, the early-day evidence presented in this article does not point in the direction of clear success of new governance arrangements in terms of effectiveness –in terms of both actual numbers and swiftness.

Second, notwithstanding the limited success in effectiveness, the interviewees discussed a *transformative function* of new governance arrangements (n=31, 57%). According to the interviewees, the strengths of the new arrangements lie in their potential to achieve a change in the

Table 7 – main findings

Finding	Expressed by		
	Government	Non-government	Total
The arrangements do not live up to their theoretical expectations in terms of effectiveness.	12 (46%)	19 (70%)	31 (58%)
The arrangements have a transformative function (a perceived change in attitude towards green buildings).	13 (50%)	17 (63%)	30 (57%)
The arrangements may perform best in the shadow of hierarchy.	15 (58%)	15 (56%)	30 (57%)

perception of and attitude towards buildings with high levels of environmental performance in the buildings industry. Such a change of attitude may be an outcome of the deliberative and collaborative development process of the arrangements. Actors in the buildings industry may learn valuable lessons by thinking about solutions to a shared problem – that is, carbon emissions and their impact. Such reasoning echoes the discussed highly normative expectations of the capabilities of new governance discussed in the literature, but does not, however, provide irrefutable evidence that these normative expectations actually materialize.

Third and finally, environmental governance arrangements in the Australian buildings sector are commonly voluntary in terms of participation. The interviewees stressed the importance of backing up these new arrangements with mandatory requirements to utilize the potential the buildings sector offers for a 50% reduction of carbon emissions by 2050 (n=30, 57%). This finding stresses other critical assessments of new governance that observe that new arrangements may perform best in the *shadow of hierarchy* (cf. Backstrand et al., 2010; Gunningham, 2009a; Hertier & Lehmkuhl, 2008).

To conclude, in one of the interviews (Sydney City Council, 16/2/12 #42) an administrator of a new governance arrangement raised the following question:

Is this [new governance] the silver bullet? Probably not. But it is just another angle I think we have to try out and we will see the results over the next years.

Based on the above-discussed research, it may be concluded that such a ‘wait and see attitude’ towards new governance arrangements is not in place. Policy makers, practitioners and scholars continuously need to monitor these arrangements’ performance. The normative expectations of these arrangements may very well be too blinding to accept that this new experimental form of environmental governance will not achieve the expected results.

## Appendix A – Overview of the voluntary governance arrangements studied

1. *Green Star* (2002, Australia wide)  
Green Star is a *best-of-class benchmarking* tool that provides developers with the ability to distinguish buildings with high levels of environmental performance from buildings with lower levels of environmental performance using a form of labelling.<sup>5</sup> (Arrangement discussed with 30 interviewees.)
2. *Sustainable Port Guidelines* (2006, Sydney Ports)  
The Guidelines provide information and assistance to sustainable development in a port environment. The Guidelines mainly aim to provide information on sustainable development.<sup>6</sup> (Arrangement discussed with 6 interviewees.)
3. *Sustainable Development Grant* (2007, Brisbane)  
The Sustainable Development Grant may be characterized as a competitive *best-performance grant* that aims to take away the first-mover disadvantages faced by developers in designing innovative solutions that may result in the improved environmental performance of commercial buildings.<sup>7</sup> (Arrangement discussed with 9 interviewees.)
4. *Lord Major Sustainability Grant* (2007, Brisbane)  
The Lord Major Sustainability Grant follows the Sustainable Development Grant discussed above, but focuses on non-commercial and residential buildings.<sup>8</sup> (Arrangement discussed with 6 interviewees.)
5. *ResourceSmart* (2008, Victoria)  
ResourceSmart provides a range of financial incentives. Among others, households and businesses can obtain rebates on energy and water efficiency improvements.<sup>9</sup> (Arrangement discussed with 6 interviewees.)
6. *Building Innovation Fund* (2008, South Australia)  
The Building Innovation Fund is a competitive *best-performance grant* and follows the structure of the Sustainable Development Grant discussed above.<sup>10</sup> (Arrangement discussed with 5 interviewees.)
7. *EnviroDevelopment* (2009, Australia wide)  
EnviroDevelopment is a *best-of-class benchmarking* tool, following the structure of Green Star discussed above.<sup>11</sup> (Arrangement discussed with 23 interviewees.)
8. *ClimateSmart Home Service* (2009, Queensland)

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<sup>5</sup> Information from interviews and [www.gbca.org.au](http://www.gbca.org.au).

<sup>6</sup> Information from interviews and [www.sydneyports.com.au](http://www.sydneyports.com.au).

<sup>7</sup> Information from interviews and [www.brisbane.qld.gov.au](http://www.brisbane.qld.gov.au).

<sup>8</sup> Information from interviews and [www.brisbane.qld.gov.au](http://www.brisbane.qld.gov.au).

<sup>9</sup> Information from interviews and [www.resourcesmart.vic.gov.au](http://www.resourcesmart.vic.gov.au).

<sup>10</sup> Information from interviews and [www.sa.gov.au](http://www.sa.gov.au).

<sup>11</sup> Information from interviews and [www.EnviroDevelopment.com.au](http://www.EnviroDevelopment.com.au).

Under the ClimateSmart Living programme, the Queensland Government provides competitive *best-performance grants*, rebates and funding to households and businesses, aiming at voluntary improvement of their buildings' environmental performance.<sup>12</sup> (Arrangement discussed with 5 interviewees.)

9. *1200 Buildings* (2010, Melbourne)

1200 Buildings addresses a particular problem for owners of commercial property: the difficulty of obtaining funding for retrofitting their buildings. Under the arrangement, the City of Melbourne enters into agreements with commercial property owners and finance providers to overcome this financial barrier. The finance provider lends funds to a building owner for environmental upgrades to its buildings, and this loan is repaid through a local council charge on the land – i.e. the local council charges a fee, which is then used to pay off the loan.<sup>13</sup> (Arrangement discussed with 9 interviewees.)

10. *CitySwitch Green Office* (2010, Australia wide)

CitySwitch Green Office is a national programme aiming to improve the energy efficiency of Australia's office space. The programme brings together office tenants, provides information regarding how they can improve their environmental performance and gives them a voice in addressing their landlords.<sup>14</sup> (Arrangement discussed with 9 interviewees.)

11. *Environmental Upgrade Agreements* (2011, Sydney)

This arrangement mirrors 1200 Buildings as discussed above.<sup>15</sup> (Arrangement discussed with 8 interviewees.)

12. *Green Doors* (Queensland, 2011)

Green Doors aims to take away the legal barriers that may stand in the way of implementing innovative solutions in the buildings sector.<sup>16</sup> (Arrangement discussed with 4 interviewees.)

13. *Better Buildings Partnership* (2011, Sydney)

Through the Partnership the City of Sydney and its major commercial landlords aim to overcome the existing barriers that landlords face in improving the sustainability performance of their buildings and to achieve substantial improvements in the environmental performance of their buildings.<sup>17</sup> (Arrangement discussed with 7 interviewees.)

14. *Smart Green Apartments* (2012, Sydney)

Through the Smart Green Apartments programme, the City of Sydney provides competitive *best-performance grants* to owner corporations to improve their buildings' environmental performance.<sup>18</sup> (Arrangement discussed with 4 interviewees.)

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<sup>12</sup> Information from interviews and [www.climatesmart.qld.gov.au](http://www.climatesmart.qld.gov.au).

<sup>13</sup> Information from interviews and [www.1200buildings.com.au](http://www.1200buildings.com.au).

<sup>14</sup> Information from interviews and [www.cityswitch.net.au](http://www.cityswitch.net.au).

<sup>15</sup> Information from interviews and <http://www.cityofsydney.nsw.gov.au/council/>.

<sup>16</sup> Information from interviews and [www.dlqp.qld.gov.au/development-applications/green-door.html](http://www.dlqp.qld.gov.au/development-applications/green-door.html).

<sup>17</sup> Information from interviews and [www.sydneybetterbuildings.com.au](http://www.sydneybetterbuildings.com.au).

<sup>18</sup> Information from interviews and <http://www.cityofsydney.nsw.gov.au>.

15. *Low Income Household Energy Efficiency Program* (Adelaide, 2012)

This arrangement mirrors the Climate Smart Home Service as discussed above.<sup>19</sup> (Arrangement discussed with 4 interviewees.)

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<sup>19</sup> Information from interviews and <http://www.climatechange.gov.au/government/initiatives/lieep.aspx>.



## **Appendix B – Interview questions**

1. Why was [arrangement X] developed and implemented?
2. Who was involved in the development and implementation of [arrangement X]?
  - a. Were/are any parties underrepresented in the development of the arrangement?
  - b. Were/are any parties overrepresented in the development of the arrangement?
  - c. How was consensus about the arrangement achieved?
  - d. To what extent were/are parties satisfied with the arrangement?
  - e. What role did/does the Government play in the development and implementation of the arrangement?
3. What are the outcomes of [arrangement X]?
  - a. How many [individuals/organizations] participate in the arrangement?
  - b. How many buildings were [built/retrofitted] under the arrangement?
  - c. To what extent do non-participants know about the arrangement?
4. To what extent may [arrangement X] be considered a success/failure?
  - a. In terms of participants?
  - b. In terms of buildings [built/retrofitted]?
  - c. In terms of achieving actual carbon reductions?
  - d. In terms of cost-effectiveness?
  - e. In other terms?
5. What are the main characteristics of [arrangement X] related to this success/failure?
  - a. Rules (clearness, adaptability, flexibility)?
  - b. Enforcement and monitoring?
  - c. Sanctioning (peer pressure, financial incentives, legal measures)?
  - d. Rewards (access to information, access to government, public recognition, financial gain)?
6. What are the main lessons learnt from developing and implementing [arrangement X?]
  - a. Have these lessons been used to adapt the arrangement?
  - b. Are these lessons shared by the other [participants/administrators]?

## References

- ABC. (2010). *Energy Efficiency Provisions for BCA 2010: Volume Two*. Canberra: Australian Building Codes Board.
- AGO. (2006). *Scoping Study to Investigate Measures for Improving the Environmental Sustainability of Building Materials*. Melbourne: RMIT.
- Ansell, C., & Gash, A. (2008). Collaborative Governance in Theory and Practice. *Journal of Public Administration Research and Theory*, 18(4), 543-571.
- Auld, G., Balboa, C., Bernstein, S., & Cashore, B. (2009). The emergence of non-state market-driven (NSDM) global environmental governance. In M. A. Delmas & O. R. Young (Eds.), *Governance for the Environment* (pp. 193-218). Cambridge: Cambridge University Press.
- Australian Government. (2004). *Statement on National Framework for Energy Efficiency*. Canberra: Australian Government.
- Backstrand, K., Khan, J., Kronsell, A., & Lovbrand, E. (2010). *Environmental politics and deliberative democracy*. Cheltenham: Edward Elgar.
- Beatley, T. (2009). *Green Urbanism Down Under*. Washington: Island Press.
- Blomgren Bingham, L., Nabatchi, T., & O'Leary. (2005). The New Governance. *Public Administration Review*, 65(5), 547-558.
- Bond, S. (2011). Barriers and drivers to green buildings in Australia and New Zealand. *Journal of Property Investment & Finance*, 29(4/5), 494-509.
- Bulkeley, H., & Mol, A. (2003). Participation and Environmental Governance. *Environmental Values*, 12(2), 143-154.
- Cairney, P. (2009). Implementation and the Governance Problem. *Public Policy and Administration*, 24(4), 355-377.
- Carrigan, C., & Coglianese, C. (2011). The Politics of Regulation. *Annual Review of Political Science*, 14, 107-129.
- CIE. (2007). *Capitalising on the building sector's potential to lessen the costs of a broad based GHG emissions cut*. Canberra: Centre for International Economics.
- COAG. (2009). *Council of Australian Governments' Meeting, Communiqué*. Darwin: Council of Australian Governments.
- Creswell, J. W., & Miller, D. L. (2000). Determining Validity in Qualitative Inquiry. *Theory Into Practice*, 39(3), 124-130.
- Darnall, N., & Carmin, J. (2005). Greener and Cleaner? *Policy Sciences*, 38(2-3), 71-90.
- De Burca, G. (2010). New Governance and Experimentalism. *Wisconsin Law Review*, 227, 227-238.
- De Búrca, G., & Scott, J. (2006). *New governance and constitutionalism in Europe and the US*. Oxford: Hart.
- Delmas, M. A., & Young, O. R. (2009). Introduction. In M. A. Delmas & O. R. Young (Eds.), *Governance for the Environment*. Cambridge: Cambridge University Press.
- Dunn, W. N. (2003). *Public policy analysis an introduction*. Harlow: Prentice Hall.
- Fielding, N. G., & Fielding, J. L. (1986). *Linking Data*. London: Sage.
- GBCA. (2012). *Evolution. A year in green building*. Sydney: Green Building Council of Australia.
- Gunningham, N. (2009a). Environmental Law, Regulation and Governance. *Journal of Environmental Law*, 21(2), 179-212.
- Gunningham, N. (2009b). The New Collaborative Governance. *Journal of Law and Society*, 36(1), 145-166.

- Healy, P. (1996). Consensus-building accross Difficult Divisions. *Planning Practice and Research*, 11(2), 207-216.
- Hertier, A. (2002). *Common Goods*. Boston: Rowman & Littlefield.
- Hertier, A., & Lehmkuhl, D. (2008). The Shadow of Hierarchy and New Modes of Governance. *Journal of Public Policy*, 28(1), 1-17.
- HMT. (2004). *Devolving decision making*. London: HM Treasury.
- Hoffmann, M. (2011). *Climate Governance at the Crossroads*. Oxford: Oxford University Press.
- Holley, C., & Gunningham, N. (2011). Natural Resources, New Governance and Legal Regulation. *New Zealand Universities Law Review*, 24, 309-336.
- Holley, C., Gunningham, N., & Shearing, C. (2012). *The New Environmental Governance*. London: Routledge.
- Hutter, B. (2011). Understanding the New Regulatory Governance. *Law & Policy*, 33(4), 459-476.
- Jänicke, M., & Jörgens, H. (2006). New Approaches to Environmental Governance. In M. Jänicke & K. Jacobs (Eds.), *Environmental Governance in Globall Perspective* (pp. 167-209). Berlin: Freie Universitat Berlin.
- Johanson, S. (2011, 22 August 2011). Australian homes still the world's biggest. *The Sydney Morning Herald*.
- Khanna, M., & Brouhle, K. (2009). The effectiveness of voluntary environmental initiatives. In M. A. Delmas & O. R. Young (Eds.), *Governance for the Environment* (pp. 144-182). Cambridge: Cambridge University Press.
- Kubler, D. (2007). Metropolitan Governance in Sydney. *Australian Journal of Political Science*, 42(4), 631-347.
- Lobel, O. (2004). The Renew Deal. *Minesota Law Review*, 89(2), 263-293.
- Longhurst, R. (2003). Semi-structured Interviews and Focus Groups. In N. J. Clifford & G. Valentine (Eds.), *Key methods in geography* (pp. 117-132). London: Sage Publishers.
- Maller, C., & Horne, R. (2011). Living Lightly. *Urban Policy and Research*, 29(1), 59-72.
- McCracken, G. (1988). *The long interview* (Vol. 13). London: Sage.
- Newman, P., Beatley, T., & Boyer, H. (2009). *Resilient Cities*. Washington: Island Press.
- NSW Government. (2011). *National Australian Built Environment Rating System*. Sydney: New South Wales Government.
- Payne, G., & Williams, M. (2005). Generalization in Qualitative Research. *Sociology*, 39(2), 295-314.
- Pierre, J. (2000). Introduction. In J. Pierre (Ed.), *Debating Governance* (pp. 1-12). Oxford: Oxford University Press.
- Pivo, G. (2010). Owner-Tenant Engagement in Sustainable Property Investing. *The Journal of Sustainable Real Estate*, 2(1), 183-199.
- Richards, D. (1996). Elite Interviewing. *Politics*, 16(3), 199-204.
- Sarra, J. (2011). New Governance, Old Norms, and the Potential for Corporate Governance Reform. *33, 4*(576-602).
- Scott, J., & Holder, J. (2006). Law and New Environmental Governance in the European Union. In *Law and New Governance in the EU and US* (pp. 211-242). Oxford: Hart Publishing.
- Scott, J., & Sturm, S. (2006). Courts as Catalysts. *Colombia Journal of European Law*, 13(2), 565-594.
- Scott, J., & Trubek, D. (2002). Mind the Gap. *European Law Journal*, 8(1), 1-18.
- Seale, C., Gobo, G., Gubrium, J. F., & Silverman, D. (2004). *Qualitative Research Practice*. London: Sage.
- Silverman, D. (2001). *Interpreting Qualitative Data. 2nd edition*. London: Sage.

- Smismans, S. (2008). New Modes of Governance and the Participatory Myth. *West European Politics*, 31(5), 874-895.
- Vennesson, P. (2008). Case studies and process tracing. In D. Della Porta & M. Keating (Eds.), *Approaches and Methodologies in the Social Sciences* (pp. 223-239). Cambridge: Cambridge University Press.
- Walters, W. (2004). Some Critical Notes on Governance. *Studies in Political Economy*, 73(Spring/Summer), 27-46.