

Property NewsFlash

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New Mandatory Disclosure of Commercial Office Building Energy Requirements

Australian State and Territory government energy ministers approved the parameters of the new disclosure scheme for office building energy efficiency in November 2009. Commonwealth legislation is now being developed to give effect to the scheme in the second half of 2010.

The following should be considered as guidance only. Further information will follow the enactment of the relevant legislation.

General requirements

The legislation will require that all large commercial buildings disclose an appropriate energy efficiency rating and certificate when they are sold, leased or subleased.

The scheme will require that vendors or landlord's disclose:

- a NABERS Energy base building star rating in any advertisement about the sale or lease;
- a valid Building Energy Efficiency Certificate (BEEC) to prospective purchasers or tenants; and
- a valid BEEC to a central registry within 30 days after a proposed sale or lease is initially advertised.

What is a NABERS Energy Rating?

The NABERS Energy scheme benchmarks the actual operational energy use of existing commercial office buildings, measuring the energy use per m² of NLA.

Each building is awarded a star rating from one star (being poor energy efficiency) to five stars (being exceptional energy efficiency). The star ratings are calculated by;

- adding up the amount of each form of energy consumed by the building or tenant (including

electricity, gas, LPG, oil, coal or other fuels) to calculate the level of greenhouse gas emissions;

- adjusting ('normalising') raw emissions figures to take account of hours of use, occupant and equipment density and climate;
- dividing the 'normalised' emissions figure by the rated area, to give the emissions per unit of rated space (kilograms of CO₂ per m²); and
- comparing the emissions per unit of rated space against benchmarks to award a star rating.

The NABERS Energy scheme benchmarks can provide a number of different ratings with respect to a commercial building. The types of rating which are available are as follows.

- Tenancy – Rates office space within a building covering tenant light and power only. This may include tenancy air-conditioning if this has been installed to service particular tenant loads, but does not include central services normally provided by the landlord.
- Base Building – Rates central services and common areas of the building.
- Whole Building – Rates a combination of the above which should include all energy entering the building used for providing services to the occupants of the space.

Which buildings will be covered by the new legislation?

The measure will initially cover only Building Code of Australia (BCA) Class 5 buildings with a net lettable area (NLA) of 2000m² or more.

BCA Class 5 buildings are defined as office buildings used for professional or commercial purposes. It includes any building designed for, or physically



capable, of professional or commercial use whether or not they are actually being used for that purpose. It does not include buildings in retail, car park, storage, production and public building classifications of the BCA.

It is anticipated that the category of buildings covered by the new legislation will be expanded over time.

Which buildings are exempt from the disclosure requirement?

It is anticipated that the following buildings will not require a BEEC:

- New office buildings that are less than 12 months old. This is because they will not have sufficient energy use data to obtain a BEEC.
- Buildings where it is not feasible to prepare a valid BEEC due to no fault of the vendor. One such example would be where there is inadequate metering.
- Short, temporary or emergency leases which are negotiated for a period of less than 12 months. The disclosure requirement would arise where such leases were subsequently extended beyond 12 months.
- Special classes of buildings such as places of worship, temporary buildings and buildings which are to be demolished.
- Building owners will need to request exemption, supported by evidence, prior to the point in which the disclosure obligation would arise.

What must the BEEC contain?

The content of the BEEC will be prescribed by the legislation and will be dependant on the nature of the transaction. The main scenarios are as follows:

- Sale - When a commercial building,

containing one or more tenancies, is sold, the following information will need to be disclosed to a prospective purchaser:

- the base building rating;
- lighting details for tenancies greater than 2000 m² NLA within the building; and
- base building and tenancy energy efficiency guidance.

- Lease - When a commercial building, or any area of that building greater than 2000m² NLA, is leased, the following will need to be disclosed to a prospective tenant:

- the base building rating;
- tenancy lighting details for the whole building; and
- base building and tenancy energy efficiency guidance.

- Sub-lease - When a commercial building, or any area of that building greater than 2000m² NLA, is sub-leased, the following will need to be disclosed to a prospective subtenant:

- tenancy lighting details for the whole building; and
- tenancy energy efficiency guidance.

NB: The base building rating and base building energy efficiency guidance should also be disclosed if they are available to the landlord.

Energy efficiency guidance requires that the vendor or landlord list opportunities for improving the energy efficiency of the building. Each BEEC will be valid for 12 months.



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