



COMMERCIAL BUILDING DISCLOSURE PROGRAM—UPDATE AUGUST 2011

BEED Act – one year old on 1 July 2011!

It is just over one year since the *Building Energy Efficiency Disclosure Act 2010* (BEED Act) commenced and it is worthwhile reflecting on what has happened over this period.

The most noticeable change has been the significant increase in the numbers of buildings which have received NABERS Energy ratings since the BEED Act commenced. In the 2009-10 financial year, 406 office buildings received a NABERS Energy base or whole building rating. For the 2010-11 financial year, 962 buildings received a NABERS Energy base or whole building rating, a 130 per cent increase on the previous year.

On-going consultation with industry has been undertaken through two bodies - the Commercial Building Disclosure Implementation Forum provides industry input and advice to improve the effectiveness of the CBD program. The Shared Services Expert Group is examining how buildings or groups of buildings with mixed uses and shared services can best be treated under the BEED Act. As a result of this consultation, amendments were made in November 2010 to the *Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination* (Minister's Determination) concerning mixed use buildings and buildings which have undergone major refurbishments. Further amendments have been recently made - see note below 'Change to major refurbishments'.

Release of the CBD Tenancy Lighting Assessment Rules for Offices

Following further industry consultation in early 2011, the Department finalised the *CBD Tenancy Lighting Assessment Rules for Offices*, and has released the document on the CBD website.

Change to the methods and standards of assessment

The *Building Energy Efficiency Disclosure Determination 2011* (the Secretary's Determination) has been amended to include the CBD Tenancy Lighting Assessment for Offices Rules. In addition, to avoid doubt about using pre-existing NABERS and Lighting assessments when applying for a Building Energy Efficiency Certificate (BEEC), the Secretary's Determination has specified that an acceptable method and standard of assessment of the energy efficiency of a building or energy efficiency of the lighting of a building or area of a building, is to use pre-existing ratings or assessments that have been certified. Further details on these changes are provided in a guidance note on the CBD website <http://www.cbd.gov.au/FactSheets.aspx>.

Change to major refurbishments

Previously, the *Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination* (Minister's Determination) provided that buildings were not disclosure affected if they were undergoing or had undergone a major refurbishment and a certificate of occupancy would be issued or had been issued in the past two years. As a result, a building owner had to determine when the major refurbishment commenced which caused it to not be disclosure affected.

Industry representatives have advised the Department that these provisions have caused some uncertainty about whether a building that is undergoing a refurbishment is disclosure affected or not. In some jurisdictions it is unclear if a certificate of occupancy will be issued following works, and in others a new certificate of occupancy is never issued.

Changes have been made to the Minister's and Secretary's Determinations to clarify the disclosure obligations of buildings undergoing a major refurbishment. These can be accessed via the legal responsibilities page on the CBD website, while further details on the changes are provided



in a guidance note on the CBD website <http://www.cbd.gov.au/FactSheets.aspx>.

CBD assessor accreditation

CBD Accredited Assessors will be able to undertake NABERS Energy ratings, Tenancy Lighting Assessments, and lodge applications for BEECs on behalf of clients. To become a CBD Accredited Assessor, a person will need to be an existing NABERS Accredited Assessor who has completed:

- a successful supervised Energy for offices rating or, if the NABERS Accredited Assessor became an assessor before supervised ratings, one Energy for offices rating that has been certified by the NABERS National Administrator; and
- training in the application of the Tenancy Lighting Assessment Rules for Offices and a training module about the CBD program.

The prescribed fee for CBD accreditation is \$350 (GST free).

Tenancy Lighting Assessment training

Over 170 NABERS assessors have taken the first step to becoming CBD Accredited Assessors by completing the Tenancy Lighting Assessment training held in all capital cities in June and July. If you are an existing NABERS assessor and wish to attend a training session, please contact the NABERS team (ph 02 9995 5000) to get your name on the waiting list.

CBD Assessor training module

As well as completing the Tenancy Lighting Assessment training and examination, assessors must also complete the CBD Program training module. This module is an online, interactive course that provides information about the CBD program, CBD accreditation, working as a CBD Accredited Assessor and powers and obligations under the CBD legislation. It is a 90 minute course which can be completed online at any time. There is a short multiple choice test at the end of the module which must be successfully completed.

Applying for a BEEC before 1 November 2011

From 1 November 2011, a Building Energy Efficiency Certificate (BEEC) will be required to be obtained and registered to meet disclosure obligations under the BEED Act. A BEEC will include a NABERS Energy rating, a Tenancy Lighting Assessment and generic energy efficiency guidance (which is provided in the *Building Energy Efficiency Disclosure Determination 2010*).

During the transition period, a NABERS Accredited Assessor can provide NABERS assessments to comply with the transition arrangements. However, only a CBD Accredited Assessor will be able to apply for BEECs.

Parties interested in obtaining a BEEC in the lead up to 1 November 2011 will be able to use an existing, current NABERS rating and a tenancy lighting assessment done by a CBD Accredited Assessor.

Application forms for BEECs will be made available in the coming weeks on the CBD website.

Compliance matters

The Department has contracted a company to prepare monthly reports on potential breaches to the BEED Act based on advertising data. If a disclosure affected building or area is found to have been offered for sale, lease or sublease without an up-to-date energy efficiency certificate, or a current exemption, the Department will initiate an investigation.

In the first instance, CBD staff will contact the building owner by phone or in writing to discuss the requirements of the Act. Building owners have been highly responsive to investigations from the CBD Team and addressed any suspected breaches by removing advertising that does not comply with the BEED Act. All compliance matters are assessed in accordance with the CBD Education, Compliance and Enforcement Policy available at <http://www.cbd.gov.au/Compliance.aspx>. Guidance about advertising is available at <http://www.cbd.gov.au/FactSheets.aspx>.

Information seminars

The Department will be holding information seminars in the last week of September to explain the next stages of the CBD program leading up to 1 November 2011, when the full disclosure obligations commence. Details of the dates and location will be released soon on the CBD website and through further updates.

Phase 2 of the CBD program – deferred

The *National Strategy on Energy Efficiency* states that governments will consider expanding the Commercial Building Disclosure program to other types of commercial buildings including hotels, retail centres, educational institutions and hospitals. Expansion of the program (Phase 2) will be subject to further regulatory impact assessment and consultation with industry to decide on appropriate rating tools and disclosure mechanisms and would commence in 2012.

The Standing Committee on Energy (under the Ministerial Council on Energy) has recently agreed to defer consultation until 2012 which would result in Phase 2 being deferred until 2014, subject to the outcomes of the consultation process.

Are you registered to receive updates?

If you would like to receive these CBD Updates please register on the subscription page <http://www.climatechange.gov.au/what-you-need-to-know/buildings/commercial/disclosure/subscribe.aspx>

The CBD program website is at <www.cbd.gov.au>.
