

What is a BEEC and why do you need one?

The Building Energy Efficiency Certificate (BEEC) is a requirement under the *Building Energy Efficiency Disclosure Act 2010* (BEED Act).

The BEED Act established the Commercial Building Disclosure (CBD) program to improve the energy efficiency of Australia's largest office buildings.

The CBD program started on 1 November 2010 and requires sellers or lessors of office space of 2,000m² or more to obtain and disclose up-to-date energy efficiency information in the form of a building energy efficiency certificate (BEEC).

BEECs have three components:

- a NABERS¹ Energy for offices rating (exclusive of GreenPower) for the building
- a CBD lighting assessment for the area of the building that is being sold or leased
- general energy efficiency guidance.

The NABERS Energy rating must be in accordance with the NABERS rules and is either a base building rating, or whole building rating when there is inadequate metering to obtain a base building rating. The lighting assessment must be in accordance with the *CBD Tenancy Lighting Assessment for Offices Rules*.

The general energy efficiency guidance is prescribed under the *Building Energy Efficiency Disclosure Determination 2011* and provides a range of actions that building owners and tenants can undertake to improve the energy efficiency of their buildings or lease. The guidance is standard across all BEECs.

The aim of the BEEC is to provide the commercial office market with credible information about the relative energy efficiency of offices that are for sale, lease and sublease. This will enable potential purchasers and lessees to consider energy efficiency as part of their decision making processes. In so doing, the program empowers the market with information that will encourage energy efficiency improvements.

The BEEC application form is available from the CBD website at www.cbd.gov.au.

When do you need a BEEC?

From 1 November 2011, a BEEC is required if your building is disclosure affected and you are:

- selling your building
- leasing your building, or
- leasing an area of a building that is disclosure affected.

To find out what you need in your BEEC, see the table at the end of this document.

¹ National Australian Built Environment Rating System

What buildings are not affected?

Most office buildings with 2,000m² or more of office space for sale, lease or sub-lease need to meet the disclosure requirements of the BEED Act. However, there are some exceptions, including:

- Mixed use buildings with less than 75 per cent office space (by net lettable area) where office space is shared with other functions such as warehouses, medical centres, hotels and retail outlets. For example: a 100,000m² building with office space of 60,000m² and warehouse space of 40,000m² would *not* need to disclose an energy efficiency rating. But a 100,000m² building with office space of 90,000m² and retail space of 10,000m² *would* need to disclose an energy efficiency rating.
- New buildings less than two years old, as they do not have the 12 months' energy use data needed to obtain a NABERS Energy rating.
- Some buildings undergoing or that have recently undergone major refurbishments. For more information refer to the guidance note on 'New disclosure obligations for refurbished buildings' on the website.
- Strata titled offices, as there is currently no appropriate methodology to make the energy assessments.
- Transfer of titles through the sale of shares or units of interest in the building.
- Short-term leases and subleases of 12 months or less, as the cost and time involved in the rating and disclosure process would be disproportionately high.
- Certain short-term leases with options to renew or extend. For example, a new six month lease with an option to renew or extend for another six months would *not* trigger a disclosure requirement. However, a new six month lease with an option to renew or extend for 12 months *would* trigger a disclosure requirement. Further examples of leasing arrangements are provided in the Treatment of Certain Property Transactions guidance note on the website at www.cbd.gov.au.

If a building falls under any of these categories then no action is required by the owner or lessor to obtain an exemption.

Can a building or an area get an exemption?

Yes, exemptions are available for a building or an area that is unable to comply, such as:

- Buildings used for police and security operations. For example, if a government security agency occupies a building owned by a constitutional corporation and an energy assessment is not possible due to the sensitive nature of the facility, then an exemption under this class may be granted.
- Buildings for which it is not possible to assign an energy efficiency rating. However, this will be a matter of professional judgement for a CBD Accredited Assessor.

Owners or lessors who consider their building or area would be eligible for exemption are required to submit an exemption application, along with a \$350 application fee (GST free), to the Secretary of the Department of Climate Change and Energy Efficiency (DCCEE). All applications are considered on a case-by-case basis. Further information on how to apply for an exemption is available from the website at www.cbd.gov.au.

How do you meet the disclosure obligations?

Building owners/lessors can meet the disclosure obligations by:

- obtaining and disclosing an up to date energy efficiency rating through a BEEC, and

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- including the NABERS Energy efficiency rating from the BEEC in any advertisement for the sale, lease or sublease of the office. Further information about advertising is provided in the guidance note on the website.

Who can apply for a BEEC?

Only a CBD Accredited Assessor can apply for a BEEC on behalf of their clients (the building owner/lessor).

In lodging a BEEC application, CBD Accredited Assessors can draw on the assessment results prepared by other accredited assessors (i.e. displayed on the Building Energy Efficiency Register).

For example, if a building has an existing NABERS Energy rating, your assessor will only need to complete a new lighting assessment and will be able to apply for a BEEC using this and the existing NABERS Energy rating. Similarly, if the relevant area within the building has an existing lighting assessment, then your assessor will only need to complete a new NABERS Energy rating assessment and will be able to apply for a BEEC using this and the existing lighting assessment.

The DCCEE aims to process BEEC applications within 28 days of receipt. If the building does not have a NABERS Energy rating, the building owner should allow 4-6 weeks, from the initial engagement of a NABERS assessor, through to receiving the rating from the NSW Office of Environment and Heritage.

How long does a BEEC remain current?

A BEEC will be issued and remain current until the expiry of either the NABERS Energy rating or the lighting assessment, whichever is first. For example, if the NABERS Energy rating is valid until 23 September 2012 and the lighting assessment is valid until 14 March 2013, then the approved BEEC expires on 23 September 2012.

How do you update a BEEC if circumstances change?

DCCEE maintains only one BEEC per building. However, there may be circumstances when BEECs and NABERS ratings expire at different times or when owners/lessors need to update a BEEC to sell or lease parts of a building not previously covered.

Building owners/lessors can use their existing NABERS or lighting assessment ratings to get an updated BEEC (in other words, there can be a 'rolling' BEEC per building).

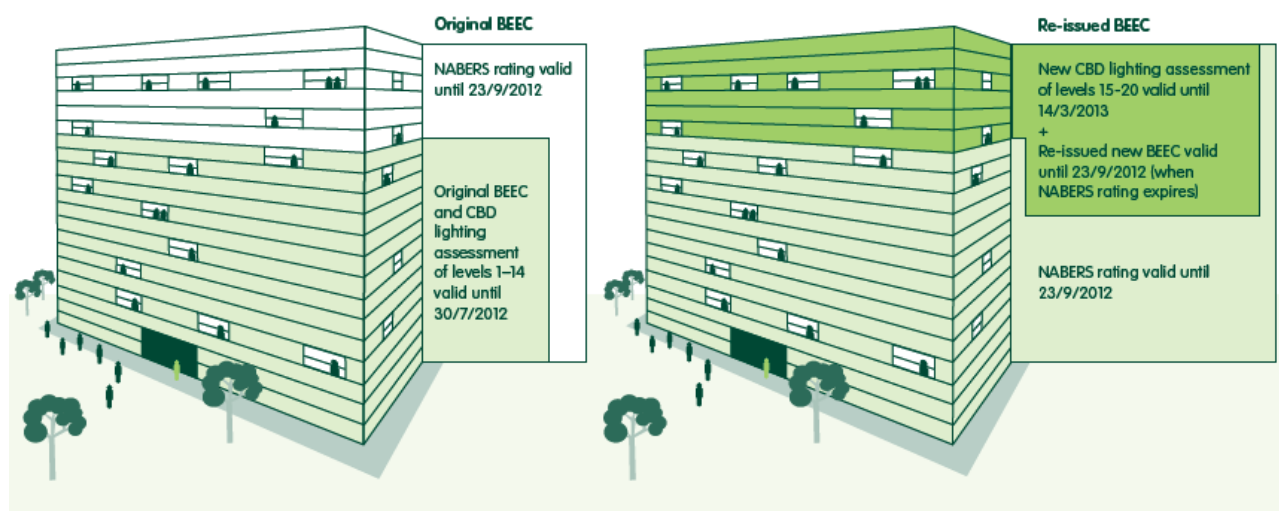
For example:

- A BEEC already exists for a 20 floor building, with lighting assessment up to level 14. The owner now wants to lease levels 15 to 20.
- The owner engages a CBD Accredited Assessor to undertake a new lighting assessment for levels 15 to 20.
- The CBD Accredited Assessor submits the new lighting assessment for levels 15-20 to DCCEE for approval.
- If satisfied, DCCEE issues a lighting assessment number for levels 15-20.
- The CBD Accredited Assessor then submits a new Application for BEEC to DCCEE that contains the new lighting assessment number for levels 15-20, the existing lighting assessment number for levels 1-14 and the existing NABERS Energy rating for the building.
- If satisfied, DCCEE updates and re-issues a new BEEC.

- This new BEEC remains valid until the NABERS rating or the lighting assessment for levels 1-14 expires, whichever comes first.

Other examples are provided in Table 1: Examples of requirements for BEECs (on the last page of this guidance note).

Diagram 1: Example of a 'rolling' BEEC



How do you use a BEEC?

A BEEC is required to disclose up-to-date energy efficiency information at the time of sale or lease.

All BEECs are published in the Building Energy Efficiency Register on the CBD website www.cbd.gov.au to provide the market with credible information about the relative energy efficiency of offices that are for sale, lease and sublease.

Building owners/lessors may also want to display the BEEC in their premises. They can use the BEEC to promote and distinguish their building, especially in a tight property market.

With an approved BEEC, owners/lessors can promote their building's performance rating, gaining potential market advantage with the recognised NABERS rating. A NABERS rating above the median creates the potential for enhanced capital value and an opportunity to improve rental returns. Rating an office tenancy can give owners/lessors a competitive advantage by promoting their work space as a cost effective, environmentally friendly place to work. It can also be used to help promote sustainable thinking in employees.

What if you don't comply?

Building owners/lessors who fail to meet the disclosure obligations could face penalties of up to \$110,000, as well as a maximum of \$11,000 for each day beyond the first day that the breach continued.

In addition, DCCEE can issue infringement notice penalties of up to one tenth of the maximum penalty that a court can impose. This means that a penalty can be imposed for each day that an office is offered for sale, lease or sublease without having registered the required information and including a NABERS Energy star rating in any advertisement.

The BEED Act also provides for the creation of an Energy Efficiency Non-disclosure Register to name those who repeatedly contravene the provisions of the Act. This would include people who

are responsible for two or more instances of non-disclosure within 12 months. DCCEE monitors both advertisements and transactions for instances of non-disclosure.

Table 1: Examples of requirements for BEECs

Transaction type	What do you have?			What do you need?
	NABERS rating*	Lighting assessment— all tenancies	Lighting assessment— part tenancies	
Sale or lease of building	No	No	No	NABERS rating <u>plus</u> lighting assessment for all tenancies
	Yes	No	No	Lighting assessment for all tenancies
	No	-	Yes	NABERS rating <u>plus</u> 'top-up' lighting assessment for all tenancies
	Yes	-	Yes	'Top-up' lighting assessment for all tenancies
	No	Yes	-	NABERS rating
	Yes	Yes	-	Nothing—apply for a BEEC
Lease of an area of a building	No	No	No	NABERS rating <u>plus</u> lighting assessment for the tenancy area being leased
	Yes	No	No	Lighting assessment—for the tenancy area being leased
	No	-	Yes	NABERS rating only (provided the lighting assessment covers the tenancy area being leased)
	Yes	-	Yes	Nothing—apply for a BEEC (provided the lighting assessment covers the tenancy area being leased)
	No	Yes	-	NABERS rating
	Yes	Yes	-	Nothing—apply for a BEEC

* Either a base building rating, or whole building rating when there is inadequate metering to obtain a base building rating.

Are there any fees?

There are no fees for a BEEC application.

The CBD program has been developed by the Australian, state and territory governments, as part of a broad package of measures to encourage building energy efficiency.

The program was established by the *Building Energy Efficiency Disclosure Act 2010* and is managed by the Australian Government Department of Climate Change and Energy Efficiency.

For the most up-to-date information visit www.cbd.gov.au.