

# What is a “Building” under the CBD Program?

This Guidance note is intended to provide guidance to building owners, sub-lessors, agents and CBD Assessors on when the Department of Industry, Science, Energy and Resources considers a structure or structures to be a building for the purposes of the CBD Program.

Determining whether or not a structure or structures are a “building” for the purposes of the CBD Program is important for two reasons:

- The disclosure obligations of the CBD Program apply to **buildings** which contain 1000 square metres or more of office space; and
- An exception to the disclosure obligations is provided for **buildings** which contain less than 75 per cent office space by total area.

The Department recommends that building owners, sub-lessors and their agents obtain professional legal advice if they are unsure about whether a particular building is disclosure affected under the CBD Program.

## Meaning of a Building

The *Building Energy Efficiency Disclosure Act 2010* does not define the meaning of a ‘building’ for the purposes of the CBD Program. This means that the common everyday understanding of building applies. In order to be disclosure affected the building must be for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities.

In most cases, this means that a building for the purposes of the CBD Program will be a free-standing, enclosed structure which provides tenants with standard office amenities and services, such as heating and cooling services.

## Complex, inter-connected and Sub-divided Buildings

There are situations where it is difficult to determine whether a structure or structures are a building for the purposes of the CBD Program. For example, a single structure may be used for significantly different purposes, such as providing retail, accommodation and office space; and multiple structures may be interconnected or treated as one building by the occupants.

The Department considers that a building for the purposes of the CBD Program can be identified through consideration of the following factors:



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- **A common primary entry point for occupants;**

Office buildings generally have a common primary entry point, such as a lobby or main entranceway. Where a common lobby is used for separate structures, this may indicate that the structures are one building. Where occupants of a single structure access their part (e.g. their tenancy) through different and separate entry points, this may indicate that the structure contains multiple buildings.

- **Interconnected access or the potential for interconnected access between areas;**

Interconnected access may indicate that multiple structures, even over different blocks of land, are intended to be treated as a single building. Interconnected access can be between floors, such as through use of a lift or between structures through passageways. Where interconnected access is currently disabled, but could be enabled by a future tenant, the structures may be a single building.

- **Provision of common services, such as heating and cooling;**

The provision of common building services, such as heating and cooling services to different structures can indicate that the structures are intended to be operated as a single building.

- **The capacity to be offered to a tenant as one building;**

If tenants can lease (or prospective buyers can buy) the relevant structure or structures under a single lease (or sale contract), this may indicate that it is a single building.

These factors are indicative, not determinate, and should be considered as a whole in light of all the relevant issues when determining whether or not something is a building for the purposes of the CBD Program.

