

# Topic Summary – Working as a CBD Accredited Assessor

1

This topic summary provides a concise record of what was covered in Topic 3 of 'Working as a CBD Accredited Assessor' in the *Commercial Building Disclosure* program module, as well as some legislative references for the requirements of the CBD program. The information and references are provided in this summary to assist assessors but are not intended to constitute a comprehensive resource as to an Assessor's obligations under legislation. The Assessor is solely responsible for ensuring that they are familiar with, and comply with, those obligations.

## Overview

There are five key areas you need to understand to work as a CBD Accredited Assessor:

- Obtaining Building Energy Efficiency Certificates (BEECs);
- Conducting NABERS Energy ratings;
- Conducting Tenancy Lighting Assessments;
- Conducting assessments for Exemption applications; and
- Getting the information you need.

In all aspects of your work, there are some key tips you should keep in mind.

*Your clients have legal obligations* – Your clients will be invested in the outcome of an assessment or a BEEC application and they are also likely to require a short delivery time so as not to delay sale or lease transactions.

*Help your clients help you* – Expedite the assessment process by ensuring that your client is well informed and equipped to provide all the required information in a timely manner.

*Inform clients, but know who's responsible for tasks* – As always, it's critical that you maintain your own professional integrity throughout the process. Be aware that there may be penalties for clients who fail to meet disclosure obligations, but also be aware of the limits of your responsibilities in the process.

## Obtaining a Building Energy Efficiency Certificate

### Responsibilities...

#### Your client's responsibilities

Your client is responsible for obtaining and registering a BEEC according to CBD requirements.

# Topic Summary – Working as a CBD Accredited Assessor

2

## Your responsibilities

As a CBD Accredited Assessor, you will be required to apply to the issuing authority for BEECs in accordance with your client's instructions. You should not give legal advice to your client about disclosure obligations. Instead, they should seek this from professional independent legal sources.

## Issuing authority

BEECs will be issued by the Australian Government Department of Industry, Science, Energy and Resources.

## What's in a BEEC?

As outlined earlier, the BEEC sets out the energy efficiency rating of a building or area of a building that is offered for sale, lease or sublease. A BEEC contains three components<sup>1</sup>:

1. **NABERS Energy rating** A National Australian Built Environment Rating System (NABERS) Energy for offices rating for the building – The NABERS Energy for offices rating provides information on the building's energy efficiency. It must be a base or whole building rating (a whole building rating also covers the tenanted space and is disclosed if there is inadequate metering to obtain a base building rating). For more information see [NABERS Energy for Offices star ratings](#).
2. **Tenancy Lighting Assessment** A CBD Tenancy Lighting Assessment (TLA) for an area of the building that is being sold or leased – the CBD TLA is an assessment of the tenancy lighting that measures the power density of the installed general lighting system. For more information see [Tenancy Lighting Assessments](#).
3. **General energy efficiency guidance – provided in the CBD legislation** The general energy efficiency guidance includes information on how building owners might improve the building's energy efficiency.

A BEEC is a multiple-page document, which must be registered on the Building Energy Efficiency Register<sup>2</sup> on the [CBD website](#).

<sup>1</sup> Building Energy Efficiency Disclosure (BEED) Act 2010, section 13 ; Building Energy Efficiency Disclosure (BEED) Regulations 2010, regulation 4, Building Energy Efficiency Disclosure (BEED) Determination 2010, Schedule 1.

<sup>2</sup> BEED Act 2010, section 14

# Topic Summary – Working as a CBD Accredited Assessor

## Obtaining a BEEC

There are six steps in the process to obtain and apply for a BEEC:

### 1. Client engages you to obtain a BEEC

First check if the building already has a BEEC – you can search our [Building Energy Efficiency Register](#) by name and/ or location of the building. Clients will be able to obtain your contact details from the [register of accredited assessors](#). When you are approached by a client to obtain a BEEC, you must verify to your client that you are certified to perform these functions. You should also assess and, if necessary, manage any conflict of interest issues that may arise.

### 2. Work with your client to plan the assessment

After being engaged to obtain a BEEC, discuss the process with your client. Determine their requirements, including what the disclosure-affected area is and the timing of when a current BEEC is required, and inform your client of what information and access you will require.

### 3. Obtain NABERS Energy rating

A current and valid NABERS Energy rating may already be available for the building. If not, you will need to conduct a NABERS Energy rating or arrange with your client for them to engage a NABERS Accredited Assessor to conduct the rating. Remember, the BEEC will only be current for as long as the NABERS Energy rating is current.

### 4. Obtain Tenancy Lighting Assessment

Obtain a current and valid Tenancy Lighting Assessment for the relevant area of the building. Again, a current and valid assessment may already be available. If not, you will need to conduct the assessment or arrange with your client for them to engage a CBD Accredited Assessor to conduct the assessment. Again, the BEEC is only current if this assessment is also current.

### 5. Apply for a BEEC

All BEEC submissions must be made via the CBD online assessor portal. Only CBD Accredited Assessors have access to this portal. Here you will be able to link a current NABERS Energy for offices rating with a current TLA. The Assessor portal allows assessors to manage as well as check the progress of their BEEC applications.

**How long does the approval take?** CBD aims to process all BEEC applications within 28 days of receiving a correct BEEC submission. It is important that you communicate this timeframe with your client as CBD takes no responsibility for any BEEC application not being processed before this timeframe has expired.

**Retain a copy of the BEEC** Once the BEEC has been approved. CBD will email an electronic copy of the BEEC to the assessor, for printing and display. We also add the BEEC to the [Building Energy Efficiency Register](#) for download. At this stage, your client can also go ahead with sale and lease activities, and disclose the NABERS Energy star rating on advertisements as required<sup>3</sup>.

<sup>3</sup> BEED Act 2010, sections 15–16; BEED Determination 2010, clause 5

# Topic Summary – Working as a CBD Accredited Assessor

4

## Conducting NABERS Energy ratings

### Obtaining a NABERS Energy rating

A NABERS Energy for offices rating must be conducted under the CBD program. The NABERS Energy for offices rating must be included in the BEEC and in any advertisements for the sale or lease of disclosure-affected office space.

CBD Accredited Assessors or eligible NABERS Accredited Assessors may conduct NABERS Energy for offices ratings for disclosure under the CBD program. In lodging a BEEC application, CBD Accredited Assessors can draw on the assessment results prepared by other accredited assessors (that are displayed on the Building Energy Efficiency Register) so long as the ratings are still valid and current.

For example, if a building has an existing NABERS energy rating, the CBD assessor only needs to complete a new TLA and will be able to apply for a BEEC using this and the existing NABERS Energy rating.

### What type of NABERS rating should I perform?

According to the CBD legislation, you need to conduct either a NABERS base building rating or a NABERS whole building rating. Under section 6(3) and (4) of the [Building Energy Efficiency Disclosure Determination 2016](#) a person working out the energy efficiency rating for a building must disclose a NABERS Energy base building rating unless it cannot be calculated because utility meters installed for the building are not sufficient to distinguish between base building energy use and tenancy energy use. In this case, a NABERS Energy whole building rating must be carried out.

If neither can be assigned, a supporting statement will need to be prepared stating that neither a base nor whole building rating can be carried out in accordance with the NABERS Rules. It must detail the reasons for this with specific reference to sections in the NABERS Rules as well as a confirmation letter from NABERS confirming that their rules have been correctly applied to the situation.

### Working with clients to facilitate the rating

Where information or access necessary to complete a NABERS rating or TLA is controlled by another person, such as a tenant, arrangements to facilitate access or provision of the information should be made. Where possible, arrangements should be made beforehand in leases to facilitate access and information.

Where a prospective seller, lessor or sub lessor cannot obtain information or access on behalf of their CBD Accredited Assessor, they or their assessor should notify the CBD Program.

# Topic Summary – Working as a CBD Accredited Assessor

5

Where a sitting tenant refuses access to a part of their building or to provide necessary information, section 18 of the [Building Energy Efficiency Disclosure Act 2010](#) enables CBD Accredited Assessors to obtain information, such as energy use and data, from building owners, lessees and sublessees. CBD assessors should consult with the CBD team regarding any issues with access or provision of information.

A failure to comply with section 18 request can result in a serious financial penalty. A person issued with a request for information or access under section 18 may apply for an exemption – for further information, see [exceptions and exemptions](#).

Where, despite all reasonable efforts, access or information cannot be obtained which is necessary to complete a rating, a CBD Accredited Assessor may apply for an exemption on behalf of an owner or sub lessor.

## Conducting Tenancy Lighting Assessments

### Overview of the Tenancy Lighting Assessment

A Tenancy Lighting Assessment (TLA) is an important component of a BEEC. A TLA is an assessment of the energy efficiency of the lighting in the office space being offered for sale, lease or sublease. These assessments must be carried out in accordance with the CBD Tenancy Lighting Assessment for Offices Rules.

The Tenancy Lighting Assessment requires a CBD Accredited Assessor to undertake a site inspection of the general lighting in the area – light fittings, lamps, and ballasts installed in the ceiling of the office. You will also need to inspect the lighting controls.

The Tenancy Lighting Assessment measures the power density of the installed general lighting system of affected buildings. It does this by working out the Nominal Lighting Power Density (NLPD) of the relevant functional space in the building as well as the capacity of installed lighting control systems. It may also include a performance comment if appropriate. The assessment covers installed lighting and, where relevant, also proposed lighting systems. It is based on a methodical survey of the general lighting system reasonably expected to be left in place after the tenant leaves and the tenancy fitout is removed.

The aim of the TLA is to provide prospective tenants and owners with information on the energy efficiency of the existing lighting and give them an opportunity to make leasing and purchasing decisions based on this information and manage their energy use.

# Topic Summary – Working as a CBD Accredited Assessor

## How are Tenancy Lighting Assessments conducted?

Outlined below, there is a ten step process that Assessors can follow in order to conduct and submit a TLA.

1. CBD Accredited Assessor is engaged by the building owner – similar to the BEEC process, when you are approached by a client to obtain a BEEC, you must verify to your client that you are certified to perform these functions. You should also assess and, if necessary, manage any conflict of interest issues that may arise.
2. Assessor and the building owner agree on fees and charges – here it is also important to discuss timeframes and your clients' expectations. Remember, CBD aims to process TLAs within 15 business days (please note that incorrect applications may incur additional time).
3. Assessor conducts on-site TLA.
4. Assess each functional space area being offered for sale, lease or sublease in an affected building – Here it is important to:
  - Collect data as required by the Tenancy Lighting Assessment for Offices Rules.
  - Determine the Functional Spaces and Net Lettable Area
  - Collect the relevant Luminaire details
  - Select the right method for an NLPD calculation
  - Assess the lighting controls and any proposed systems if identified.
5. Use the CBD assessor portal to enter the data collected in Step 5.
6. Submit your completed TLA (this can be done at the same time as a BEEC application – you just need your NABERS rating number, even if the rating has not yet been certified).
7. Store the assessment evidence for 7 years for audit purposes.
8. The CBD team will issue a TLA reference number when the application has been approved. You will need this reference number to apply for a BEEC. If you have applied for the BEEC at the same time, you will receive your TLA reference number and BEEC once the NABERS rating has been approved and the Delegate has signed off on the application.

# Topic Summary – Working as a CBD Accredited Assessor

7

## Conducting assessments for exemption applications

There are times when your client will be exempt from disclosure requirements and the assessor has an important role in exemption applications.

### When an exemption can be applied for<sup>4</sup>

Owners may apply for an exemption from a disclosure obligation if:

- the building or area of the building is used for police or security operations; or,
- it is not possible to assign a NABERS Energy rating or assess the energy efficiency of the tenancy lighting according to the relevant rules due to the characteristics of the building or the area of the building.

Assessors can submit exemption applications through the CBD assessor portal, on behalf of their clients.

### When an assessor supporting statement is required

You may be required to assist your client in the process of applying for an exemption by providing a signed assessor supporting statement.

An assessor supporting statement must be included with an exemption application if the application is on the basis that it is not possible to assign a NABERS Energy rating to the building in accordance with the NABERS rules and must include written correspondence from the NABERS office confirming that the rules in this place have been correctly applied. The statement must verify and outline why a NABERS Energy rating is not possible. Only a CBD Accredited Assessor may provide a supporting statement.

### Assessor supporting statement, assessor and building owner responsibilities

An assessor supporting statement is an item used to support an application for the exemption from energy efficiency disclosure obligations. Supporting statements must only be made by CBD Accredited Assessors and submitted via the CBD assessor portal. If your exemption application requires a supporting statement then a building owner must organise/commission a CBD Accredited Assessor.

CBD does not organise/nor act as an intermediary between parties and the CBD Accredited Assessor to make supporting statements. Failure to notify, contact and agree with a CBD Accredited Assessor to

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<sup>4</sup> BEED Act 2010, section 17

# Topic Summary – Working as a CBD Accredited Assessor

make a supporting statement prior to the exemption form's submission to CBD will result in the application not progressing until such arrangements have been made.

The assessor should inspect the building/ tenancy to make a professional judgement on whether the building can be rated for the purposes of the BEED Act and provide a supporting statement. The supporting statement should include the name and address of the building (and, if applicable, description of the area) and be signed and dated by the CBD Accredited Assessor.

The supporting statement must verify and explain why the characteristics of the Building/ Area (as applicable) mean that it is not possible, using the assessment methods and standards prescribed under section 21 of the Act. An assessor must also declare any conflict of interest, and in particular, whether the assessor has any material interest in the granting of the exemption if that interest could conflict with the proper performance of the assessor's functions. As a final note, the CBD assessor is also required to provide how and when the building owner may rectify the issues that are preventing the NABERS rating being finalised especially when it is a metering or data related reason.

## Getting the information you need

### Information-gathering powers

When you conduct an assessment, you must apply the NABERS Rules properly. This means that you will require access to the premises being assessed and you'll need to see specific information. In most cases, your clients will respond to your informal requests for information and access.

However, if you are conducting the assessment for a BEEC application and the required information or access is not provided, CBD legislation provides the Secretary with additional powers to request information and access<sup>5</sup>.

A person who has been issued with a written notice must comply with the notice or face penalties of up to \$44,400 for an individual or \$111,000 for a company. These information-gathering powers only apply to assessments carried out by CBD Accredited Assessors for BEECs, not to NABERS Accredited Assessors or voluntary assessments.

### How to use information-gathering powers

There is a clear process you can follow to use the information-gathering powers provided under CBD legislation, as provided in the Tenancy Lighting Assessment for Offices Rules

1. Provide written notice to CBD – A written notice may be addressed to the CBD team outlining why you need the information or access, the steps you have taken to obtain it and why you reasonably

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<sup>5</sup> BEED Act 2010, section 18

# Topic Summary – Working as a CBD Accredited Assessor

9

believe the person has the information or controls access to the building. You should also attach any relevant documentation supporting your claims.

2. CBD team may issue written notice – The CBD team may issue a written notice requesting that the owner, lessee or sublessee provide the information or building access you require for the purposes of the assessment. This notice must specify a date and time on which access by the accredited assessor is required or, if it is information that is required, specify a period no longer than 14 days after the notice is issued to supply that information to the assessor. A person who has received a notice may apply to CBD for an exemption from the requirement to provide information or access.
3. Enforcement from the Department – It is the Department's responsibility to enforce the information-gathering provisions of the CBD legislation. If the information or access has not been provided after following these steps, notify the CBD team by emailing them at [info@cbd.gov.au](mailto:info@cbd.gov.au). The Department will then determine whether to enforce the provisions through the Court.

## Additional resources

Additional information on the CBD program and the above topics is available on the [CBD website](#).

[Forms and templates](#) are available from the website's Resources area. An [FAQ page](#) is also available and provides answers to specific questions about different areas of the CBD program.

The BEED Act and instruments made under the BEED Act can be viewed in the [legal framework](#) section.