



Transition period coming to an end for Commercial Building Energy Efficiency Disclosure

From 1 November 2011 transitional provisions of the *Building Energy Efficiency Disclosure Act 2010 (Cth)* (**BEED Act**) give way to full obligations. The provisions require a corporation that owns a building considered to be 'disclosure affected' under the BEED Act to have and register a current Building Energy Efficiency Certificate (**BEEC**) where the building is being marketed for sale or lease. Lessees of disclosure affected buildings or parts of buildings will also have requirements in relation to subletting.

At this stage the circumstances in which a building or part of a building will be considered 'disclosure affected' are restricted by size and use. The building or part of a building must have a net lettable area of at least 2000m² and over 75% of the space must be used (or capable of being used) as a commercial office. Whilst there has been some discussion about extending the scope of the BEED Act to hotels, retail centres, educational institutions and hospitals, the Department of Climate Change and Energy Efficiency (**Department**) has confirmed that a decision on this issue will be deferred until at least 2014. An exemption may be granted for a disclosure affected building used by police or for security options, is new, or has undergone major refurbishment.

During the transitional period until 31 October 2011 it was only necessary for corporations to provide NABERS environmental ratings for base or whole buildings to potential purchasers and lessees under the BEED Act. However, from 1 November 2011 both NABERS rating information as well as a tenancy lighting assessment will be required before the Department will issue a BEEC. BEECs and their constituent components remain valid for up to one year. BEECs may only be applied for by a Commercial Building Disclosure Accredited Assessor and may take as long as 12 weeks to be issued.

The Department will strictly enforce compliance with the requirements of the BEED Act. In this regard, not only should clients who own or lease disclosure affected buildings ensure that they understand the requirements of the BEED Act and how a BEEC can be obtained, they must also consider how the requirements of the BEED Act may affect sale or lease transactions relating to their building.

Should you have any questions or would like further advice, please contact:

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