

**Senate Standing Committee on Environment, Communications and the Arts  
Legislation Committee**  
**Inquiry into the provisions of the *Building Energy Efficiency Disclosure Bill 2010***  
Climate Change and Energy Efficiency Portfolio  
Department of Climate Change and Energy Efficiency

Answers to questions on notice  
April 2010

**Question No:** 1  
**Topic:** Exemptions in regulations  
**Hansard Page ECA:** ECA 25

**Senator FISHER asked:**

Senator FISHER—Can you give us examples of what other information regarding exemptions might be covered by the regulations? You are going to have these done within a few weeks; you must have some ideas. Have drafting instructions for the regulations gone off yet?

Mr Davis—That is correct.

Senator FISHER—And who sent those drafting instructions off, one of you good gentlemen or Ms Walsh?

Mr Davis—One of my staff.

Senator FISHER—So you know what is in the drafting instructions.

Mr Davis—I have seen them but, as you can probably appreciate, they are quite comprehensive, so I cannot recall what they stipulate.

Senator FISHER—I imagine they are, but therein lies the nub of some of the concerns. We do not know what we do not know at this stage, and I am trying to get from you what we do not know. Please proceed and, hopefully, tell us a bit more about what we do not yet know and what will be revealed.

Ms Walsh—Could we take that particular question on notice and promptly get back to you on exactly the regulation that you are seeking?

**Answer:**

The legislative instrument made by the Minister will provide clarification on the types of offices that are to be considered ‘disclosure affected’ under the Bill. The legislative instrument will include:

- offices greater than 2000 square metres in net lettable area;

- a definition of an ‘office’. The definition of an ‘office’ in the NABERS Rules for Collecting and Using Data will be replicated in the legislative instrument as the scheme relies upon the National Australian Built Environment Rating System for energy efficiency (known as NABERS Energy);
- detail on requirements that ensure an office is capable of being rated under NABERS Energy. It is intended that the NABERS Validation Protocol will be replicated in the legislative instrument. For example, this will include the requirements that:
  - there must be 12 months of contiguous energy use data available for the office (this will exclude new buildings); and
  - there must be sufficient energy use data on the air-conditioning used within individual office tenancies (this will exclude many strata titled offices, which comprise around 3% of the total office stock over 2000 square metres);
- a requirement that offices must be offered for lease or sublease for greater than 12 months (otherwise they are considered to be only temporary leases) to be affected; and
- an exemption for offices sold through the sale of shares. This type of transaction cannot be effectively regulated.

For those offices that are ‘disclosure affected’, yet may be exempt under clauses 17 and 18 of the Bill, it is intended that the Regulations:

- specify the information to be contained in an application for exemption;
- prescribe an application fee (anticipated to be \$350 indexed in line with the Consumer Price Index); and
- describe classes of exemption in accordance with paragraph 17(3)(c) of the Bill.

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**Question No:** 2  
**Topic:** Subordinate instruments  
**Hansard Page ECA:** ECA 28

**Senator FISHER asked:**

Senator FISHER—You may reflect on this exchange [pp 27-28], Mr Davis, and, on notice, if there are any further items that at this stage are intended to be the subject of subordinate instruments or become so prior to or after the Bill being introduced into parliament can you please, on notice, indicate those?

Mr Davis—Sure.

**Answer:**

The Regulations, under subclause 25(e) of the Bill, are to prescribe the training to be undertaken by accredited assessors.

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**Question No:** 3  
**Topic:** NABERS and lighting requirements  
**Hansard Page ECA:** ECA 30

**Senator FISHER asked:**

Ms Walsh—Within my statement about compatibility or comparability, I was referring to the tools, so in terms of NABERS being the tool that we will be using, that has been in—

Senator FISHER—So that is the ‘understanding’ context. What is the ‘compatibility’ context?

Mr McGlynn—I think that largely relates to NABERS as well, in that, within the property industry, NABERS is now the most accepted tool for doing this sort of analysis of actual energy performance. It is now widely used by a segment of the market and it is understood by the market and they understand what the ratings mean and how to use those. Similarly with the lighting tool that is being developed, it is a simpler version of some of the methodologies that have been used under the Building Code of Australia for quite some time. Therefore, it is not introducing new concepts or issues; it is using the tools that the market is familiar with and trying to package them up in a way that delivers information to the market in this full way.

Senator FISHER—Thank you, Mr McGlynn. Your answer just given explains further about how the industry would understand, and you use the word ‘accepts’. From evidence we have heard today about NABERS, I think it would be at best ‘reluctantly accepts’, because the industry is saying that NABERS needs work. So they may well understand it but I question whether you can claim that they accept it, firstly. Even if they did accept it, your answer just given does not explain compatibility, because I come back that the evidence given today is about lack of compatibility, not about the existence of it.

Ms Walsh—If I could ask for clarification. As we pointed out earlier we were not here for the evidence that was received, so I am not entirely sure that I understand what the compatibility is.

Senator FISHER—On notice, can you review and respond to the evidence, as I am sure you will in any event, given by both Mr Verwer and Mr Wall and in particular their comments about the acceptance by industry of NABERS and any lighting requirements and their comments about compatibility as well.

**Answer:**

Issues raised in relation to compatibility including the validity and acceptability of NABERS are listed below, together with responses.

**1. *The ‘methods and standards of assessment’ (in NABERS) fail to report accurate greenhouse gas emissions, the rating is significantly impacted by tenant operation and behaviour, and ‘climate corrections’ and therefore provides ratings that are heavily normalised. This results in a high risk of assessments unfairly rewarding or penalising buildings.***

NABERS Energy ratings are a measure of the efficiency of a building. Factors that influence building energy use that are outside the control of the building are taken into account to give an accurate measure of the real efficiency of the building. These factors include:

- Climate – as office buildings are air-conditioned, buildings in hotter climates use more energy than buildings in colder climates. NABERS Energy accounts for this to enable comparability.
- Hours – office buildings that are occupied for “long hours” such as 24/7 occupancy will use more energy than those occupied for shorter periods. NABERS Energy accounts for this to enable comparability.
- Area – larger buildings use more energy than smaller buildings. NABERS Energy accounts for this to enable comparability.

NABERS Energy takes these factors into account to ensure that the rating is a measure of efficiency. It would otherwise be a rating of energy use, which would not be comparable among different buildings.

NABERS Energy base building ratings use the energy consumption of the building landlord. Tenant behaviour and operation does not have a significant impact on this portion of energy use. Studies suggest that there is as little as 0.1 to 0.3 star difference in the base building rating between buildings that have extremely energy inefficient tenants and those with extremely efficient tenants.

**2. *By failing to provide credible data, and by failing to provide any aggregation of reporting or analytics, the Bill will fail to provide any meaningful market information, such as a national comparative database of average consumption. The significant difference in ratings between states, through normalised correction of building use factors and due to the strong subjective influence of assessors has the potential to confuse and mislead the market.***

The Bill will ensure a growing, publicly available database of NABERS ratings. The current NABERS Energy ratings database is the most comprehensive set of non-residential building energy use information in Australia and is widely used for research and policy development purposes.

NABERS Energy benchmarks buildings on the basis of the average performance of buildings in each State. Investigations are underway into whether it is appropriate to set a single national average. However, a benchmark based upon state averages provides meaningful data to the market within which purchasing and leasing decisions are generally made.

NABERS accredited assessors are required to strictly apply a thorough set of rules to the data gathered from buildings. An established process guides the refinement of these rules if they cannot be readily applied to any particular building, to ensure that the Assessor is not required to make a subjective judgement that may impact on the rating.

NABERS accredited assessors are required to prove their competency through both theoretical and practical assessment. Ratings are regularly and independently audited to ensure accuracy.

***3. The reliance on assessment by accredited assessors, and the need therefore to recruit, train, register and audit assessors, makes it expensive and administratively cumbersome.***

Training, accrediting and auditing assessors is fundamental to the credibility of NABERS Energy tool and the commercial building disclosure scheme. The credibility of NABERS has been important to its success to date, where around half of the office space in Australia has been rated with this tool.

The average market cost of NABERS Energy ratings is around \$1,000 to \$4,000.

The Regulation Impact Statement (RIS) estimates that the average cost of Building Energy Efficiency Certificates will be \$6,000. For office buildings over 2,000 square metres, which are typically occupied by commercial businesses employing 100 to 150 employees, this cost is low in comparison to the total value of sale and lease transactions. By promoting cost-effective improvements to energy efficiency, the overall impact of the scheme is expected to be a net economic benefit if even a small portion of affected buildings undergo upgrades as a result, as described in the RIS.

***4. The nature of disclosure and record-keeping proposed by the Bill does not provide any opportunity to collect credible and meaningful information either for existing policies and schemes, including the National Greenhouse and Energy Reporting Scheme (NGERS) and the Energy Efficiency Opportunities (EEO) program, for market information or for the benefit of future policy making. By failing to set a framework for the presentation of data in a format that would be compatible with future carbon trading or tradable energy certificate schemes, the Bill proposes a scheme that falls short of best practice and therefore represents a missed opportunity.***

The information provided for disclosure is aimed at allowing meaningful comparisons of building energy efficiency performance. Data required under the Bill can be used to calculate information for NGERS, EEO or other purposes. This information could also be of value in a trading scheme.

5. ***While the scheme and its metrics are both Federal Government initiatives, the fact that the metrics are administered by a single state government (NSW) makes its inappropriate for national use.***

NABERS is governed by a National Steering Committee, chaired by the Commonwealth Department of Climate Change and Energy Efficiency, with members from each state and territory government.

6. ***The proposed tenancy/lighting metric requires further testing and this will require a delay in implementation.***

Finalisation of the tenancy lighting assessment, including on-site testing, is due to be completed in May. Training is scheduled to be provided from July. This allows sufficient time for tenancy lighting assessments to be carried out prior to the commencement date of disclosure obligations (anticipated to be around October 2010).

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**Question No:** 4  
**Topic:** Consultation on draft subordinate instruments  
**Hansard Page ECA:** ECA 32

**Senator FISHER asked:**

Senator FISHER—[In relation to the draft regulations, the instruments and the various elements can] you provide on notice details of whom the department proposes to consult with, when and about what?

**Answer:**

It is anticipated that exposure drafts of the Regulation and subordinate instruments will be available in May 2010. As occurred with the exposure draft of the Bill, the Department will consult on the exposure drafts of the Regulations and subordinate instruments with the members of its industry advisory committee, namely:

1. Property Council of Australia;
2. Australian Direct Property Investment Association;
3. Green Building Council of Australia;
4. Energy Efficiency Council;
5. Facility Management Association of Australia;
6. Association of Consulting Engineers Australia;
7. Australian Institute of Refrigeration, Air-conditioning and Heating;
8. NSW Department of Environment, Climate Change and Water; and
9. a recognised NABERS Energy expert.

In finalising the tenancy lighting assessment methodology, the Department will also continue to consult on an ongoing basis with its industry advisory committee. Informal discussions of a range of matters will also continue with a wide variety of stakeholders, including through industry workshops and other events.



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**Question No:** 5  
**Topic:** Consultation  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Can you explain to the committee the nature of the consultation process that preceded this Bill?

**Answer:**

Work on the commercial building energy efficiency disclosure scheme was initiated under Stage One of the National Framework for Energy Efficiency (NFEE) in 2004. A Concept Report was developed in 2007. An advisory committee, with industry representatives, was formed at this point in time.

The draft Concept Report was released for public comment in December 2007. Following this process the report was finalised in March 2008, recommending that the scheme be established through Commonwealth legislation. It also recommended that the scheme commence with office buildings over 2,000 square metres and utilise NABERS Energy as the method of rating the energy efficiency of buildings.

In December 2008, a Consultation Regulation Impact Statement (RIS) and Consultation Regulation Document (RD) were released for public comment. In January and February 2009 information forums on the draft RIS and RD were held in each capital city attended by over 400 representatives of industry and government.

Forty-one written submissions were received, the majority of which expressed qualified support. The consultation process revealed substantial support for the disclosure of NABERS Energy base building star ratings, but several submissions raised issues with the proposed disclosure of NABERS Energy tenancy star ratings. A workshop with key industry stakeholders identified the disclosure of tenancy lighting details as an appropriate replacement for the disclosure of NABERS Energy tenancy ratings.

The RIS and RD were finalised and formed the basis of the Ministerial Council on Energy's approval of the scheme's parameters on 2 November 2009.

Information seminars on the scheme were held in the six major capital cities during November and December 2009, co-hosted by the Property Council of Australia.

An industry advisory committee was formed to assist in finalising the technical elements of the scheme. Representatives of industry associations were consulted on the exposure draft of the Bill. The composition of these committees is detailed in the response to question 4.

State and territory governments were consulted on an ongoing basis through the NFEE Buildings Implementation Committee throughout the development of the scheme.

At the Commonwealth Government level, an Inter-Departmental Committee was formed in early 2009 and includes representatives of:

- Department of the Environment, Water, Heritage and the Arts (now represented by the Department of Climate Change and Energy Efficiency);
- Department of Climate Change (now represented by the Department of Climate Change and Energy Efficiency);
- Department of Defence;
- Department of Finance and Deregulation;
- Department of Innovation, Industry, Science and Research;
- Department of the Prime Minister and Cabinet;
- Department of Resources, Energy and Tourism;
- The Treasury; and
- Attorney-General's Department.

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**Question No:** 6  
**Topic:** Consultation  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

The second reading speech indicates a 'broad level of support for the scheme.' Can you elaborate which groups are supportive and others that may be less so?

**Answer:**

Of the 41 written submissions made during the consultation process for the Regulation Impact Statement (RIS) and Regulation Document, five expressed opposition to the scheme. These submissions were authored by the Property Council of Australia, the Facility Management Association of Australia, the Royal Institution of Chartered Surveyors, the Urban Taskforce Australia and the University of Queensland. Of the remaining submissions, three expressed neutrality towards the scheme and the remainder expressed qualified support for the scheme.

A list of those that made written submissions during the RIS and RD consultation process is included on page 62 of the Explanatory Memorandum (note the WA Sustainable Energy Association was accidentally omitted from this list).

Submissions supporting the scheme generally recognise its value in raising awareness of energy efficiency and providing information at a salient time. Those that did not support the scheme generally pointed to the cost of government intervention in the market without a commensurate benefit. Changes to the scheme to lessen compliance costs, including the shift from a NABERS tenancy assessment to a lighting assessment and a move from specific diagnostic advice to generic advice, were made in response to such views.

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**Question No:** 7  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

The Explanatory Memorandum notes that 'there are several definitions of office buildings used by government and industry' and that 'none of the existing definitions...directly correlate to the requirements of the scheme' (p. 76). Why then is there no definition of 'office building' in the Bill?

**Answer:**

The first element of the types of buildings to which the scheme applies is covered by paragraphs 3(1)(a) of the definitions for 'disclosure affected building' and 'disclosure affected area of a building', which state that the Bill applies to buildings and areas of buildings 'used or capable of being used as an office'.

The second element of the types of buildings to which the scheme applies (ie to those offices capable of being assessed for a NABERS Energy star rating) has been assigned to a legislative instrument of the Minister because of its detailed technical nature (answer to question 1 refers).

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**Question No:** 8  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

This Bill applies to one section of commercial buildings: that is commercial office buildings. What proportion of the commercial buildings sector is comprised of office space buildings?

**Answer:**

Research undertaken in 1999 found that offices were responsible for the largest proportion of greenhouse gas emissions from Australia's commercial building sector, accounting for approximately 27 per cent of emissions. Hospitals were the second largest emitters at 13 per cent (refer to pages 3 and 4 of the Regulation Document).

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**Question No:** 9  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What proportion of the total office space would be captured by the 2000 square metre threshold?

**Answer:**

The Regulation Impact Statement (RIS) estimates that there is approximately 21 million square metres of office space in Australia's major business centres spread across 4,000 buildings. Of this, around 19 million square metres (or 90 per cent) are accounted for by 2,200 offices with a net lettable area over 2,000 square metres (refer to page 2 of the RIS in the Explanatory Memorandum).

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**Question No:** 10  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How was the 2000 square meter threshold arrived at?

**Answer:**

The 2,000 square metre threshold was initially proposed on the basis of the likely energy costs for offices of this size. Elementary analysis indicated that sufficient energy cost savings could be achieved to drive substantial energy efficiency improvements in offices over this threshold. This threshold is consistent with the threshold used in the 2006 Energy Efficiency in Government Operations policy.

The Regulation Impact Statement (RIS) examined both a 2,000 and 5,000 square metre threshold. It was determined that the additional benefits of applying a 2,000 square metre threshold would likely outweigh the additional costs (refer to pages 46 and 52 of the RIS in the Explanatory Memorandum).

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**Question No:** 11  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What proportion of annual transactions will be exempted either because they are new buildings, major refurbishments, strata title or through the sale of shares?

**Answer:**

Estimates suggest that in an average year around 10 per cent of office buildings with over 2,000 square metres of space offered for sale, lease or sublease are new buildings or have undergone major refurbishments. Industry sources indicate that the number of sale, lease or sublease transactions for office space over 2,000 square metres involving strata titled buildings is negligible.

The exact number of offices over 2,000 square metres that will be sold through the sale of shares is unknown, although industry sources indicate that the exemption of such transactions is likely to have a negligible impact upon the effectiveness of the scheme.



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**Question No:** 12  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What is your response to the Property Council's recommendation that 'the Bill should provide clear, automatic exemption in situations where it is not possible to get a rating (such as in new buildings)'(Sub 4, p. 3)?

**Answer:**

The legislative instrument made by the Minister will provide automatic exemption where, on face value, it is not possible to obtain a NABERS Energy rating. Refer also to responses to questions 1 and 7.

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**Question No:** 13  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How does the proposed disclosure arrangement compare with those in other parts of the world such as California and the European Union? What are the results from those schemes?

**Answer:**

Commercial building disclosure schemes employed in other countries were examined during the development of the 2008 Concept Report and again during the development of the Regulation Document (RD).

The European Union's Directive (EU Directive) on the Energy Performance of Buildings includes a disclosure scheme, known as Energy Performance Labels (EPLabels or EPLabelling). Denmark has adopted a form of EPLabelling whereby buildings are assessed on a fixed time period depending upon their size. The United Kingdom (UK) closely adheres to the EU Directive and is staging the implementation of EPLabelling. The UK scheme was most closely examined by the Department and is detailed in Appendix C of the RD.

California has a less advanced disclosure scheme.

Development of the Bill has drawn on this experience in areas including point of disclosure, the nature of certificates and the type of information disclosed. However, these schemes have not yet been in operation for sufficient time to evaluate their impacts. Australia's ability to establish its commercial disclosure scheme on an existing rating tool that has been widely used by the office sector for 10 years and is well accepted by industry has been an advantage.

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**Question No:** 14  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Can you confirm how the scheme will apply to government buildings?

**Answer:**

Where a government agency is transacting with a Constitutional corporation over an office sale, lease or sublease, a Building Energy Efficiency Certificate will be required. In this way, the Bill will capture the majority of government sale, lease and sublease transactions.

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**Question No:** 15  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What are the expected greenhouse savings from this measure?

**Answer:**

The potential benefits of the scheme are detailed in the Regulation Impact Statement (RIS) (refer to pages v, vi and viii of the RIS in the Explanatory Memorandum). For example, if 10 per cent of office buildings improved their energy efficiency by one NABERS Energy star, it would result in greenhouse gas savings of approximately 380 kt CO<sub>2</sub>-e over the first 10 years of the scheme (refer to pages 43 and 44 of the RIS in the Explanatory Memorandum). However, the scheme is intended to address market failures (eg information) that currently restrict the realisation of energy efficiency improvements and greenhouse gas emission reductions in the commercial office space sector. It does not mandate the office upgrade or increased energy efficiency investment choices of liable entities and therefore it is not possible to precisely predict the actual greenhouse savings that will be achieved.

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**Question No:** 16  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Why is the scheme not being applied to 'other commercial buildings' (hotels, retail buildings, schools and hospitals) at the same time as commercial office space?

**Answer:**

Office buildings are responsible for the most significant proportion of energy consumption and greenhouse gas emissions for the commercial building sector. Furthermore, the NABERS Energy scheme provides an established framework for rating office buildings throughout Australia. Rating tools are less developed or lacking for other building types. The commercial building disclosure scheme will commence with office buildings for these two reasons. Also, see answer to question 17.

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**Question No:** 17  
**Topic:** Scope and impact  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What are the government's plans for the future expansion of the scheme?

**Answer:**

As outlined under Measure 3.2.2 of the Council of Australian Governments' National Strategy on Energy Efficiency, the scheme will be introduced for office buildings from 2010, with consideration being given to expanding the scheme to other building types (such as hotels, retail, schools and hospitals) in 2012. A full regulatory impact assessment will be required before any expansion of the scheme.

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**Question No:** 18  
**Topic:** Method of assessment  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What is your response to criticisms from Lend Lease and the Property Council that NABERS is state specific and does not provide accurate greenhouse gas emission data?

**Answer:**

Please see response to question 3.

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**Question No:** 19  
**Topic:** Method of assessment  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Lend Lease recommends that the 'Bill must require reporting in metrics that are compatible with other government reporting obligations' such as National Greenhouse and Energy Reporting Scheme (NGERS) (sub 3, p. 12). Why does the Bill not require this? How difficult would it be to achieve such an outcome?

**Answer:**

Please see response to question 3.



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**Question No:** 20  
**Topic:** Certificate content  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What level of information will the certificates contain?

**Answer:**

Building Energy Efficiency Certificates will provide the following three pieces of information:

1. A NABERS Energy base building star rating, excluding GreenPower (or whole building rating if a base building rating cannot be determined due to inadequate metering of the energy use data). The rating will be accompanied with the greenhouse gas emissions of the base building.
2. An assessment of the energy efficiency of tenancy lighting benchmarked against best practice to provide information on the relative performance of comparable spaces and to prompt improvements by building owners and lessors.
3. Generic energy efficiency guidance to inform owners, managers and tenants on the next steps that can be considered to improve the energy efficiency of the building and applicable tenancies. A link to web-based resources will also be provided. This will provide access to more detailed information and publications, as well as links to peak industry associations.

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**Question No:** 21  
**Topic:** Certificate content  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Will a certificate disclose a building's carbon footprint as suggested by Lend Lease (sub 3, p. 6)? If not, why not?

**Answer:**

The NABERS ratings provided will include information on greenhouse gas emissions that will reflect the carbon footprint of the office base building (air-conditioning and central services).

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**Question No:** 22  
**Topic:** Certificate content  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Will certificates provide prospective buyers and tenants with an indication of the cost savings that will result in opting for a higher rated building?

**Answer:**

Building Energy Efficiency Certificates will not provide any direct indication of cost savings attributable to higher rated buildings for the following reasons:

- The ability to determine the energy cost savings from the NABERS Energy star rating and tenancy lighting assessment of a particular building requires expertise beyond that of most accredited assessors. NABERS Energy ratings are based on the operational energy use of buildings over the previous 12 months. It is a prescriptive assessment process that does not require accredited assessors to make any subjective judgement about the factors affecting the energy efficiency of the building.
- Building Energy Efficiency Certificates are intended to provide sufficient information to encourage building owners and lessors to obtain more detailed and costed energy efficiency advice from appropriately qualified experts.
- Including such information in Building Energy Efficiency Certificates would add considerable cost to assessments.

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**Question No:** 23  
**Topic:** Certificate content  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What sort of suggested improvements may be included in certificates?

**Answer:**

The certificates will provide generic energy efficiency guidance materials to guide owners and tenants on the next steps that can be considered to improve building and tenancy energy efficiencies.

Based on consultation with industry, the generic guidance will include basic information to inform discussions between all parties at point of sale or lease to:

- better understand the current state of the building in regard to its energy efficiency;
- prompt negotiations to improve aspects of the building prior to sale or lease;
- assist the owners or tenants to approach the private market for expert and costed advice in the form of a comprehensive energy plan that can be implemented over a number of years; and
- help ensure the existing building is operated optimally.

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Answers to questions on notice  
April 2010

**Question No:** 24  
**Topic:** Certificate content  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How will certificates be drawn to the attention of prospective buyers and tenants?

**Answer:**

The Bill requires all advertisements for the sale, lease and sublease of offices over 2,000 square metres to include the building's NABERS Energy star rating. Furthermore, potential buyers and tenants will be able to access a building's complete Building Energy Efficiency Certificates via an online registry.

A comprehensive communications strategy will be implemented to help ensure that all parties involved in sale, lease and sublease transactions are aware of their obligations and rights to energy efficiency information under the scheme. The strategy will involve a series of workshops in each state and territory, presentations at conferences and seminars, the distribution of fact sheets, and print media articles.

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April 2010

**Question No:** 25  
**Topic:** Certificate content  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What would be the impact of only including the energy efficiency rating in the Building Energy Efficiency Certificate (that is excluding the BEEC, the assessment of energy efficiency of lighting and the guidance on how energy efficiency might be improved)?

**Answer:**

Approximately half of the total energy consumption of offices is attributable to the base building (ie air-conditioning and central services). The other half is attributable to the energy used within tenancies (ie lighting and office equipment), of which most of the energy consumption is attributable to the lighting.

Excluding the tenancy lighting assessment would therefore remove consideration of one of the largest areas of energy consumption in office buildings. Lighting also represents one of the most cost-effective opportunities for improving the energy efficiency of an office. Reducing the energy consumption of lighting by 60 per cent is not uncommon through lighting upgrades. In addition, the cost of such upgrades can be recouped within a few years.

In terms of the energy efficiency guidance component of Building Energy Efficiency Certificates, whilst building owners, lessors and tenants can obtain similar information from other sources, including this information in Building Energy Efficiency Certificates will help to ensure that consideration of energy efficiency improvements is initiated at a point in time (ie sale, lease and sublease) when there is greatest opportunity for improvements to be carried out.

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April 2010

**Question No:** 26  
**Topic:** Compliance costs  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What are the expected compliance costs for large, small and average sized buildings?  
Are these reasonable burdens to place on such businesses?

**Answer:**

Estimates indicate that for an average sized disclosure affected building a Building Energy Efficiency Certificate will cost around \$6,000. For larger and more complex buildings, the cost may be over \$10,000.

The Regulation Impact Statement indicates that the scheme will have a minimal impact on the cost of selling or renting commercial office space.

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**Question No:** 27  
**Topic:** Compliance costs  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What would be the costs to a business if it were to acquire this expertise in-house?

**Answer:**

Of the \$6,000 estimate referred to in question 26, approximately 80 per cent of this cost represents the assessor's consulting fees. For those parties that have in-house expertise, the hourly rate would likely be much lower than a consultant assessor's. So, the cost of an in-house assessment could be significantly less.



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**Question No:** 28  
**Topic:** Assessors and auditors  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How much will the application fee for accreditation as an assessor be (cl 24).

**Answer:**

The application fee for assessors seeking to be accredited under the commercial building disclosure scheme will be around \$350.

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**Question No:** 29  
**Topic:** Assessors and auditors  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How many NABERS assessors are trained and ready today? How many will be required once the scheme is fully operational, and on what basis do you arrive at that figure?

**Answer:**

There are currently 585 accredited NABERS assessors. The Regulation Impact Statement estimates that around 300 to 350 offices will be required to disclose their energy efficiency in the first year of the scheme. On this basis, there would appear to be a sufficient number of existing accredited NABERS assessors.

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**Question No:** 30  
**Topic:** Assessors and auditors  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Will there be a cap on the number of assessors?

**Answer:**

Assessor training and accreditation will occur in conjunction with the current NABERS training and accreditation delivered by the NSW Department of Environment, Climate Change and Water. This will enable the close monitoring of the number of trained and accredited assessors and ensure that the total number is appropriate to meet the demand for assessments under the commercial building disclosure scheme.

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**Question No:** 31  
**Topic:** Assessors and auditors  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What training will assessors be required to undertake, which organisation will provide the training and how much will it cost?

**Answer:**

Assessors will be required to undertake the existing NABERS training in addition to modules on tenancy lighting assessments and the legislative requirements of the building energy efficiency disclosure scheme.

The NSW Department of Environment, Climate Change and Water (DECCW) currently delivers NABERS training in each state and territory. In collaboration with the Department, DECCW will also be delivering the additional modules for the scheme.

The current costs for new NABERS assessors are as follows:

- \$275 for an Introduction to NABERS Seminar;
- \$2,200 for Accredited Assessor Training (including an examination and two supervised assessments); and
- \$660 annual accreditation fee.

It is anticipated that these costs will remain unchanged at the commencement of the scheme. However, assessors applying to become accredited under the commercial building disclosure scheme will be required to pay an additional \$350 application fee.

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**Question No:** 32  
**Topic:** Assessors and auditors  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How will the independence of assessors be ensured?

**Answer:**

Independence is a critical issue as it is expected that many accredited assessors will work for companies that also offer energy efficiency advice and associated services. It is also expected that many companies will employ or train staff to become accredited assessors so that their assessments and the implementation of ongoing energy efficiency improvements can be carried out in-house.

To deal with potential conflicts of interest, accredited assessors will be required to abide by a Code of Practice that strictly defines the terms and conditions under which they may practice. Such a code already exists for NABERS assessors and is currently being updated to cover the commercial building disclosure scheme.

Through compliance monitoring and auditing by the Department and the NSW Department of Energy, the activities of accredited assessors will be monitored to ensure that the assessment methods and standards are being correctly applied. Where evidence of impropriety arises through routine auditing, more in-depth auditing will be undertaken and an assessor's accreditation may be suspended or revoked if necessary.

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**Question No:** 33  
**Topic:** Assessors and auditors  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What will be the ratio of auditors to assessors?

**Answer:**

A ratio of auditors to assessors has not been set. There are currently six auditors for the NABERS program, which represents a ratio of around 1 to 100. Recruitment of new auditors to meet the anticipated demand of the commercial building disclosure scheme is planned.

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**Question No:** 34  
**Topic:** Assessors and auditors  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What is your response to Lend Lease's suggestion that the use of accredited assessors and auditors is overly expensive and administratively cumbersome?

**Answer:**

Training, accrediting and auditing assessors underpins the credibility of the scheme.

The average market cost of NABERS Energy ratings is around \$1,000 to \$4,000, of which approximately 80 per cent is for assessors.

The Regulation Impact Statement (RIS) estimates that the average cost of Building Energy Efficiency Certificates will be \$6,000. For office buildings over 2,000 square metres, which are typically occupied by commercial businesses employing 100 to 150 employees, this cost is low in comparison to the total value of sale and lease transactions.

The RIS indicates that the scheme will have a minimal impact on the cost of selling or renting commercial office space.

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**Question No:** 35  
**Topic:** Use of regulations  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

There are a number of provisions which will give the Minister or the Secretary discretionary powers, such as the kind of buildings captured by the scheme (cl 10), setting minimum standards for disclosure (cl 15), granting exemptions (cl 17), determining the methods and standards of assessment (cl 21). What is the rationale or justification for requiring this level of discretionary, non-legislative power?

**Answer:**

The above-mentioned provisions will be prescribed in the Regulation and in legislative instruments that will be disallowable by the Parliament.

In terms of the kinds of offices that are disclosure affected (clause 10), the additional classes of exemption (paragraph 17(3)(c) and the methods and standards of assessment (clause 21), these are largely technical matters that stem from the rules and procedures for rating buildings under NABERS Energy (refer also to the response to question 1).

In terms of the manner in which NABERS Energy ratings are expressed in advertisements (clause 15) and exemption applications and fees (subclause 17(2)), these matters are considered administrative.



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**Question No:** 36  
**Topic:** Use of regulations  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How many pages will the regulations and subordinate instruments run to?

**Answer:**

The Office of Legislative Drafting and Publishing estimates that the Regulation and subordinate instruments will total between 20 and 30 pages.

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**Question No:** 37  
**Topic:** Commencement issues  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

The Explanatory Memorandum indicates that disclosure obligations are anticipated to commence around October 2010 or by the end of 2010 at the latest (pp 72 and 87). When does the government intend to introduce the underpinning regulations for this scheme?

**Answer:**

The Regulation and subordinate instruments are intended to be finalised prior to the Bill being considered by the Parliament during the Winter 2010 sitting period.

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**Question No:** 38  
**Topic:** Commencement issues  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

Will this provide enough time for sufficient assessors to be trained to meet the increased demand?

**Answer:**

Yes.

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**Question No:** 39  
**Topic:** Commencement issues  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

How will businesses that will have a disclosure obligation be informed of their obligation? When will they be informed?

**Answer:**

Please see response to question 24.

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**Question No:** 40  
**Topic:** Commencement issues  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

What is your response to the Property Council's recommended that the transition period for the sale of buildings should be lengthened to 24 months (sub 4, p 2).

**Answer:**

The transitional provisions allow building owners and lessors to only disclose a valid NABERS Energy rating for the first 12 months of the scheme, rather than a full Building Energy Efficiency Certificate. These provisions were developed on the basis of earlier discussions with industry.

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**Question No:** 41  
**Topic:** Administration  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

The Explanatory Memorandum suggests that the scheme will move to full cost recovery (p. 2). When is this expected to occur? In practice how will this operate?

**Answer:**

Full cost recovery is intended to occur in 2013. At this time, the administrative costs of the scheme are anticipated to be recouped through the fees obtained for the training and accreditation of assessors, and for applications for exemptions.

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**Question No:** 42  
**Topic:** Administration  
**Hansard Page ECA:** Written

**Senator FISHER asked:**

The Regulation Impact Statement states that the 'National Administrative Unit will have overall responsibility for training, accreditation, auditing and quality control' (p. 59). How will this operate? What level of funding has been set aside for this purpose and is the funding adequate?

**Answer:**

The National Administrative Unit will operate as a unit within the Department of Climate Change and Energy Efficiency. In the 2009-10 Budget, a total of \$5.3 million was set aside for the development and administration of the commercial building disclosure scheme. This funding is to cover the period up to the end of the 2012-13 financial year.