



# Building Energy Efficiency Disclosure Determination 2016

## *Building Energy Efficiency Disclosure Act 2010*

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I, Rhondda Dickson, Acting Secretary of the Department of Environment and Energy, make this Determination under sections 13, 13A, 15 and 21 of the *Building Energy Efficiency Disclosure Act 2010*.

Dated 3 August 2016

Rhondda Dickson

RHONDDA DICKSON

Acting Secretary of the Department of Environment and Energy

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**1 Name of Determination**

This Determination is the *Building Energy Efficiency Disclosure Determination 2016*.

**2 Commencement**

This Determination commences on 1 September 2016.

**3 Repeal**

The *Building Energy Efficiency Disclosure Determination 2015* is repealed.

**4 Definitions**

In this Determination:

*Act* means the *Building Energy Efficiency Disclosure Act 2010*.

*base building rating* has the meaning given by the NABERS Energy rating rules.

*Department* means the Department of the Commonwealth whose responsible Minister administers the Act.

*GreenPower program* means the program known as the National GreenPower Accreditation Program, which is a joint initiative of agencies of the governments of New South Wales, Victoria, Queensland, Western Australia, South Australia and the Australian Capital Territory.

*hours of occupancy*, for a building or an area of a building, has the same meaning as in the NABERS Energy rating rules.

*major refurbishment* has the meaning given to it in the Regulations.

*NABERS Energy rating rules* means the document titled *NABERS Energy and Water for offices: Rules for collecting and using data*, as in force from time to time, published by the NSW Environment Agency.

Note: *NABERS Energy and Water for offices: Rules for collecting and using data* is available on the NABERS' website (<http://www.nabers.gov.au>).

*net lettable area*, for a building or an area of a building, has the same meaning as in the document *Method of Measurement for Lettable Area*, dated March 1997, published by the Property Council of Australia Limited, as in force at the commencement of the Regulations.

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Note: The document titled *Method of Measurement for Lettable Area* is available from the Property Council of Australia Limited's website at <http://www.propertyoz.com.au>.

**NSW Environment Agency** means the New South Wales government agency or Department of State that manages the National Australian Built Environment Rating System (NABERS).

Note: NABERS is a system for measuring the environmental performance of buildings.

**rated areas** has the meaning given by the NABERS Energy rating rules.

**rating period** has the meaning given by the NABERS Energy rating rules.

**Regulations** means the *Building Energy Efficiency Disclosure Regulations 2010*.

**start day** has the meaning given in section 13(1) of the Act.

**Tenancy Lighting Assessment rules** means the *CBD Tenancy Lighting Assessment for Offices Rules*, as in force from time to time, and any rulings made in accordance with those Rules, published by the Department.

Note: The document *CBD Tenancy Lighting Assessment for Offices Rules* is available from the Commercial Building Disclosure program website at <http://www.cbd.gov.au>.

**tenancy rating** has the meaning given by the NABERS Energy rating rules.

**utility meter** means a meter:

- (a) installed to measure electricity, gas or any other source of energy used in a building; and
- (b) operated by the supplier of the electricity, gas or other source of energy as the basis for billing its customer.

**whole building rating** has the meaning given by the NABERS Energy rating rules.

## 5 Advertisements

- (1) For section 15 of the Act, an energy efficiency rating for a building must be expressed in the advertisement:
  - (a) by using a whole number, or one-half of a whole number, worked out for the building under the NABERS Energy rating rules as applied by section 6, with 0 indicating the lowest rating; and

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- (b) by adding the words ‘-star NABERS Energy rating’ after the number worked out under paragraph (a).

*Examples*

- 1 ‘4.5-star NABERS Energy rating’.
- 2 ‘3-star NABERS Energy rating’.

- (2) The rating must be displayed prominently within each separate advertisement so that:
- (a) it is clearly visible; and
  - (b) it is not obscured; and
  - (c) the number and the text included in the rating is at least as large as the majority of the text contained in the advertisement.

## **6 Methods and standards of assessment — energy ratings**

- (1) For paragraph 21 (1) (a) of the Act, the determined assessment methods and standards to be applied in working out the energy efficiency rating for a building are:
- (a) the NABERS Energy rating rules as modified by subsections (2), (3), (4) and (5); or
  - (b) the rules relating to reliance on a current NABERS rating contained in subsections (6), (7), (8), (9) and (10).

### *Modification of NABERS Energy rating rules*

- (2) In applying the NABERS Energy rating rules under subsection (1) (a), an accredited assessor must work out an energy efficiency rating that does not take into account the purchase of electricity under the GreenPower program.

*Note:* Information about the GreenPower program is available at <http://www.greenpower.gov.au>.

- (3) In applying the NABERS Energy rating rules for buildings undertaking a major refurbishment under subsection (1) (a), an accredited assessor must not assign an energy efficiency rating to a building where the accredited assessor reasonably forms the opinion that the building is currently undergoing works which are likely to effect the energy efficiency rating of the building.
- (4) In applying the NABERS Energy rating rules under subsection (1) (a), an accredited assessor must work out the base building rating for a building unless the building has inadequate metering. Metering is deemed inadequate when the meters installed for the building are not sufficient to distinguish energy measured for tenancy energy use from base building energy use, resulting in a non-representative figure of the base building energy use.
- (5) If calculating a base building rating will result in a non-representative figure as under subsection (4), an accredited assessor must work out the whole building rating for the building.

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*Reliance on a current NABERS rating*

- (6) For paragraph 21 (1) (a) of the Act, it is determined that a method and standard of assessment to be applied in working out the energy efficiency rating for a building is for an accredited assessor to adopt and rely on a current NABERS rating that has been certified by the National Administrator of the NABERS scheme in accordance with the NABERS Energy rating rules.
- (7) For subsection (6), an accredited assessor can only rely on a current NABERS rating that does not take into account the purchase of electricity under the GreenPower program.
- (8) For subsection (6), an accredited assessor can only rely on a current NABERS rating where:
  - (a) the current NABERS rating is a base building rating; or
  - (b) the current NABERS rating is a whole building rating; and
    - (i) there is no current NABERS rating for the building that is a base building rating; and
    - (ii) the accredited assessor would not be able to work out the base building rating for the building by applying the NABERS Energy rating rules under subsection (1) (a).
- (9) An accredited assessor cannot rely on a current NABERS rating under subsection (6) where the accredited assessor reasonably forms the opinion that the building is currently undergoing works which are likely to affect the energy efficiency rating of the building.
- (10) An accredited assessor cannot rely on a current NABERS rating under subsection (6) where the accredited assessor reasonably forms the opinion that the building has undergone works since the rating was certified which are likely to have affected the energy efficiency rating of the building.

**7 Methods and standards of assessment — lighting**

- (1) For paragraphs 21 (1) (b) and 21 (1) (c) of the Act, the assessment methods and standards to be applied in working out the lighting energy efficiency for a building or an area of a building are determined to be:
  - (a) the Tenancy Lighting Assessment rules; or
  - (b) the rule relating to reliance on a current lighting assessment contained in subsection (2).

*Reliance on a current lighting assessment*

- (2) For paragraphs 21 (1) (b) and 21 (1) (c) of the Act, it is determined that a method and standard of assessment to be applied in working out the lighting energy efficiency for a building or an area of a building is for an accredited assessor to adopt and rely on a current lighting assessment that has been submitted to and certified by the Department in accordance with the Tenancy Lighting Assessment rules.

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## 8 Information included in certificates

For subsection 13A (4) of the Act, a building energy efficiency certificate must include the following information:

- (a) the start day for the certificate;
- (b) the date the certificate ceases to be current under paragraph 13A (2)(d) of the Act;
- (c) a unique identifying number for the certificate;
- (d) the name of the owner of the building;
- (e) if the building has a name — the building name;
- (f) the street address of the building;
- (g) if the certificate is for the building — the net lettable area of the building;
- (h) if the certificate is for an area of the building — the net lettable area of the area of the building;
- (i) the hours of occupancy for the building determined under the NABERS Energy rating rules;
- (j) whether the energy efficiency rating for the building is a base building rating or a whole building rating;
- (k) the energy consumption of the building, measured in megajoules, per year;
- (l) the greenhouse gas emissions generated by the building:
  - (i) emitted from rated areas for the rating period covered by the energy efficiency rating, measured in kg of carbon dioxide per year; and
  - (ii) not including the effect of any electricity purchased for the building or area under the GreenPower program;
- (m) the NABERS Energy rating which does not take into account the purchase of GreenPower;
- (n) the greenhouse gas emissions generated by the building during a year, because of the energy consumed, per square metre of the building;
- (o) the name of the assessor;
- (p) the registration number of the assessor.

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### Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislation kept under the *Legislation Act 2003*. See: <http://comlaw.gov.au>