

Mr Fisher and Mr Manners
The Centre for International Economics
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6 November 2019

**Re: Independent review of the Commercial Building Disclosure Program
- Draft Report**

Dear Mr Fisher and Mr Manners,

Thank you for the opportunity to comment on the Draft Report of the Independent review of the Commercial Building Disclosure (CBD) Program.

The Energy Efficiency Council (EEC) is the peak body for energy efficiency, energy management and demand response. The EEC is a not-for-profit membership association for businesses, universities, governments and NGOs.

The EEC thanks the Centre for International Economics' (CIE) for its work on the Draft Report. The EEC concurs with the CIE's conclusion that the CBD Program has delivered significant benefits to Australia – if maintenance and other savings are included, the benefits to date would be significantly greater than \$86 million.

The EEC supports the CIE's proposed refinements to the CBD program's objectives and supports the following recommendations by the CIE:

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| Recommendation 1
(Supported) | The CBD Program should be continued for office buildings. |
| Recommendation 2
(Supported) | The impact of the CBD Program for offices should be enhanced by funding programs to support the upgrade of buildings with lower NABERS energy star ratings. |
| Recommendation 3
(Supported) | The CBD Program should be extended to office tenancies. |
| Recommendation 5
(Supported) | The CBD Program should be expanded to hotels through a staged process that involves mandatory NABERS ratings that initially do not need to be disclosed, and later need to be disclosed in hotels' foyers and primary websites. While the EEC agrees that the NABERS Program should engage with the hotel sector to refine and build confidence in the NABERS tools for hotels, this process should not delay nor be a precondition for the introduction of mandatory ratings. |
| Recommendation 7
(Supported) | Disclosure of energy performance for apartment buildings through state and territory legislation should be investigated in detail. |

The EEC disagrees with the following recommendations in the report:

**Recommendation 4
(Not supported)**

The CIE argues that the CBD Program should not be expanded to shopping centers at the current time

The EEC concurs with the CIE that expanding the CBD program to hotels and office tenancies is a higher priority than expanding the program to shopping centres. However, the evidence presented in the draft report does not conclusively demonstrate that isn't a case for expanding mandatory disclosure to shopping centres, especially smaller centres.

**Recommendation 6
(Not supported)**

The CIE argues that the CBD Program should not be expanded to data centers at the current time.

The EEC believes that expanding the CBD Program to data centres will deliver significant improvements in energy efficiency. However, the EEC agrees with the CIE that there is currently limited data available on the likely impact of expanding the CBD Program to data centres. Therefore, if the CBD Program isn't expanded to data centres in 2020, the EEC supports the CIE's recommendation that governments undertake measures to build an understanding of the impact of NABERS on data centres. Governments should obtain NABERS ratings for their private data centres, require NABERS ratings for any collocated data centres that they use, and invest in a range of other programs.

The attached submission goes into these issues in more detail, in particular how the CBD program should be extended to hotels and office tenancies and some concerns about the Draft Report's chapter on shopping centres.

We thank the CIE for its efforts to date, and look forward to continuing to engage in the Independent Review of the CBD program. If you have any questions, please contact me at rob.murray-leach@eec.org.au or 0414 065 556.

Yours sincerely



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energy efficiency COUNCIL

Energy Efficiency Council submission

Independent Review of the Commercial Buildings Disclosure Program Draft Report (2019)

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1. Hotels

The EEC strongly supports the CIE's recommendation that the CBD Program should be extended to hotels.

The EEC's members work in a broad range of building types, including hotels, offices, shopping centres, hospitals and educational facilities. There is a strong consensus among the EEC's members that the hotel sector is significantly less advanced in energy management than many other sectors. Most hotel owners and managers have a relatively limited understanding of:

- The current energy efficiency of their properties, particularly relative to other comparable properties;
- The potential for reduced energy costs and carbon emissions; and
- The processes, costs and benefits of energy efficiency improvements.

Accordingly, there is a large pool of untapped low-cost energy efficiency opportunities in the hotel sector. The estimate of the potential for energy savings in the hotel sector set out in Draft Report is based on the data that was available, and is relatively conservative. The full potential for energy savings is likely to be significantly larger than the estimate in the Draft Report.

The relative inexperience of the hotel sector in energy management is entirely understandable. The office sector has built up experience in energy management over the last nineteen years based on NABERS for offices and the CBD program. In contrast, the hotel sector has only had an effective performance rating tool available to it for a shorter period of time, and has not fully developed the suite of heuristics, protocols, skills and tools that would build off rating tools. Extending the CBD program to the hotel sector would result in the rapid development of energy management expertise in that sector.

The EEC notes that the patterns of ownership, management and use of hotels are significantly different to offices. The owners of hotel buildings sign long-term leases over their properties with hotel managers. Hotel managers both engage facility managers and provide accommodation services to customers. This structure creates many opportunities for information asymmetries, misaligned incentives and behavioural failures – the CBD program would significantly address these issues.

First, hotel managers currently only have an incentive to invest in energy efficiency upgrades that pay back within their lease period (e.g. lighting upgrades), but would benefit from more substantial building upgrades. However, building owners will not invest in upgrades to the building unless they believe that this will attract higher or more secure returns from hotel managers. NABERS Energy ratings would provide an independent assessment of the current energy efficiency of a property, allowing multiple parties to negotiate and finance mutually beneficial building upgrades.

Second, NABERS Energy ratings would enable building owners and hotel managers to set facility managers targets to improve the performance of hotel buildings, creating an incentive for better facility management.

Third, NABERS Energy ratings would enable government and corporate clients to assess the sustainability of hotels and incorporate this information into their decision-making. While some hotels use other tools to demonstrate their sustainability, most of these tools are not performance-based, and are therefore inadequate for disclosure purposes.

Therefore, there is a strong case for extending the CBD program to the hotel sector. The EEC agrees with the CIE's proposal to extend the CBD program to hotels in a staged way, to maximize the benefits to the hotel sector. These include:

- A two-year period from 1 July 2020 to 30 June 2022 where hotels with 100 or more rooms need to obtain NABERS Energy ratings but don't need to disclose their ratings. This non-disclosure period would address a number of information barriers, bounded rationality and misaligned incentives and help hotels prepare for full disclosure.
- From 1 July 2020, all hotels with 100 or more rooms need to obtain and disclose NABERS Energy ratings on their main websites.

The EEC agrees with the CIE that the NABERS program should engage with the hotel sector to refine the NABERS Energy tool for hotels. While we believe that the tool is actually highly accurate and effective for hotels, a process of engagement, education and refinement would be beneficial.

However, the EEC does not agree that the introduction of the mandatory non-disclosure period should be delayed until the NABERS tool for hotels has been updated. In fact, mandating the rating of hotels will be essential to build up the database of building performance sufficiently to nuance the NABERS tool. We believe that only very minor adjustments to NABERS will be required, and these will involve tweaks to algorithms and therefore not require any repeat visits to hotels.

Therefore, the EEC recommends that the completion of refining the NABERS Energy tool for hotels should not be a precondition for mandating non-disclosed NABERS Energy ratings of hotels. The EEC recommends that the refinement of the NABERS Energy tool for hotels should take place in parallel with the mandatory non-disclosure period. It is notable that the NABERS Energy tool for offices was refined after the introduction of mandatory disclosure for offices, with no adverse impacts.

One issue that does need more consideration is the frequency of NABERS ratings. Ideally, formal NABERS ratings should be undertaken every year. However, allowing hotels to undertake formal ratings less frequently would significantly lower the cost of the CBD program, and hotel managers might use cheap non-disclosed informal ratings to track and improve their performance in between formal ratings. Based on the information provided to date, the EEC believes that the legislation should initially require formal ratings every two years, which could be adjusted up or down at the next review of the CBD Program.

Finally, the EEC recommends that governments also invest in a range of parallel policies to help hotels respond to the introduction of mandatory disclosure, including but not limited to:

- Education programs for hotel owners and managers, ideally in partnership with the EEC and other industry bodies. The EEC currently works with a range of industry bodies to develop and promulgate education through its Energy Briefing program <https://www.energybriefing.org.au/>
- Funding the initial NABERS Energy ratings for some hotels.
- Allocating funding from sources such as the Climate Solutions Fund to invest in energy efficiency upgrades that can be used as demonstration projects. Governments would ideally fund energy efficiency upgrades to a range of different types of hotels.

2. Office tenancies

The EEC strongly supports the CIE's recommendation that the CBD Program should be extended to office tenancies.

The EEC believes that the CIE's sensible analysis in the Draft Report is sufficient to demonstrate that mandatory NABERS co-assess ratings would deliver economic benefits. The CIE has appropriately and conservatively estimated the net benefits of mandatory NABERS co-assess ratings based on the data that was made available. The actual net benefits of mandatory NABERS co-assess ratings would likely be significantly higher, as the costs of energy efficiency improvements in tenancies are significantly lower than in base buildings.

Lighting upgrades are highly cost-effective, but do require a capital outlay. In contrast, most other categories of energy efficiency in office tenancies would be delivered by behavioral programs (e.g. switching off lights at night) and better procurement policies for computers, printers and other plug loads. In these other categories of energy savings, the cost is largely a modest contribution of staff time.

There is a wide range of issues that need to be considered in designing how the CBD program should be extended to office tenancies, including the point of obligation and how results should be disclosed. We believe that these issues are beyond the scope of the CIE's review, and the Australian Government should immediately commence the process for designing how to extend the CBD program to tenancies.

The EEC supports the CIE's recommendation that no change should be made to the CBD program as it applies to offices until the program to mandate NABERS co-assess ratings is designed and implemented (e.g. the requirement for Tenancy Lighting Assessments should be continued).

3. Shopping centres

The EEC concurs with the CIE that expanding the CBD program to hotels and office tenancies is a higher priority than expanding the program to shopping centres. However, the EEC believes that there is likely to be a case for extending the CBD program to shopping centres, especially smaller centres.

Unfortunately, there is relatively little data publicly available at this time on the performance of shopping centres that don't use NABERS as a rating tool, particularly smaller centres. Accordingly, the EEC accepts that, under the CIE's evidence-based approach to assessing the costs and benefits of expanding the CBD program, it is currently not possible to make a firm conclusion either way.

Accordingly, the EEC's key recommendation is that governments and property sector institutions should invest in gathering further data on the performance on shopping centres that both rate and don't rate with the NABERS Energy tool. This would enable a future review of the CBD program to determine whether to extend the CBD program to some categories of shopping centres.

The case for expanding the CBD program to shopping centres

The EEC believes that there is a case for extending the CBD program to shopping centres, especially smaller centres, based on:

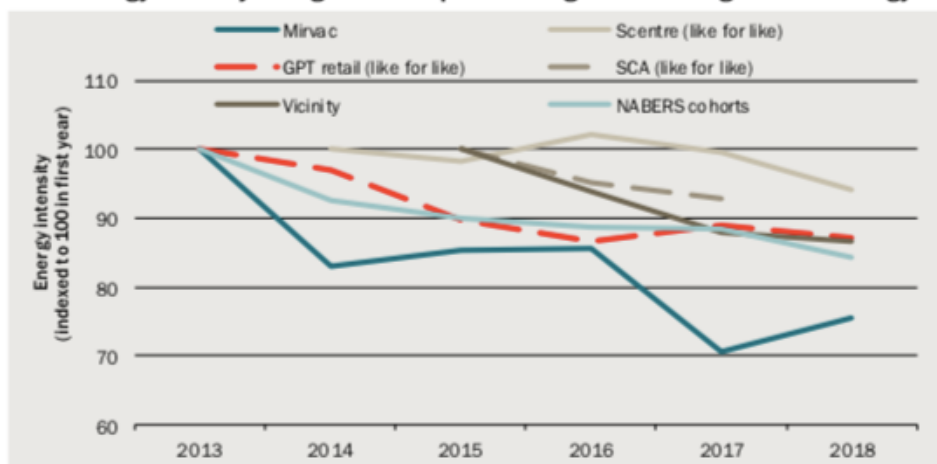
- EEC's members report significant untapped low-cost energy efficiency opportunities in shopping centres. Shopping centres are very energy intensive compared to other categories of commercial building, and even modest percentage improvements in energy efficiency would deliver absolutely large energy savings;
- Shopping centres that are voluntarily using NABERS Energy to assess their energy performance are improving their energy efficiency at a remarkable rate. Many smaller shopping centres are currently not assessing their energy performance, and some larger shopping centres are using less robust performance tools than NABERS Energy; and
- Shopping centres that are voluntarily using NABERS Energy to rate their energy use are rarely disclosing it to tenants and, even if they are, they aren't disclosing it in an environment where all shopping centres are disclosing NABERS ratings. The EEC agrees with the CIE that retail tenants would be unlikely to choose their location based on shopping centres' NABERS ratings. The EEC also agrees with the CIE that retail tenants do not *currently* demand NABERS ratings. However, were NABERS ratings made readily available to retail tenants, it is likely that they would start to use them in their negotiations with shopping centres. For example, a tenant in a shopping centre that currently has a 1 star NABERS rating would be able to argue that the shopping centre manager has likely not invested in cost-effective energy efficiency improvements, and could argue for lower rents until those improvements have been made. The EEC notes that in 2010 relatively few office tenants were considering NABERS ratings in their purchasing and

negotiation decisions – this situation has changed dramatically over the last nine years.

The EEC accepts that the CIE would need more evidence to recommend extending the CBD program to shopping centres. The EEC’s main point of disagreement with the Draft Report is that the evidence is also insufficient, and too conflicting, to conclude that the CBD program should definitely not be extended to shopping centres. We note that:

- Currently, only the performance of shopping centres that are voluntarily reporting their performance are known - the performance of shopping centres that are not using any rating tool is currently unknown. Based on experience in the office sector, a large number of non-disclosing shopping centres are likely to have very poor NABERS ratings (e.g. zero stars) and have large opportunities for energy savings.
- Shopping centres that are using the NABERS Energy tool to assess their performance have been independently verified as improving their energy efficiency at a rapid rate off a verified starting position;
- Shopping centres that are using in-house tools to assess and report their energy performance appear to be improving their energy efficiency at variable rates (Figure 7.7. in the Draft Report). Some shopping centre owners (e.g. Mirvac) appear to be improving the energy efficiency rapidly, while others appear to be improving their energy efficiency at a much lower rate.

7.7 Energy intensity changes for companies using and not using NABERS energy



Source: Draft Report, page 100

- However, it is challenging to compare the performance of shopping centres that are using NABERS and in-house tools to assess their energy performance (Figure 7.7). Firstly, most of the data from in-house rating tools has not been independently verified. Second, in-house tools may adjust data in ways that are not strictly comparable either to NABERS or other in-house tools. Third, the relative starting positions of companies using in-house rating approaches vary significantly. For example, Mirvac’s shopping centres were relatively energy intensive in 2013, potentially giving them a larger pool of low-cost energy savings compared to the NABERS cohort. The EEC does not argue that

this information should be ignored – rather we argue that the CIE should treat this data with caution, especially in comparison to NABERS ratings.

Therefore, the EEC does not believe that it is possible to conclusively argue that extending the CBD program to shopping centres would deliver no energy savings, a position that the CIE has used as the basis of its cost-benefit analysis.

The EEC strongly encourages the CIE to recommend that governments should invest more resources over the next three years to gather sufficient data to determine whether the CBD program should be extended to shopping centres.

4. Data centres

The EEC believes that expanding the CBD Program to data centres will deliver significant improvements in energy efficiency. Data centres represent a large and rapidly-growing proportion of the energy use in Australia. Mandatory NABERS ratings for larger data centres would:

- Provide independent ratings for potential customers;
- Enable data centres to assess their relative performance and upgrade them at opportune moments
- Encourage all new data centres to be built to the most cost-effective level of energy efficiency.

However, the EEC agrees with the CIE that there is currently limited data available on the likely impact of expanding the CBD Program to data centres. Therefore, if the CBD Program isn't expanded to data centres in 2020, the EEC supports the CIE's recommendation that governments undertake measures to build an understanding of the impact of NABERS on data centres. Governments should obtain NABERS ratings for their private data centres, require NABERS ratings for any collocated data centres that they use, and invest in a range of other programs.

5. Other matters

The EEC thanks the CIE for its considerable work on the Draft Report.

The EEC notes that the CIE has often made conservative estimates of the current and potential benefits of the CBD program based on the data that was available of that the CIE felt confident could be attributed to the CBD program. The current and potential impacts of the CBD program are likely to be significantly larger than the estimates in the Draft Report. In particular, the Draft Report does not incorporate the potential benefits of maintenance savings, and part of the benefit of the CBD program is that it has changed the landscape for energy management, driving higher levels of energy efficiency in both new buildings and existing buildings that aren't captured by the CBD program.

Finally, the EEC does not support the statement on page 34 of the Draft Report that *'there is little information to suggest that there is an information asymmetry program that is best addressed by a NABERS rating'*. While tenants and buildings owners can (and do) seek information on energy bills, this is labour-intensive and is generally only carried out on one or two buildings that they are considering for purchase / lease. In contrast, the CBD program ensures that NABERS ratings are provided for a large number of buildings, enabling prospective tenants and buyers to simply compare a large number of properties. This enables prospective tenants and buyers to consider energy efficiency much earlier in the procurement process and eliminate buildings that do not perform at a particular level from further consideration, which can significantly impact their final procurement decision.

Accordingly, the EEC would recommend that that the CIE adopt a position along this lines *'while tenants and building owners can access information on energy bills without the CBD Program, the program allows them to access information on a large number of buildings at low cost, supporting comparison between multiple programs.'*