Mr Gene McGlynn
Assistant Secretary, Building & Government Energy Efficiency Branch
Department of Climate Change & Energy Efficiency
Email: Gene.McGlynn@climatechange.gov.au

23 January 2011

Dear Mr McGlynn

In January 2011 the Department of Climate Change and Energy Efficiency (DCCEE) released a Consultation Paper on Tax Breaks for Green Buildings. This submission provides the Energy Efficiency Council's initial response to the Consultation Paper, and includes this cover letter and a submission in the format requested by DCCEE. The cover letter is a summary of the Energy Efficiency Council's recommendations.

The Energy Efficiency Council brings together Australia's expertise in energy efficiency to support the development of policy and programs. Incorporating expert advice into the design of energy efficiency programs significantly improves their effectiveness and reduces program risk. The Council welcomes the opportunity to provide its initial input on the Tax Breaks for Green Buildings. The Council believes that additional intensive consultation is essential and looks forward to further input on the Tax Breaks for Green Buildings.

The Council supports the Tax Breaks for Green Buildings as part of the critical suite of policies for Australia's economic development and climate change response. The Council strongly supports the urgent introduction of a carbon price in Australia. Programs will be required alongside the carbon price to:

- Help commercial building owners and tenants respond effectively to the carbon price; and
- Address separate energy affordability issues.

Even in the absence of climate change, market failures and issues with the energy market result in sub-optimal investment in energy efficiency by individuals, organisations and regions. This results in larger energy bills due to both excessive energy use and inflated energy prices. Energy efficiency policies can reduce energy bills and improve energy affordability.

Therefore, the Council strongly supports the development of an incentive scheme to drive investment in energy efficiency in commercial buildings. Research by McKinsey and others consistently indicates the substantial economic and environmental benefits that would arise from improving the efficiency of commercial buildings. ClimateWorks Australia found that improved efficiency in commercial buildings would save the economy $1.6 billion every year. An incentive scheme will drive growth and create jobs in the construction and energy efficiency sectors.

The Council welcomes the Government's announcement of a Tax Break for Green Buildings and the effort that DCCEE has invested to expedite the Tax Break. However, the Council urges the Government to undertake intensive consultation with industry and experts over the coming months to ensure that the Tax Break is well designed. The choice of delivering the incentive through a tax-break, rather than a grant or certificate-based scheme, creates some complexities that need to be worked through and carefully considered.

Additional consultation must not delay the allocation of funds to encourage retrofitting. Any gap between the current Green Building Fund and the proposed Tax Breaks would create significant uncertainties in the market, threatening jobs. Given that all major parties have now proposed an incentive scheme for commercial buildings, if the Green Building Fund winds up before a replacement scheme is in place then most potential building retrofit works would be put on hold until the replacement scheme is in place. If there is any delay in the introduction of the Tax Breaks, additional funds would need to be allocated into the Green Building Fund.

The Council notes that this scheme will only cover commercial buildings. To capture the full opportunity presented by energy efficiency, Australia will also require a range of complementary programs, including a national energy efficiency goal, energy market reform (including a National Energy Savings Initiative) and incentives to drive cogeneration and efficiency in industry.

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The Council has set out its response to the questions posed by the Consultation Paper in the attached submission. A summary of the Council's key views are set out below:

- The Council supports an incentive scheme that provides incentives for energy efficiency retrofits. Buildings constructed post 2009 should not be eligible for the incentive.
- The intent of a transitional incentive scheme should be to foster long-term changes in the commercial building market. This means that the tax break, in conjunction with other programs, should aim to foster the attitudes, skills, relationships, market structure and costs that will be necessary in a healthy market for efficient buildings. Various aspects of the program need to be designed with this in mind, but at a minimum the program should drive best-practice in retrofits and avoid perverse incentives for non-optimal practices. A market-transformation approach means ongoing greenhouse savings, which means that while the program should consider total greenhouse gas savings, it should not be limited to this goal.
- The scheme must aim to drive retrofits that significantly improve the efficiency of buildings to the optimum cost-effective level in each building. A cost-effective retrofit in one building could increase its rating from 1 to 3.5 stars, and in another building from 3 to 5 stars. The Council recommends that the scheme allocate incentives by the formula:
    - A gateway for eligibility using the NABERS scheme. For example, if a retrofit improved a building's NABERS Energy rating by the equivalent 2 stars and took it above a threshold (e.g. 3.5 stars) it could be eligible for the incentive, irrespective of whether the rating increased from 0 to 3.5 stars or from 2 to 4 stars. More work is needed to set the thresholds for the gateway.
    - The quantum of incentive for eligible parties is scaled to the quantum of energy / greenhouse gas actually saved (i.e. dollars per MWh/ gCO_2). This creates an incentive for companies to save more than a minimum level. Alternatively, eligible projects should be prioritised by MWh or gCO_2 savings per m^2.
- The Council supports the use of NABERS for assessing project eligibility, but the International Performance Measurement and Verification Protocol (IPMVP) should be used to assess eligibility for buildings that can't be rated by NABERS (e.g. car parks). In addition, the IPMVP should be used for verification and determining the quantum of incentive.
- A global retrofit costing approach should be used. While the Council supports a cap on total project expenditure per m^2, there should be no cap on the proportion of expenditure that is capital or non-capital.
- Applications for the tax break must balance accuracy and upfront cost. For a small project, a Level 1 or Level 2 audit may be appropriate prior to the application, and if the application is successful the applicant would then undertake a Detailed Facility Study. For a larger project a Detailed Facility Study may be necessary prior to application.
- While the Council prefers a 'standing-bid' style arrangement, if the choice is between a competitive and entitlement approach the Council would recommend that incentives are allocated on a competitive basis.
- The scheme must not exclude build-own-operators of cogeneration schemes, as this could create a perverse incentive for multiple small cogeneration units instead of larger units. Ideally, a wider variety of participants should also be eligible for the scheme, including tenants and other owners of other categories of building (e.g. retail chains and car parks).

Please contact me on 03 8327 8422 should you require further information on any of the issues raised in this submission.

Yours sincerely

Rob Murray-Leach,
Chief Executive Officer

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Tax Breaks for Green Buildings Consultation

Part A

Please fill in the following details of the submitter.

Name of organisation/ individual:	**Energy Efficiency Council**			
Contact person:	Rob Murray-Leach, Chief Executive Officer			
Tel (office):	03 8327 8423			
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Please indicate the stakeholder group/s that you or your organisation belong to	Office buildings		Hotels	
	Shopping centres		Energy efficiency firms	Y
	Construction companies		Taxation	
	Other (Please specify):			

Note: Part A of a completed submission template will be removed before the rest of the submission is published online. However, names of submitters will be published with the submission. Please refer to Section 1.5 of the Consultation Paper for further details.

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Part B

NOTE: It is intended that all submissions, including the names of the submitters, will be made publicly available online after the close of submissions, and may be used by DCCEE in subsequent publications, unless the submitter requests that the submission, or part of it, be treated as confidential. Please refer to Section 1.5 of the Consultation paper for further details.

Question 1

What is a fair way of dealing with existing office buildings that cannot be rated using NABERS Base Building rating tool because of insufficient sub-metering? Is it appropriate to use NABERS Whole Building rating tool for the initial rating for this group of buildings?

Comment: A NABERS Whole Building rating is suitable where a NABERS Base Building rating is not possible due to insufficient sub-metering. However, good verification processes need to be used to assess how the improvement in rating has been delivered and ensure that it is a genuine reduction in energy use per square metre. The Council recommends the use of the International Performance Measurement and Verification Protocol for this purpose.

Question 2

What is a fair way to dealing with vacant buildings that cannot be rated accurately by NABERS? Is it appropriate that if a building was built before 1995 and has not undergone any major refurbishment since then, the building is deemed to be having a NABERS rating of 2 stars for the purpose of this program?

Comment: If a building is does not have a NABERS rating because it is vacant, and it was built before 1995 and has not been refurbished then it is reasonable to deem that the building has a NABERS rating of 2 stars or below for the purpose of the scheme. However, this applies to a small proportion of the building stock and the Government needs to carefully consider whether to allow this exemption, particularly in the first year of the scheme.

Question 3

What are the factors that should be considered in designing an exemption regime?

Comment: The Energy Efficiency Council has no comment on this issue at this time.

Question 4

Are NABERS ratings appropriate to be used to measure and verify energy efficiency performance of the buildings for the purpose of the Tax Breaks program?

Comment: The Council supports the use of NABERS as a core tool for assessing whether a project is eligible for the tax break. The scheme must aim to drive retrofits that significantly improve the efficiency of buildings to the optimum cost-effective level in each building. A cost-effective retrofit in one building could increase its rating from 1 to 3.5 stars, and in another building from 3 to 5 stars. The gateway for eligibility should reflect this. For example, if retrofit improved a building's NABERS Energy rating by the equivalent 2 stars and took it above a threshold (e.g. 3.5 stars) it could be eligible for the incentive, irrespective of whether the rating increased from 0 to 3.5 stars or from 2 to 4 stars. More work is needed to set the thresholds for the gateway.

However, NABERS does not cover all categories of buildings (e.g. car parks) and is not the ideal tool for measuring actual energy savings. In these cases the International Performance Measurement and Verification Protocol (IPMVP) should be used.

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Question 5

Are there any other measuring methodologies should be considered? If yes, how can the credibility of these methodologies and the assessors be guaranteed?

Comment: The International Performance Measurement and Verification Protocol (IPMVP) is the globally accepted standard for measuring energy savings arising from a project. The IPMVP was developed jointly by the US Department of Energy and the energy efficiency industry. An accreditation scheme for IPMVP assessors has already been developed in the US and is about to be rolled out in Australia, although there are currently only a small number of accredited Certified Measurement and Verification Professionals in Australia.

Question 6

Is it appropriate to use a global retrofit costing approach for the Tax Breaks program?

Comment: The Council supports the use of a global retrofit costing approach.

Question 7

Should non capital expenditures be allowed for this program? If so, what non capital expenditures should be allowed?

Comment: Non-capital expenditure **must** be eligible for tax breaks. Eligible non-capital expenditures include detailed facility studies, detailed design, retro-commissioning, installation of works and management of retrofit projects.

Question 8

What is a reasonable range for the cap on non capital expenditure (e.g. 5 per cent to 10 per cent of the total project cost)?

Comment: There should be no cap on the proportion of expenditure that is non-capital. A cap on non-capital expenditure will encourage inefficient retrofits and over-investment in capital. The aim of the tax break scheme should be to drive market transformation, and artificially distorting the retrofit market away from best practice would critically compromise this aim.

Question 9

Should the same maximum value in $/m2 be used for all of the three sector?

Comment: The Energy Efficiency Council has no comment on this issue at this time, and requires additional time to consult with members on this issue.

Question 10

What factors should be considered in determining the maximum values in $/m2 (or $/room for hotels) for the sectors?

Comment: The Energy Efficiency Council has no comment on this issue at this time, and requires additional time to consult with members on this issue.

Question 11

Should a maximum value in $/m2 or $/room be used for hotels? (note: further discussion of using building area or number of rooms as a parameter for the hotel sector is included in Chapter 3.)

Comment: The Energy Efficiency Council has no comment on this issue at this time.

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Question 12

Are there any opportunities to improve the transparency and integrity of the program through the application and assessment process?

Comment:	See Comments on Question 19

Question 13

Is it appropriate to use the proposed competitive approach, including the proposed sectoral concession factor, to assess applications from three different sectors together (i.e. applications are competing with applications from all of the three sectors in the same round)?

Comment: The Energy Efficiency Council prefers a 'standing offer' arrangement, but if there is competition for limited funds then it is preferable to allocate funds on a 'cost-effectiveness' competitive basis. A competitive approach must be fair and transparent.

Eligible projects should be prioritised by MWh or gCO_2 savings per m^2, noting that as the goal is market transformation it may be necessary to enable sectors to participate that are currently less cost-effective per m^2. The Council will require more time to consult with members on the detailed issues of sectoral or regional concession factors.

Question 14

Under the proposed competitive approach, should different Cap be set for each sector? What factors should be considered in setting the Caps?

Comment:	The Energy Efficiency Council has no comment on this issue at this time.

Question 15

Should number of rooms, instead of building area, be used in calculating the PCI for hotels? If building area is used for hotels as well, what would be an appropriate definition and verification method for the hotel sector?

Comment:	The Energy Efficiency Council has no comment on this issue at this time.

Question 16

Is it appropriate to use the proposed entitlement approach, including the use of different values of Cap for different sectors and star rating improvement ranges, to process applications from all of the three different sectors together (i.e. applications from all of the three sectors are competing together and with each other on a first come first served basis)?

Comment: An entitlement approach (first-come, first-served) is the least preferred option. The council prefers a 'standing offer' arrangement, but if there is competition for limited funds then it is preferable to allocate funds on a 'cost-effectiveness' competitive basis.

Question 17

Under the proposed entitlement approach, should different Cap be set for each sector and star rating improvement range? What factors should be considered in setting the Caps?

Comment:	The Energy Efficiency Council does not support the entitlement approach.

Question 18

Should funds (in terms of total value of the projects approved) be quarantined for each sector? What are the factors that need to be considered in quarantining the funds?

Comment:	The Energy Efficiency Council has no comment on this issue at this time.

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Question 19

Is the information required sufficient to ensure the integrity of the application and assessment processes? Are the proposed requirements for the provision of information appropriate or overly onerous?

Comment: Applications for the tax break must balance accuracy and upfront cost. For a small project, a Level 1 or Level 2 audit may be appropriate prior to the application, and if the application is successful the applicant would then undertake a Detailed Facility Study. For a larger project a Detailed Facility Study may be necessary prior to application. More time is required to consult with energy efficiency experts on the application process. To address quality control issues, it is recommended that eligible project applications must demonstrate the use of appropriately qualified and accredited energy efficiency service providers. The Energy Efficiency Council is currently developing an accreditation scheme with the intention of supporting schemes like the Tax Breaks for Green Buildings.

Question 20

Is there any other information that should be made publicly available on the proposed register to improve the transparency and accountability of the program? Is there any information of an application that should not be made publicly available (e.g. due to commercial sensitivity or privacy issues)?

Comment: The Energy Efficiency Council has no comment on this issue at this time.

Question 21

What are the factors that need to be considered in designing the compliance regime? Are there any other measures that could be included to increase the robustness and effectiveness of the compliance regime?

Comment: The compliance regime will be critical to ensure that taxpayer dollars are well invested and. See comments under Question 19.

Question 22

What level and/or type of sanctions would be appropriate for each type of non-compliance outlined in Section 4.3.3? Are there any other activities that should be considered as non-compliance?

Comment: The Energy Efficiency Council has no comment on this issue at this time.

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General comment

Please include any other comments or information you believe might help improve the design of the Tax Breaks program.

The Council strongly supports Tax Breaks for Green Buildings as part of the suite of policies for Australia's economic development and climate change response. The Council supports the urgent introduction of a carbon price. Programs will be required alongside the carbon price to:

- Help commercial building owners and tenants respond effectively to the carbon price; and

- Address separate energy affordability issues.

Even in the absence of climate change, market failures and issues with the energy market result in sub-optimal investment in energy efficiency by individuals, organisations and regions. This results in larger energy bills due to both excessive energy use and inflated energy prices. Energy efficiency policies can reduce energy bills and improve energy affordability.

The Council supports an incentive scheme for retrofitting existing commercial buildings. Research by McKinsey and others indicates the substantial economic and environmental benefits from improving the efficiency of commercial buildings. ClimateWorks Australia found that improved efficiency in commercial buildings would save the economy $1.6 billion every year. An incentive scheme will drive growth and create jobs in the construction and energy efficiency sector.

The Council notes that this scheme will only cover commercial buildings. To capture the full opportunity presented by energy efficiency, Australia will also require a range of complementary programs, including a national energy efficiency goal, energy market reform (including a National Energy Savings Initiative) and incentives to drive cogeneration and efficiency in industry.

The Council welcomes the Government's announcement of a Tax Break for Green Buildings and the effort that DCCEE has invested to expedite the Tax Break. The intent of a transitional incentive scheme should be to foster long-term changes in the commercial building market. This means that the tax break, in conjunction with other programs, should aim to foster the attitudes, skills, relationships, market structure and costs necessary in a healthy market for efficient buildings.

Various aspects of the program need to be designed with this in mind, but at a minimum the program should drive best-practice in retrofits and avoid perverse incentives for non-optimal practices. For example, the scheme must not exclude build-own-operators of cogeneration schemes, as this could create a perverse incentive for multiple small cogeneration units instead of larger units.

The Council also recommends that the scheme allocate incentives by the formula:

- A gateway for eligibility using the NABERS scheme. For example, if retrofit improved a building's NABERS Energy rating by the equivalent 2 stars and took it above a threshold (e.g. 3.5 stars) it could be eligible for the incentive, irrespective of whether the rating increased from 0 to 3.5 stars or from 2 to 4 stars. More work is needed to set the thresholds for the gateway.

- The quantum of incentive for eligible parties is provided in dollars per MWh/ gCO_2 saved. This creates an incentive for companies to save more than a minimum level. Alternatively, eligible projects should be prioritised by MWh / gCO_2 savings per m^2, noting that some concessional factors may be required for some sectors or regions. Further consultation on this is essential.

The Council urges the Government to undertake intensive consultation with industry and experts over the coming months to ensure that the Tax Break is well designed. Additional consultation must not delay the allocation of funds to encourage retrofitting. Any gap between the current Green Building Fund and the proposed Tax Breaks would create significant uncertainties in the market, threatening jobs. If there is any delay in the introduction of the Tax Breaks, additional funds would need to be allocated into the Green Building Fund.

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