



Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2016

Building Energy Efficiency Disclosure Act 2010

I, Josh Frydenberg, Minister for Resources, Energy and Northern Australia, make this Determination under section 10 of the *Building Energy Efficiency Disclosure Act 2010*.

Dated: 6 May 2016

JOSH FRYDENBERG

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Minister for Resources, Energy and Northern Australia

1 Name of Determination

This Determination is the *Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2016*.

2 Commencement

This Determination commences the day after registration.

3 Repeal

The *Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2015* (F2015L01074) is repealed.

4 Definitions

In this Determination:

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

Area of a Building includes physically separate spaces within the building that share access to the outside of the building, or that are linked internally to a space that provides such external access, that may be grouped together for the purposes of offering to let or sublet or inviting offers to lease or sublease.

Note Refer to section 5 of the Act for the meaning of ‘offering to let or sublet or inviting offers to lease or sublease’.

Certificate of Occupancy is a document, however described, issued by a local authority under a State or Territory law indicating that a building is safe for occupancy.

Gross Lettable Area and **Net Lettable Area**, for a building or an Area of a Building, have 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 this Determination.

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

Major Refurbishment has the meaning given to it in the *Building Energy Efficiency Disclosure Regulations 2010*.

Note: Several other words and expressions used in this Determination have the meaning given by section 3 of the Act.

Support Facility means a part of a building that:

- (a) is not used for administrative, clerical, professional or similar information-based activities; and
- (b) is available to support those activities; and
- (c) occupies a space that is Fit to be Used for those activities; and
- (d) is exclusively for the use of office tenants.

5 Disclosure affected buildings

- (1) For subsection 10 (1) of the Act, this section specifies the kinds of buildings that are disclosure affected.
- (2) Subject to subsections 5(4), 5(5) and 5(6) of this Determination, from the commencement of this Determination until 1 July 2017, a building is disclosure affected if:
 - (a) at least 75% of the space in the building by Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities; and
 - (b) the Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) of the space in the building that is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities, is at least 2000 square metres.
- (3) Subject to subsections 5(4), 5(5) and 5(6) of this Determination, from 1 July 2017, a building is disclosure affected if:
 - (a) at least 75% of the space in the building by Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities; and
 - (b) the Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) of the space in the building that is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities, is at least 1000 square metres.
- (4) A building is not disclosure affected if:
 - (a) it is new; and
 - (b) a Certificate of Occupancy:
 - (i) has not yet been issued; or
 - (ii) is less than 2 years old.
- (5) A building is not disclosure affected if:
 - (a) it has had a Major Refurbishment; and
 - (b) a Certificate of Occupancy is less than 2 years old.
- (6) A building is not disclosure affected if the building is held under a strata title system (however described) established under a law of a State or Territory.

Note: See the definition of **disclosure affected building** in the Act.

6 Disclosure affected areas of a building

- (1) For subsection 10 (2) of the Act, this section specifies the various types of an Area of a Building that is disclosure affected.
- (2) Subject to subsections (4), (5) and (6), from the commencement of this Determination until 1 July 2017, an Area of a Building is disclosure affected if:
 - (a) at least 75% of the space in the building by Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities; and
 - (b) the Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) of the space in the area that is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities, is at least 2000 square metres.
- (3) Subject to subsections (4), (5) and (6), from 1 July 2017, an Area of a Building is disclosure affected if:
 - (a) at least 75% of the space in the building by Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities; and
 - (b) the Net Lettable Area (or Gross Lettable Area if Net Lettable Area is not available) of the space in the area that is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities, is at least 1000 square metres.
- (4) An Area of a Building is not disclosure affected, if:
 - (a) the building in which it is located is new; and
 - (b) a Certificate of Occupancy:
 - (i) has not yet been issued; or
 - (ii) is less than 2 years old.
- (5) An Area of a Building is not disclosure affected if:
 - (a) the building in which it is located has had a Major Refurbishment; and
 - (b) a Certificate of Occupancy is less than 2 years old.
- (6) An Area of a Building is not disclosure affected if the area is held under a strata title system (however described) established under a law of a State or Territory.

Note: See the definition of **disclosure affected area of a building** in the Act.

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>