

The logo for Eureka Funds Management Limited, featuring the word "Eureka" in a white, sans-serif font on a black rectangular background.

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Commercial Building Energy Efficiency Team
Energy Efficiency Branch
Department of the Environment, Water, Heritage and the Arts
GPO Box 787
CANBERRA ACT 2601

By e-mail to commercialbuildings@environment.gov.au

Dear Sirs

Re: Mandatory Disclosure of Commercial Office Building Energy Efficiency-
Stakeholder comment

We write in connection with the above proposal and wish to raise issues which we believe have not been considered in the consultation documents.

By way of background, Eureka Funds Management was established in January 2004 as a Property Fund Manager dedicated exclusively to wholesale and institutional clients. It was established on a platform of independence, high transparency and corporate governance.

Eureka currently manages six funds, comprising four real estate investment funds and two real estate development funds. It has established itself as a significant Fund Manager in the Australian property funds management industry and through the strong support of its clients, currently manages some \$4 billion of real estate investments.

With around 50 employees, Eureka is a boutique, owned by its founders and staff. It has a strong focus and emphasis on ethical behaviour and appropriate alignment of interest with its investors in all its dealings.

Eureka has a strong commitment to sustainability and responsible investment. It is a member of the Investor Group on Climate Change (IGCC) and the Responsible Investment Association Australasia and is a signatory to the United Nations Principles for Responsible Investment (UNPRI).

The majority of commercial office assets within Eureka's real estate investment funds have, and continue to be, rated for the base building element. This allows for

engagement with both occupiers and investors. In addition, Eureka is in the process of completing Stage 2 energy audits via AGL Sustainability Services and Dr. Paul Bannister of Exergy. These set out improvement plans for the property concerned (covering both operational and capital upgrades). Eureka also manages a substantial hotel portfolio within Australia and New Zealand and was one of the first to utilise the Nabers Energy tool for the hotel assets in 2008.

Eureka recognises the importance of a factual, process-driven rating tool such as Nabers Energy. This is a tangible process and demonstrates actual asset performance as opposed to design attributes. The rating of the base building element, which is under the operational control of the Landlord, illustrates a building's energy efficiency to occupiers.

What we do not agree with is the proposed obligation on the Landlord to undertake and maintain ratings on tenancies over 2,000 square meters. We believe that this part of the proposal has been poorly considered. The stated objective of the NFREE Stage One Implementation Plans is to ensure that *credible and meaningful information is publicly and readily available*. The proposal does not satisfy this objective. We believe that this proposal has fundamental practical issues that would need to be overcome and, more importantly, would not lead to market transformation. Also, the administrative burden is significant on a building owner to rate and maintain ratings for each and every tenant over the threshold within the building. Despite the fact that the co-operation of an occupier would be required by statute, practical experience tells us that significant time and resources would be required to police and deliver the necessary rating.

In addition, data relating to a demised area is under the control of the tenant- what is the reasoning behind forcing a recalcitrant occupant to provide data to an assessor and what purpose does the resultant rating serve? Our point here is that different tenants use space in different ways and the rating would cover the previous 12 months use for a different user. For example, an occupier could house a data centre within the demised area and run that power off the tenant supply. That would necessarily lead to a poor tenancy Nabers Energy rating. When that occupier vacates and makes good, a new occupier may use the space at a normal office density. This would lead to a markedly different rating. We cannot see what purpose the original rating would serve seeing as it is the actual use of the space by the occupier at that time that is the key performance determinant? Even for seemingly similar office users we have tenants that utilise space ranging from 1:6 square meters upto 1:20 square meters. Without anomalies such as the data centre example, this is likely to lead to different ratings for, what would seem at face value, to be similar users.

Additionally, page 48 of the Consultation Regulation Document states that "...the addition of a requirement for an EEAR adds only a very small cost to the mandatory disclosure option." We disagree with the statement from practical experience. The provision of an actual building rating is a relatively simple process for the base building. The preparation of a meaningful energy audit is a fundamental top-to-bottom review of how an operational asset works in practice. The two exercises are poles apart and, on a modest sized asset, the cost differential maybe tens of thousands of dollars apart.

We do not believe that the provision of EEAR will materially affect market behaviour. A landlord with a poorly rated asset will have to declare and publicise the base building rating in any case. This ensures transparency. If that rating is poor the

Landlord will be penalised by virtue of a reduced potential tenant base, possible lower retention rates, higher operational costs etc. Any prudent Landlord with an investment to protect will ensure that he/she understands options available to better position the asset.

In summary, we agree with the provision of an on-going base building Nabers Energy rating. We do not agree (as we do not believe it will lead to market transformation) with:-

- The requirement on an Owner to rate any tenancy over 2,000 square meters when it is to be leased or sub-leased
- The requirement on an Owner to prepare an EEAR

We would welcome the opportunity to discuss the above points in greater detail should the opportunity arise.

Yours faithfully,



Chris Willey
Asset Manager