

EXISTING DRIVERS FOR ENERGY EFFICIENCY UPGRADES IN COMMERCIAL/INDUSTRIAL BUILDINGS

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Following our recent series of Newsflashes on Energy Efficiency upgrades for commercial/industrial buildings, we thought it would be helpful to provide a short list of the core drivers and incentives for your easy reference when evaluating/scoping/pricing your next project.

The Main Existing Drivers are:

- Commercial Buildings Mandatory Disclosure Obligations;
- NABERS/GreenStar/BASIX compliance;
- Procurement obligations (Government/Owner/Tenant);
- Mandatory Building Code of Australia obligations: Part J;
- Green Leasing (Government/Private Sector);
- Rising electricity costs (energy efficiency can hedge such costs);
- National Greenhouse and Energy Reporting Act (Cth) compliance;
- Energy Efficiency Opportunities Act (Cth) compliance;
- Rising Insurance costs;
- Future proofing Assets;
- Stockbroker valuations of property portfolios;
- Reputational costs for in-action;
- Avoiding misleading claims;
- Potential liability in tort/contract;
- Keeping up with your competition;
- Obligations under the Corporations Act (ss.180; 181; and 299);
- Obligations under the ASX Corporate Government Principles (Principle 3 (Ethical Decision Making); and Principle 7 (Risk Management)); and
- Corporate Social Responsibility obligations.

The New Revenue Streams and Funding Drivers for Energy Efficiency Upgrades include:

- Voluntary Environmental Upgrade Agreements (i.e. Green Loans through councils);
- NSW Energy Savings Scheme (creating Energy Savings Certificates);
- Possible NSW Biodiversity Banking Credits; and
- Federal Small Scale Renewable Energy Scheme (creating Small scale Technology Certificates).

Initiatives in transition include:

- Green Depreciation (delayed for 12 months);
- Domestic Mandatory Disclosure Obligation (delayed for 12 months); and
- NSW Feed-In Tariff (price for renewable electricity feed back into the grid) (currently on hold).



Property Portfolio Valuations for NABERS Compliance

The Morningstar Newsletter "Huntleys' Your Money Weekly" (February 2011) recently analysed Dexus Property's (Major Australian property owner, developer and manager) property portfolio. They noted that a large part of the portfolio was rated equal to or less than 3.5* NABERS and will need to be upgraded to improve the energy efficiency, rental returns and tenant retention in the coming years.

NSW Feed-in Tariff – Retrospective Changes

The recent retrospective amendments to the NSW Feed-in Tariff ("FiT") by the State Liberal Government from a FiT of 60c to 40c per kWh has created serious sovereign risk concerns for the renewable energy/energy efficiency industries as investors need policy certainty: not retrospective changes post investment. The NSW Government and the Solar industry are working together to resolve this issue and are jointly lobbying for a national FiT to replace the different State FiTs – however, there appears to be opposition to such a move Federally.

National Energy Efficiency Scheme

As discussed in our March 2010 Newsflash, a national energy efficiency trading scheme ("NEETS") was tabled by Senator Christine Milne on 17 September 2009 to seek the introduction of a mandatory NEETS for commercial buildings (i.e. offices, hotels, shopping centers, hospitals and schools). The Multi Party Climate Change Committee is currently considering a NEETS (similar to the NSW and Victorian Schemes), to be introduced alongside the proposed GHG Emissions Trading Scheme ("ETS") with details being released by the Federal Government in July 2011. The intention of a NEETS is to place an energy efficiency obligation on the electricity retailers which can be met by purchasing certificates from eligible energy savings activities in commercial buildings: thus helping to finance energy efficiency upgrades.

Second Crisp Legal Environmental Leaders' Forum – July 2011

Following the success of our inaugural Environmental Leaders Forum last year (presented by Low Energy Supplies & Services) discussing the NSW Energy Savings Scheme we are delighted to be hosting on **29 July 2011** a presentation by Patrick Dale (NAB: Head of Execution, Carbon Credit Solutions) on the new NSW Environmental Upgrade Agreements for commercial/industrial buildings. More details will follow shortly.

How Crisp Can Help

We continue to provide strategic, regulatory and transactional legal services for technology providers (especially in the photovoltaic industry and waste sectors at present), installers, sponsors, carbon traders, venture capitalists, property owners/developers and architects on the renewable energy and energy efficiency markets.

For assistance on:

- Project structuring and financing options including Environmental permit trading advice and documentation;
- Regulatory compliance and revenue opportunities;
- Contract drafting and negotiations (including Power Purchase Agreements);
- Dealings with the specific regulators (ORER/IPART/AER); and/or
- Ensuring your leases are compliant with the Mandatory Disclosure Obligations,

please contact Dermot Duncan or Glenn Crisp on (02) 9233 3144.