

## Green Leases

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Although many may debate the effectiveness of the recent EU Energy Performance of Buildings Directive introduced in the UK in January 2006 (which established a requirement for the production of Energy Performance Certificates for most land transactions today), the Directive can be viewed as a sign of the growing emphasis on reducing carbon emissions from buildings.

Connected to this theme, the subject of Green Leases has been about now for a while to varying degrees in different jurisdictions (but particularly in Australia) and is seen by some as a possible weapon for those who wish to further progress the reduction of Co2 emissions in our buildings. A "Green Lease" is a Lease between the Landlord and Tenant of a corporate building with an additional set of Schedules compared to a normal Lease Contract. Essentially, it is thought that with the correct guidance, Landlords and Tenants can come together to agree on principals and obligations within their contracting documents in order to maximise energy savings and minimise the Co2 burden their building has on the environment.

In the UK it is perhaps in London where we see the theme in its most advanced state. The London Climate Change Agency (LCCA) was established as the primary delivery vehicle for reducing London's carbon dioxide emissions. The Better Buildings Partnership (BBP) is an initiative developed by the LCCA. The BBP state that they bring together a number of the largest commercial and public property owners in London under one recognised scheme and that this partnership is working to improve the sustainability of London's existing building stock and accelerate the reduction in Co2 emissions from those buildings.

The BBP have produced a Guidance on Green Leases and in it they state that "the best way to achieve the necessary degree of flexibility which allows for different property types and sizes and the varying levels of knowledge, is to provide principles and guidance for a partnership approach, rather than actual Lease clauses". They have therefore devised a set of principles and best practice recommendations for owners and occupiers based on a Memorandum of Understanding. They state as a minimum, provisions regarding sharing of data, establishment of a building management committee and co-operation on reduction strategies should be achievable in all cases. Among the suggested areas to be covered in any Memorandum of Understanding are areas under the general headings of: energy; energy efficiency; waste; waste efficiency; water and waste water, building operations and sharing of best practice; service charge; fit-out and refurbishment; re-instatement and dilapidations; management agents and transport.

It is hoped that after a period of consultation with the members of the BBP, these principles and the notion of the Memorandum of Understanding will be progressed even further with the creation of standard lease clauses to be inserted into Leases.

Giving the recent down turn in the economy, the enthusiasm for initiatives such as Green Leases may well have waned somewhat. However, it can be seen that there are mutual benefits of having a co-ordinated strategy as envisaged by the Green Lease, not least increasing building sustainability, decreasing energy bills, providing market differentiation and improving corporate image. Added to this is the advantage of being ahead of the game in what is likely to increasingly become the focus of Governments in the years to come.

Should you have any queries or if you would like further information or advice on this subject, please contact Joe Marley, Associate in our Property Department.

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