



## Australian Government

### The Treasury

## CLEAN BUILDINGS MANAGED INVESTMENT TRUST

### SUMMARY OF CONSULTATION PROCESS

The Government announced on 27 June 2012 that it would introduce legislation to provide a final withholding tax rate of 10 per cent on fund payments from Clean Building Managed Investment Trusts (MITs) made to foreign residents of exchange of information countries.

This measure was included in Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012, which was introduced into Parliament on 10 October 2012.

#### Consultation process

Consultation on the draft legislation and related explanatory material was conducted between 16 August 2012 and 13 September 2012. A targeted stakeholder roundtable meeting was held in Canberra on 11 September 2012. Five submissions were received. Of these five, one submission is not publicly available as it was marked 'Commercial-In-Confidence'.

Submissions that are publicly available can be viewed on the [Treasury website](#).

#### Summary of key issues

##### *Main issues raised during the consultation process*

The issues raised in the consultation were broadly consistent. Generally, stakeholders welcomed the reduction in the final withholding tax for MITs that hold clean buildings. However, stakeholders suggested that the concessional tax rate should apply more broadly.

The main concerns raised by stakeholders included:

- the definition of when construction of a clean building began;
- that eligible MITs could only hold clean buildings and were not allowed to hold incidental assets;
- that the energy efficiency ratings were too difficult to obtain; and
- that existing buildings that are retrofitted (and consequently obtain the required energy efficiency ratings) are ineligible for the concessional tax rate.



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#### *Main changes made as a result of consultation*

As a result of consultation the following changes were made:

- Commencement of construction now excludes all preparatory works on the site and work below the lowest basement level. This will ensure that the sites currently under development, but where construction of the building is yet to commence, are eligible for the concession.
- Fund payments from Clean Building MITs to certain non-residents will be eligible for the 10 per cent withholding tax rate even where these payments pass through interposed transparent entities (for example MITs and other trusts).
- Clean Building MITs can hold assets that are incidental to a clean building, provided the income from these assets does not exceed 5 per cent of the income received from the clean buildings. This ensures that a MIT which holds assets that are incidental to a clean building are eligible for the concessional rate.
- Buildings using the National Australian Built Environment Rating System (NABERS) energy rating need only receive a 5.5 Star rating for the base building for office buildings and a 5.5 Star energy rating for hotel and retail buildings.
- Buildings that fail to maintain the required energy efficiency rating will have 180 days, from the date of failure, to rectify any deficiencies in the building and have the building re-assessed against the energy efficient requirements. If the building becomes re-eligible during this 180 day period, it will be considered a Clean Building MIT for the whole period.

#### **Feedback**

Feedback on the consultation process for this measure can be forwarded to [consultation@treasury.gov.au](mailto:consultation@treasury.gov.au). Alternatively, you can contact William Potts on (02) 6263 3323.

Thank you to all participants in the consultation process.