

Sustainable Buildings SEPP

This document answers frequently asked questions about the Sustainable Buildings SEPP to support councils, industry and state agencies to understand and implement the new policy.

In August 2022, the NSW Government made the new State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP) and associated amendments to the Environmental Planning and Assessment Regulations 2001 and the Environmental Planning and Assessment (Development Certification and Fire Safety Regulation) 2001.

The package of policy changes are in effect from 1 October 2023. The policy incorporates the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP) and introduces new measures for non-residential buildings.

About the SEPP and Regulation

What is the purpose of the policy changes introduced through the Sustainable Buildings SEPP and EP&A Regulation?

Together, the Sustainable Buildings SEPP and EP&A Regulation changes will help the NSW Government deliver its commitments under the NSW Net Zero Plan stage 1: 2020-2030 and the national Trajectory for Low Energy Buildings. The Sustainable Buildings SEPP is a first step in introducing sustainability measures for non-residential buildings. It also improves the existing standards for residential buildings that under the BASIX SEPP and non-regulatory frameworks such as NABERS.

The Sustainable Buildings SEPP establishes a framework for the delivery of sustainable buildings and contributes to NSW's target of achieving net zero by 2050. The new provisions set out a modern, transparent and fair framework, improved flexibility and the ability for industry to take the lead and respond to the commitment by the NSW Government to achieve net zero emissions and move towards a circular economy.

When will the changes come into effect?

The Sustainable Buildings SEPP was notified on 29 August 2022. The new requirements apply from 1 October 2023. This timing allowed industry over 12 months to adjust to the new standards.

The policy will be reviewed every 3 years to ensure the building sector continues to contribute to NSW delivering on its net zero target in a staged manner. The next review will be in 2025.

Who was consulted about the policy?

The department has engaged a range of stakeholders on these policy initiatives including local government, peak bodies, environment groups and industry groups representing developers, builders, designers, architects, engineers and the sustainability sector. The proposed increased BASIX standards were also publicly exhibited from December 2021 to March 2022.

Will this policy align with the National Construction Code?

Yes, the policy has been designed to align with the National Construction Code. It will implement a key component of the national Trajectory for Low Energy Buildings, which was agreed by federal, state and territory energy ministers in 2019. In other Australian jurisdictions the trajectory for residential development will be implemented through increases to minimum standards in the upcoming update to the National Construction Code.

The increases to BASIX standards in the Sustainable Buildings SEPP align with the National Construction Code increases. The requirements for non-residential buildings help address the known gap between buildings as they are designed and their 'as-built' energy performance.

Can councils require higher standards than those required under the policy?

For residential development in NSW, councils are not able to set higher standards than those included in the Sustainable Buildings SEPP. This has been NSW Government policy since 2004, when the BASIX SEPP was introduced, to ensure there is a consistent set of standards across NSW. However, the standards are minimum requirements and individual proponents can voluntarily exceed the minimum standards if they wish.

For non-residential development, the Sustainable Buildings SEPP sets a minimum standard. The City of Sydney Council has undertaken extensive cost benefit analysis and community engagement to drive net zero buildings in their local government area. Some large commercial development (offices, hotels and motels) in City of Sydney are exempt from the Sustainable Buildings SEPP non-residential energy standards, so that the City of Sydney's DCP energy standards can apply.

The department is aware that some other councils are seeking to develop commercial standards that may be more stringent than what is included in the SEPP. We are interested in hearing from these councils.

How will the policy help NSW reduce greenhouse gas emissions?

The Sustainable Buildings SEPP will deliver buildings that are more energy-efficient and produce less greenhouse gas emissions. The policy will result in about 2.6 million tonnes of greenhouse gas emissions being abated over the next 10 years. This is equivalent to planting over 8 million trees or running 54 wind turbines for 10 years. The majority of these emissions abated are from the residential standards in BASIX (about 1.9 million tonnes).

The new non-residential requirements will result in about 700,000 tonnes of emissions being abated through reduced energy consumption and offsetting requirements for new offices and hotels. The policy also lays a foundation for reporting on embodied emissions which will provide critical data to inform future targets for embodied emissions reduction.

Will the policy improve the resilience of buildings in NSW?

Yes, one aim of the policy is to improve the thermal performance of buildings which will improve resilience to extreme changes in temperature. Buildings will be more comfortable all year round without the need to turn on heating and cooling. In addition to existing water provisions in BASIX, new provisions for large commercial buildings will reduce water consumption and water security.

What changes will be seen in the online application process?

For residential development, the standalone BASIX online tool will be integrated into the NSW Planning Portal from 1 October 2023. The new BASIX tool incorporates updated energy efficiency and thermal performance standards and the new materials index.

For the non-residential policy requirements, new questions and data fields have been added to the NSW Planning Portal. Depending on your development type and the questions answered you may be required to upload certain documents as evidence of compliance. The changes have been added at development application and construction certificate stages to ensure applicants and assessors understand their statutory obligations. Changes are reflected within the Major Projects Portal in the Request for SEARs and Prepare EIS stages.

For any non-residential development that has an open application on 1 October 2023 that has not yet been submitted, the system will automatically return to the start of the application so that the additional questions relating to the Sustainable Buildings SEPP can be answered. Information previously entered will be saved and remain visible.

Will the policy apply to a modification of a DA where the DA was lodged before 1st October 2023?

No, if the original DA was lodged before 1st October 2023 then the modification to the DA would be exempt from the policy. However, if a DA lodged before 1st October is refused during determination then the policy will apply if the DA is lodged again after 1st October 2023.