



# Planning circular

PLANNING SYSTEM

Assessing sustainability in buildings

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**Related** Nil

## Assessing sustainable performance in buildings

This circular advises councils, statutory planners and private certifiers how to assess the sustainable performance of residential buildings (through the development application or complying development pathway), and non-residential buildings (through the development application pathway and subsequent approvals) where the State Environmental Planning Policy (Sustainable Buildings) 2022 applies.

### **The Sustainable Buildings SEPP will apply from 1 October 2023.**

The policy applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

### **The policy will be reviewed regularly.**

The policy will be reviewed in early 2025, then every 3 years to facilitate incremental improvement of the construction sector to meet the State's Net Zero emission goals.

### **Saving and transitional arrangements ensure developments already in progress are not impacted by the policy change.**

The Sustainable Buildings SEPP applies only to development applications (DAs) that are **submitted** on the NSW Planning Portal on or after 1 October 2023. There is no requirement for the consent authority to have "accepted" the DA for the provision to apply.

The policy applies to complying development certificates (CDC) lodged on or after 1 October 2023 if relating to residential development. CDCs for non-residential development are exempt.

Modifications to a DA submitted prior to 1 October 2023 are not impacted by the policy.

For residential development, a DA submitted or application for a CDC lodged after 1 October 2023 is permitted to use a BASIX certificate created before 1 October 2023 (if it is within the 3-month validity period) and to

meet the standards in effect at the time the certificate was issued. This includes amendments made to the application before it is determined by the consent authority.

There are transitional arrangements for residential development where a building contract for a new single dwelling or dual occupancy had been entered into prior to 1 October 2023. More details about these additional arrangements are in the department's [fact sheet](#).

If a non-residential development receives development consent before 1 October 2023, it is not required to meet the policy at subsequent stages of development (construction certificate, occupation certificate). If a non-residential development application submitted before 1 October 2023 is rejected, if resubmitted after 1 October 2023, the new policy will apply.

### **Fees and payments**

BASIX certificates for residential buildings will incur a fee that is charged per dwelling. Payment is made via the NSW Planning Portal when preparing the certificate. BASIX fees are published on the Department website.

The NABERS Commitment Agreement or Agreement to Rate required for prescribed large commercial development incur costs payable to NABERS upfront at the DA stage. Fees for a NABERS Assessor and NABERS Rating Fee are payable later when the building is operational. Charges may also apply for an Independent Design Reviewer.

See NABERS pricing on the [quick reference guide](#) and on the [NABERS website](#). Offsets required for an energy performance gap or on-site fossil fuel use will be at market rates.

### Validity of BASIX Certificates

A BASIX certificate is valid if issued no earlier than 3 months before the day of submission of a DA or lodgement of a CDC. BASIX certificates will be issued through the NSW Planning Portal and will be date stamped.

Assessors can check certificate validity by comparing key measurements on drawings with descriptions and commitments on the certificate. Any third-party verification should be linked to specific versions of drawings. See this [council checklist](#) for further guidance.

### Validity of NABERS ratings

When NABERS ratings are achieved these are published on the NABERS website. An assessor can cross check the reference number and star rating with the website information to confirm validity.

### Validity of offsets and carbon neutral certification

Offsets purchased for large commercial development are only valid if issued by the Clean Energy Regulator and surrendered. Certificates should be created, surrendered, and tracked in the [Australian REC Registry](#). The applicant is responsible for ensuring that offsets remain up to date over the required time period.

Offsets must be in the format specified in the policy. See detail from the [Clean Energy Regulator on Australian Carbon Credit Units and Large-scale Generation Certificates](#).

Carbon neutral certification is also deemed an acceptable alternative to purchasing Australian Carbon Credit Units to offset on-site fossil fuel use. An organisation must meet the [Climate Active Carbon Neutral standard](#) and maintain annual licensing fees with Climate Active for the certification to be considered valid.

### Application of the policy

This table shows how Chapter 2 (residential) and Chapter 3 (non-residential) may apply. It should be used as a guide. Check the policy or seek legal advice for specific projects.

Does the SB SEPP apply to:	Ch 2 Res	Ch 3 N-res
A DA submitted on or after 1 October 2023 if not exempt	✓	✓
A CDC lodged on or after 1 October 2023	✓	X
DA or CDC lodged but not determined by 1 October 2023	X	X
Modification to a DA submitted but not determined before 1 October 2023	X	X
Modification to a DA determined before 1 Oct 2023	X	X
Development wholly located in these land use zones: E3, IN3, C2, C3, W1, W2, W3, W4	✓	X
On land zoned wholly residential or RU1, RU2, RU3	✓	X
Residential boarding house over 300 m2 GFA or 12 units	X	X
Residential care facility	X	X
Home alteration or addition valued at \$50,000 or over or pools more than 40,000L	✓	X
Renovation of non-residential development if EDC < \$10M	X	X
New non-residential development if EDC < \$5M	X	X
Mixed-use development with residential and other uses	✓	✓
Large commercial office with ≥ 1,000 sqm net lettable area	X	✓
Hotel or motel with ≥ 100 rooms or serviced apartments with ≥ 100 apartments	X	✓
State significant development (health, education, cultural)	X	✓
Development relating to mining, petroleum, extraction	X	X
Development in ports: Botany, Kembla or Newcastle	X	X

## **Residential development: updated standards**

BASIX continues to apply to all new housing and housing renovations costing \$50,000 or more, through DA and CDC pathways. BASIX is now under the new Sustainable Buildings SEPP. From 1 October 2023, BASIX development in some areas must meet:

- Higher thermal performance standards equivalent to NatHERS 7 stars.
- Higher energy efficiency standards equivalent to an average 7 – 11% increase in greenhouse gas emission reduction.

All new development will be required to

- Report on embodied emissions

There are no changes to BASIX water efficiency standards or standards for housing renovations (alterations and additions).

### **BASIX thermal performance and energy standards have increased for some development types in some areas.**

Thermal performance and energy standards have not increased for homes in NatHERS climate zones 9, 10 and 11 on the NSW north coast, for residential flat buildings and shop top housing up to 5 storeys and for any alterations and additions.

Thermal performance standards for these homes not affected by the increase remain between NatHERS 5.5 and 6 stars on average.

Energy efficiency standards for homes not affected by the increase will still update the calculation methods to estimate greenhouse gas emissions. The greenhouse gas emission factor of grid electricity will also be updated to reflect that NSW generates more electricity from renewable energy sources.

### **BASIX Materials Index**

From 1 October 2023, BASIX includes a new materials index to calculate and report on the embodied emissions of residential development. There is no minimum standard in the materials index, only a requirement to detail construction and glazing materials.

### **BASIX alternative assessment pathway including for mixed use development**

Residential development through BASIX has established criteria and a help note for [alternative assessments](#).

Mixed use development may be eligible for an alternative assessment on embodied emissions reporting in BASIX if emissions reporting through NABERS is also required.

### **BASIX certification will be processed through the NSW Planning Portal.**

The BASIX online tool remains the method of capturing and calculating BASIX standards for residential buildings. The tool has been updated and modernised in the NSW Planning Portal and includes the new materials index.

A BASIX certificate must be uploaded with the development application or the complying development certificate application in the NSW Planning Portal.

Building certifiers must issue the BASIX completion receipt via the NSW Planning Portal before they issue the occupation certificate for the development

### **Tips for assessing residential development**

- 1) Check the date of issue on the BASIX certificate is not 3 months older than the date of DA submission or CDC lodgement.
- 2) Check the BASIX certificates are for the correct project (not copied or reused), and for apartments that each orientation of apartment is certified.
- 3) Check that details from the drawings are consistent with the descriptions and commitments on the BASIX certificate. At each stage of the DA process, refer to the ticks next to the commitments to identify the details from drawings to be verified.
- 4) Contact the proponent if details to be verified with the BASIX commitments are not found in drawings or are inconsistent with the BASIX commitments. Additional information added to drawings or a revised BASIX certificate may be required.
- 5) Check that a [NatHERS certificate](#) is attached with the BASIX certificate if it indicates the use of Simulation method to satisfy thermal performance requirements
- 6) Check that a software report issued by the certified Passive House Designer (see page 2 of certificate) is attached if the Passive House standard is used to satisfy thermal performance requirements

**New policy provisions are introduced for all non-residential development:**

- General sustainability provisions
- Embodied emissions reporting

**Additional provisions apply only to state significant and commercial developments:**

- Net Zero Statement (applies to prescribed state significant and large commercial)
- Energy and water standards and energy offsets (apply to large commercial only)

Prescribed state significant development are health, education and cultural buildings under clauses 13-15 of the Planning Systems SEPP, Schedule 1.

Prescribed large commercial development are defined as offices with net lettable area over 1,000 square metres, hotels and motels with more than 100 rooms and /or serviced apartments with more than 100 apartments.

Application requirements for these policy provisions are described later in this circular.

**Updates to the NSW Planning Portal reflect the new non-residential requirements**

Digital updates are integrated into the NSW Planning Portal, including post-consent processes relating to construction certificates. Updates include:

- New trigger questions to determine if the policy applies to the specific development
- Questions on each non-residential policy provision tailored to development type
- Prompts to upload key documents and enter verification details
- Help notes throughout to explain the new requirements and define terminology.

**Third Party Verification will reduce the assessment burden for consent authorities.**

The performance of non-residential buildings will be professionally verified at various stages to ensure accuracy and reduce the overall burden on assessors.

The NABERS Embodied Emissions Materials Form and related quantities must be verified by a qualified professional: architect, builder, quantity surveyor or NABERS assessor.

The Net Zero Statement (when required) must be verified and signed by a mechanical or service engineer via a cover letter confirming the proposed pathway.

These third parties must provide their name, company, ABN and any professional registration information in the required fields on the NSW Planning Portal.

In addition, the energy and water rating process is integrated into the NABERS rating systems to enable adequate support and consistency in measurement. Achieving the standards is verified by a NABERS assessor before energy and water ratings are issued 24 months after occupation.

**General measures for sustainability must be considered in the development application.**

All impacted non-residential development must report on the general sustainability measures outlined in chapter 3.2. This is to ensure that all development is considering sustainable performance through energy and water efficiency, waste reduction and energy storage and generation.

Each provision is itemised in the NSW Planning Portal with a free field for further detail or reference to relevant drawings or documents. Applicants should tick the measures that relate to their project and provide written detail directly into the portal.

It is not critical that all general provisions are incorporated into the development, however the applicant should show due consideration. In some cases, there may be sound reasons why some or all measures are not achieved.

An applicant may also mention any rating pathways underway for their project (eg. LEED, Green Star or Living Building Challenge) and reference any related rating documents or sustainability reports.

An assessor may consider the aims of the whole policy and provisions in clause 3.2 when considering if general sustainability is met.

**Disclosure of embodied emissions is mandatory for impacted development.**

To ensure consistency in the measurement of embodied emissions, all development should be measured using the NABERS Embodied Emissions Materials Form, which will later transition (in mid-2024) into the NABERS Embodied Emissions Framework.

The form must be submitted at development application and again at construction certificate to demonstrate any changes made. Crown Development Applications must also submit the reporting form and again at the crown buildings works certificate stage.

Since material quantities will inform future emissions targets, qualified professionals must verify the accuracy.

While there are currently no targets set for embodied emissions, applicants are encouraged to consider material selection and innovative construction methodologies that may reduce emissions, such as prefabrication or parametric design.

If any part of the building uses recycled content or if the development is an adaptive re-use then this may also be reported in the NSW Planning Portal, including the percentage of total floor area that is re-used.

The [Embodied Emissions technical note](#) provides more detail on emissions reporting.

### **Net Zero statement and readiness for conversion must be reported.**

A Net Zero Statement must be submitted for prescribed state significant and large commercial developments. The statement will explain if a development is achieving net zero now and if not, how space, infrastructure and ventilation has been designed to enable transition to net zero by 2035.

The statement should consider the energy associated with mechanical heating and cooling, artificial lighting, hot-water and cooking, and how these are efficient, reduced or converted to all electric.

Measurement of energy consumption is also requested (but not required), as all captured data will inform future Net Zero standards.

The [Net Zero Statement technical note](#) provides more detail on this requirement and a sample layout. Applicants and consulting engineers may provide calculations and product specifications as attachments to support any claims made in the statement.

### **Energy and water standards set as-built requirements for large commercial buildings.**

Prescribed large commercial developments must meet energy and water standard for each development type, as per Schedule 3. Standards require a NABERS rating; alternative pathways are not established.

Commitment to energy and water efficiency must be sustained over a project life cycle to:

- Show commitment at the Development Application by entering a NABERS Commitment Agreement or Agreement to Rate for each development type and declaring a Section J pathway.
- Show progress at Construction Certificate by demonstrating water standards on specifications or drawings and submitting the completed Section J report.
- Demonstrate compliance 24 months after occupation by submitting NABERS energy and water ratings and proof of offsets.

If offsets are required, these must be in the format prescribed in the policy (Australian Carbon Credit Units, Large Scale Generation Certificates or Carbon Neutral Standard Certification) and surrendered to this project. A NSW Energy Performance Gap Report must also be submitted.

#### **Tips to assess non-residential development:**

- 1) Check that sustainable performance is reported at each stage, with documents in the required format and supporting data entered into the NSW Planning Portal.
- 2) Check that any sustainable initiatives are shown on drawings and specifications, not just stated in written material, and adequately sized and labelled.
- 3) Rely on the third-party verification to determine accuracy of the Embodied Emissions Report and Net Zero Statement. Cross check professional qualifications of verifier.
- 4) Participation in a voluntary rating scheme is one way to confirm commitment to sustainable building performance.

## Application scenarios

**Example 1: For a mixed-use tower in Sydney CBD with 50% commercial, 30% residential, 20% retail, a DA is submitted in March 2024.**

The SEPP applies, so a BASIX certificate must be completed. BASIX alternative assessment is eligible for reporting embodied emissions. General sustainability must be reported for retail and offices. For the offices, energy and water standards and net zero provision apply.

**Example 2: A DA is submitted in late 2024 for multiple buildings in a regional precinct comprising a light industrial warehouse, an office and retail with shop top housing.**

The SEPP will apply to some or all parts. BASIX certificate(s) are required for housing. Applicant to check Chapter 3 for land use or complying development exemptions. If none, then general sustainability and embodied emissions must be reported for offices, retail and warehouse. If office gross floor area is under 1,000 sqm, no other provisions apply.

**Example 3: Development consent was granted for new town houses in coastal NSW in December 2023, for a DA lodged in August 2023. Changes to façade design and height require a DA modification in May 2024.**

In this scenario the SEPP does not apply, as the original DA was submitted prior to the SEPP coming into effect. The consent authority considered the requirements for BASIX that were in effect as of August 2023. Any subsequent amendments to the BASIX Certificate to support an application for the modification of the DA must also comply with the requirements that applied in August 2023.

**Example 4: Construction will begin in 2025 on a state significant art gallery on Crown land that received DA consent in 2024.**

The SEPP would apply unless the land use zone is exempt. This prescribed state significant development would have reported on general sustainability, embodied emissions and net zero at DA. Embodied emissions must be reported again through the NSW Planning portal before construction begins.

## How to get help on the policy?

For further information please contact [sustainable.buildings@planning.nsw.gov.au](mailto:sustainable.buildings@planning.nsw.gov.au).

Department of Planning and Environment circulars are available at: [www.planning.nsw.gov.au/circulars](http://www.planning.nsw.gov.au/circulars).

## Further information

Technical notes and guidance:

- [Comprehensive Guide to BASIX](#)
- [BASIX online help notes](#)
- [Net Zero technical note](#)
- [Embodied emissions technical note](#)
- [NABERS Agreement to Rate](#)
- [NABERS Commitment Agreement](#)
- [NSW energy performance gap calculator](#)

Support for assessing and certifying BASIX:

- [BASIX Council Checklist](#)
- [BASIX and planning approvals help note](#)
- [Certifier Practice Standard v1, s3.7](#)
- [Certifier Practice Standard v2 s 3.7](#)

## Authorisation

This planning circular is authorised by:

**David Gainsford**

**Deputy Secretary  
Assessment and Systems**

**Department of Planning**

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