

Practice Note

Assessing sustainable performance in buildings

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Related Replaces Planning Circular PS 23-001

Introduction

The Sustainable Buildings SEPP commenced on 1 October 2023. It applies to all new residential developments, alterations and additions more than \$50,000, swimming pools and spas of 40,000 litres or more, and all non-residential developments. It does not apply to excluded development in Chapter 3.1 of the Sustainable Buildings SEPP or BASIX excluded development as defined under the *Environmental Planning and Assessment Regulation 2021*.

The Sustainable Buildings SEPP requires residential development to meet the BASIX sustainability standards in Chapter 2 of the Sustainable Buildings SEPP.

For non-residential development, the Sustainable Buildings SEPP applies to Development Applications (DA submitted on or after 1 October 2023). However, if a non-residential DA submitted before 1 October 2023 is rejected, and resubmitted after 1 October 2023, the Sustainable Buildings SEPP will apply.

Fees and payments

For residential development, applicants must create a BASIX certificate in the NSW Planning Portal and pay a BASIX certificate fee. The fee is based on the type of development and number of dwellings, and can be determined using this [calculator](#).

The NABERS Commitment Agreement, or Agreement to Rate, required for prescribed large commercial development incurs 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 certifications, ratings and certificates

BASIX Certificates

A BASIX certificate is valid if it is issued no earlier than 3 months before the day of submitting a DA or lodging a Complying Development Certificate (CDC). If the certificate is more than 3 months old, the user can either

amend the certificate or create a new certificate. BASIX certificates are issued through the NSW Planning Portal and show the date of creation.

Consent authorities and certifiers can check certificates 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 the [BASIX Guide: Checking thermal performance for the Simulation method](#) for guidance about checking certificates that use the Simulation (NatHERS) method.

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 Sustainable Buildings SEPP. 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 onsite fossil fuel use. An organisation must meet the [Climate Active Carbon Neutral standards](#) and maintain annual licensing fees with Climate Active for the certification to be considered valid.

Application of the Sustainable Buildings SEPP

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

Does the Sustainable Buildings SEPP apply to:	Ch 2 Residential	Ch 3 Non-Residential
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
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 more	✓	X
Pools and spas more than 40,000L	✓	X
A change of building use from non-residential to residential	✓	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 standards

The BASIX standards specified in the Sustainable Buildings SEPP apply to all new residential development, renovations costing \$50,000 or more, pools and spas of 40,000 litres or more, and a change of building use from non-residential to residential.

The BASIX standards were updated on 1 October 2023 and require all BASIX development to:

- Meet thermal performance standards equivalent to average NatHERS 7 stars (except homes in climate zones 9, 10 and 11 (in north-eastern NSW) and apartment buildings up to 5 storeys),
- Meet energy efficiency standards equivalent to an average 7 – 11% increase in greenhouse gas emission reduction (except homes in climate zones 9, 10 and 11 (in north-eastern NSW) and apartment buildings up to 5 storeys), and
- Calculate and report on the embodied emissions of the development (except for alterations and additions, and pools and spas) based on the design and the materials used.

BASIX development must also meet the BASIX water use target, requiring residential development to use up to 40% less potable water than the average 'pre-BASIX' home benchmark of 90,340 litres of water per person per year or 247 litres per person per day (no change in 2023).

For alterations and additions, the requirements cover building fabric (thermal) performance, minimum efficiencies for fixtures, fittings, and appliances, and requirements for new pool and spa installations (no change in 2023).

BASIX alternative assessment pathway

An alternative assessment may be appropriate where the proposed development is subject to specific heritage controls which conflict with the BASIX requirements or includes new technology that saves energy or water but is not reflected in the BASIX tool. Alternative assessments have established criteria and a [help note](#) for further guidance. 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 certifications are processed through the NSW Planning Portal

The BASIX online tool is used for assessing residential development against the BASIX standards and creating a BASIX certificate. A BASIX certificate must be submitted as part of a DA or CDC 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, 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 the 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.

Non-residential development

The following provisions apply for all non-residential development:

- General sustainability provisions
- Embodied emissions reporting

The below additional provisions only apply to select state significant and large 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)

Note:

- Prescribed state significant developments are cultural, recreation and tourist facilities, hospitals, medical centres and health research facilities and education facilities under Schedule 1, Sections 13-15 of the Planning Systems SEPP.
- Prescribed large commercial development is defined as office premises with a net lettable area of at least 1,000 square metres, hotel or motel accommodation with at least 100 rooms and/or serviced apartments with at least 100 serviced apartments.

Application requirements for these provisions are described later in this practice note.

Third Party Verification will reduce the assessment burden for consent authorities

The performance of non-residential buildings is professionally verified at various stages to ensure accuracy and to reduce the overall burden on assessors. The following verifications are required:

- The NABERS Embodied Emissions Materials Form and related quantities must be verified by a qualified professional: quantity surveyor, qualified designer, an engineer or NABERS assessor.
- The Net Zero Statement (when required) must be verified and signed by a mechanical or electrical engineer via a cover letter confirming the proposed pathway.
- These third parties must provide their certifier's name and role, 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 to the consent authority within the relevant period (24 months from 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 of the Sustainable Buildings SEPP. This is to ensure that all development is considering sustainable performance through energy and water efficiency, waste reduction and energy storage and generation.

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 (e.g. 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 Sustainable Buildings SEPP and provisions in Section 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.

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 must include evidence that the development:

- Will not use on-site fossil fuels after occupation and use of the development commence, or
- Incorporates the infrastructure, or space for the infrastructure (including plant, equipment and ventilation), necessary for the development to not use on-site fossil fuels after 1 January 2035.

The statement must also include details of the following:

- Any renewable energy generation and storage infrastructure forming part of the development,
- Passive and technical design features that minimise energy consumption by users of the development.

Measurement of annual energy consumption and estimated number of emissions relating to energy use 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.

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

Prescribed large commercial developments must meet energy and water standards 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 lifecycle by:

- Demonstrating commitment at the Development Application by entering into a NABERS Agreement for each development type and declaring a Section J pathway.
- Showing progress at Construction Certificate by demonstrating water standards on specifications or drawings and submitting the completed Section J report.
- Confirming compliance within 24 months after occupation by submitting NABERS energy and water ratings and proof of any required offsets.

If offsets are required, these must be in the format prescribed in the Sustainable Buildings SEPP (Australian Carbon Credit Units or Large-Scale Generation Certificates – purchased and surrendered, or Climate Active Certification - obtained). 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 sustainability 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 was 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 and embodied emissions must be reported for retail and offices. For the offices, if the Net Lettable Area (NLA) is at least 1,000m² then energy and water standards, and net zero provisions apply.

Example 2: A DA was 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 NLA is under 1,000m², 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 Sustainable Buildings SEPP

For further information please contact sustainable.buildings@planning.nsw.gov.au.

Additional guidance can be found on the planning website:

- [Sustainable Buildings SEPP](#)
- [BASIX support materials](#)

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Important note: *This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.*

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