



New South Wales

State Environmental Planning Policy (Building Sustainability Index: BASIX) Amendment Policy 2006

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning.

FRANK SARTOR, M.P.,
Minister for Planning

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Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Building Sustainability Index: BASIX) Amendment Policy 2006*.

2 Commencement

This Policy commences on 1 October 2006.

3 Aim of Policy

- (1) The BASIX certification scheme is a scheme under the regulations under the *Environmental Planning and Assessment Act 1979* to encourage sustainable residential development.
- (2) The *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ensures consistency in the implementation of the BASIX certification scheme by overriding certain competing provisions of environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX certification scheme.
- (3) The aim of this Policy is to amend the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*:
 - (a) to reflect the extension of the BASIX certification scheme by the *Environmental Planning and Assessment Further Amendment (Building Sustainability: BASIX) Regulation 2006*, and
 - (b) to provide that competing provisions of environmental planning instruments and development control plans do not apply to BASIX commitments arising from optional compliance (that is, to proposed development in relation to which a BASIX certificate accompanied a development application, or an application for a complying development certificate, despite the fact that the regulations under the Act did not require a BASIX certificate).

4 Land to which Policy applies

This Policy applies to the whole of the State, including Lord Howe Island.

5 Amendment of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 is amended as set out in Schedule 1.

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State Environmental Planning Policy (Building Sustainability Index: BASIX)
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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 5)

[1] Clause 4 Definitions

Insert in alphabetical order in clause 4 (1):

BASIX affected development has the same meaning as it has in the *Environmental Planning and Assessment Regulation 2000*.

BASIX optional development has the same meaning as it has in the *Environmental Planning and Assessment Regulation 2000*.

[2] Clause 6

Omit the clause. Insert instead:

6 Buildings to which Policy applies

- (1) This Policy applies to buildings arising from the following development:
 - (a) proposed BASIX affected development for which the regulations under the Act require a BASIX certificate to accompany a development application or an application for a complying development certificate or construction certificate,
 - (b) proposed BASIX optional development in relation to which a BASIX certificate accompanied a development application or an application for a complying development certificate, despite the fact that the regulations under the Act did not require a BASIX certificate,
 - (c) BASIX affected development and BASIX optional development the subject of a development consent, complying development certificate or construction certificate that, pursuant to the regulations under the Act, is subject to a BASIX commitment.
- (2) This Policy also applies to buildings that become BASIX affected buildings because of development of the kind referred to in subclause (1).

[3] Clauses 8–10

Omit the clauses. Insert instead:

8 Other environmental planning instruments do not apply to BASIX commitments

- (1) The competing provisions of an environmental planning instrument, whenever made, are of no effect to the extent to which they aim:
- (a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of a building to which this Policy applies or in the use of the land on which such a building is situated, or
 - (b) to improve the thermal performance of a building to which this Policy applies.

Note. See, for example, the energy efficiency requirements set out in Schedules 4 and 5 to *State Environmental Planning Policy No 60—Exempt and Complying Development*.

- (2) If the development concerned involves:
- (a) the erection of a building for both residential and non-residential purposes, or
 - (b) the alteration, enlargement or extension of a building that is intended to be used for both residential and non-residential purposes, or
 - (c) the change of use of a building to both residential and non-residential purposes,

subclause (1) does not displace the competing provisions to the extent to which they apply to the part of the building that is intended to be used for non-residential purposes.

9 Development control plans do not apply to BASIX commitments

- (1) The competing provisions of a development control plan under Division 6 of Part 3 of the Act, whenever made, are of no effect to the extent to which they aim:
- (a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of a building to which this Policy applies or in the use of the land on which such a building is situated, or
 - (b) to improve the thermal performance of a building to which this Policy applies.

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Schedule 1 Amendments

- (2) If the development concerned involves:
- (a) the erection of a building for both residential and non-residential purposes, or
 - (b) the alteration, enlargement or extension of a building that is used for both residential and non-residential purposes, or
 - (c) the change of use of a building to both residential and non-residential purposes,
- subclause (1) does not displace the competing provisions to the extent to which they apply to the part of the building that is intended to be used for non-residential purposes.

10 Provisions providing for exceptions to development standards do not allow departures from BASIX commitments

State Environmental Planning Policy No 1—Development Standards, as adopted by any environmental planning instrument, does not apply to a development standard that arises, under the regulations under the Act, in connection with a BASIX commitment for a building to which this Policy applies or for the land on which such a building is situated.

BY AUTHORITY
