



New South Wales

State Environmental Planning Policy (Sustainable Buildings) Amendment 2023

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

PAUL SCULLY, MP
Minister for Planning and Public Spaces

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1 Name of policy

This policy is *State Environmental Planning Policy (Sustainable Buildings) Amendment 2023*.

2 Commencement

This policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of policy

This policy is repealed at the beginning of the day following the day on which this policy commences.

Schedule 1 Amendment of State Environmental Planning Policy (Sustainable Buildings) 2022

[1] Section 3.1 Application of Chapter

Insert “, if the development has a capital investment value of \$5 million or more” after “building” in section 3.1(1)(a).

[2] Section 3.4 Other considerations for certain State significant development

Omit section 3.4(1). Insert instead—

- (1) This section applies to non-residential development that is declared to be State significant development by *State Environmental Planning Policy (Planning Systems) 2021*, section 2.6(1) and specified in that policy, Schedule 1, sections 13–15.

[3] Section 4.2

Omit the section. Insert instead—

4.2 Savings and transitional provisions

- (1) This policy does not apply to the following—
 - (a) a development application submitted on the NSW planning portal but not finally determined before 1 October 2023,
 - (b) an application for a complying development certificate lodged on the NSW planning portal but not finally determined before 1 October 2023,
 - (c) a development application for BASIX development or BASIX optional development submitted on the NSW planning portal on or after 1 October 2023, if the BASIX certificate that accompanies the development application was issued before 1 October 2023,
 - (d) an application for a complying development certificate for BASIX development or BASIX optional development lodged on the NSW planning portal on or after 1 October 2023, if the BASIX certificate that accompanies the application was issued before 1 October 2023,
 - (e) an application for modification of a development consent under the Act, section 4.55 or 4.56 submitted on the NSW planning portal but not finally determined before 1 October 2023,
 - (f) an application for modification of a development consent under the Act, section 4.55 or 4.56 submitted on the NSW planning portal on or after 1 October 2023, if the development application for the development consent was submitted on the NSW planning portal before 1 October 2023.
- (2) Section 2.1(1) does not, until the end of 30 June 2024, apply to relevant BASIX development if the contract to carry out works for the relevant BASIX development is entered into on or before 30 September 2023.

Note— See also the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* for savings and transitional provisions relating to BASIX certificates for relevant BASIX development.
- (3) Subsection (2) applies only to a contract in a form that complies with the *Home Building Act 1989*, Part 2 or 2A.
- (4) On and from 1 July 2024, section 2.1(1) applies to relevant BASIX development, regardless of when the contract to carry out the works was entered into.

- (5) In this section—
relevant BASIX development means BASIX development involving the erection of a dwelling house or dual occupancy.