



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

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* in accordance with the recommendation made by the Minister for Infrastructure and Planning (S03/02434).

CRAIG KNOWLES, M.P.,

Minister for Infrastructure and Planning

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

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

2 Commencement

This Policy commences on 1 July 2004.

3 Aim of Policy

- (1) Regulations under the Act have established a scheme to encourage sustainable residential development (*the BASIX scheme*) under which:
 - (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
 - (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
- (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.
- (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

4 Definitions

(1) In this Policy:

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

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

BASIX commitment means a commitment set out in a BASIX certificate.

competing provision means a provision:

- (a) that establishes development standards, or
- (b) that requires a consent authority to have regard to, or take into consideration, any matter when considering or determining an application for a development consent, or
- (c) that requires a consent authority to be satisfied as to any matter before it grants a development consent, or
- (d) that requires a consent authority to impose a condition on a development consent, or
- (e) that affects the granting of a development consent, or the conditions on which a development consent is granted,

other than a provision that encourages, or offers incentives for, the adoption of measures beyond those required by provisions of the kind referred to in paragraphs (a)–(e).

the Act means the *Environmental Planning and Assessment Act 1979*.

(2) Notes in this Policy do not form part of this Policy.

5 Land to which Policy applies

This Policy applies to the State.

6 Buildings to which Policy applies

This Policy applies to:

- (a) a proposed BASIX affected building for which the regulations under the Act require a BASIX certificate to accompany an application for a development consent, complying development certificate or construction certificate, and

- (b) a BASIX affected building 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.

7 Relationship with other environmental planning instruments

This Policy prevails over any other environmental planning instrument, whenever made, to the extent of any inconsistency.

8 Other environmental planning instruments do not apply to BASIX commitments

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*.

9 Development control plans do not apply to BASIX commitments

The competing provisions of a development control plan under section 72 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.

10 SEPP 1 does not allow departures from BASIX commitments

State Environmental Planning Policy No 1—Development Standards 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.