



New South Wales

# **State Environmental Planning Policy (Design and Place) 2021**

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*.

Minister for Planning and Public Spaces

## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Policy	4
2 Commencement	4
3 Aims of Policy	4
4 Definitions	4
5 Meaning of “residential apartment development”	5
6 Meaning of “urban design development”	5
7 Meaning of “non-residential development”	5
8 Land to which Policy applies	5
9 Relationship with other environmental planning instruments generally	6
10 Maps	6
11 Maps adopted by Policy	6
<b>Part 2 Design principles and design considerations</b>	
12 Design principles and design considerations	8
13 Consideration of design principles and design considerations by consent authority	8
14 Design consideration—overall design quality	9
15 Design consideration—comfortable, inclusive and healthy places	9
16 Design consideration—culture, character and heritage	9
17 Design consideration—public spaces and public life	9
18 Design consideration—vibrant and affordable neighbourhoods	10
19 Design consideration—sustainable transport and walkability	10
20 Design consideration—green infrastructure	10
21 Design consideration—resource efficiency and emissions reduction	10
22 Design consideration—resilience and adapting to change	11
23 Design consideration—optimal and diverse land uses	11
<b>Part 3 Assessment of development</b>	
<b>Division 1 Urban design development</b>	
24 Objectives of Urban Design Guide	12
25 Development control plans for urban design development	12
26 Energy and water use standards for non-residential development	12
<b>Division 2 BASIX standards for residential development</b>	
27 BASIX standards	12
28 Review of BASIX standards	13
29 BASIX commitments not to be displaced	13
<b>Division 3 Residential apartment development</b>	
30 Objectives of Apartment Design Guide	14
31 Development control plans cannot be inconsistent with Apartment Design Guide	14
32 Non-discretionary development standards for residential apartment development	14

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# public consultation draft

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State Environmental Planning Policy (Design and Place) 2021 [NSW]  
Contents

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	Page
<b>Division 4      Miscellaneous</b>	
33    Car parking requirements for new buildings and green travel plans	15
<b>Part 4      Design review</b>	
34    Application of Part	16
35    Design review panel advice	16
36    Design verification statements and design review reports	16
<b>Part 5      Miscellaneous</b>	
37    Repeals	17
38    Savings and transitional provisions	17
<b>Schedule 1      Energy and water use standards for non-residential development</b>	<b>18</b>
<b>Schedule 2      Energy and water use, embodied emissions and thermal performance standards for BASIX affected development</b>	<b>19</b>
<b>Schedule 3      Dictionary</b>	<b>25</b>

## State Environmental Planning Policy (Design and Place) 2021

under the

Environmental Planning and Assessment Act 1979

### Part 1 Preliminary

#### 1 Name of Policy

This Policy is *State Environmental Planning Policy (Design and Place) 2021*.

#### 2 Commencement

This Policy commences on [*insert date 6 months after publication*] and is required to be published on the NSW legislation website.

#### 3 Aims of Policy

- (1) The aims of this Policy are as follows—
  - (a) to provide a consistent set of principles and considerations to guide the design of the built environment,
  - (b) to ensure high quality and innovative design of the built environment,
  - (c) to create places that support the health and well-being of the community,
  - (d) to integrate good design processes into planning and development,
  - (e) to recognise the economic, environmental, cultural and social benefits of high quality design,
  - (f) to ensure sustainable development and conserve the environment,
  - (g) to minimise the consumption of non-renewable energy and reduce greenhouse gas emissions,
  - (h) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,
  - (i) to recognise the importance of Country to Aboriginal people and to incorporate local Aboriginal knowledge, culture and tradition into development.
- (2) This Policy also aims to give effect to the objects of the Act, section 1.3(b) and (e)–(g).

#### 4 Definitions

- (1) The Dictionary defines words used in this Policy.
- (2) Words used in this Policy have the same meaning as in the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*, unless otherwise defined in this Policy.

**Note—** The *Environmental Planning and Assessment Act 1979* and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

## 5 Meaning of “residential apartment development”

- (1) In this Policy, **residential apartment development** means development for the purposes of residential flat buildings, shop top housing or mixed use development with a residential accommodation component if—
  - (a) the development consists of one or more of the following—
    - (i) the erection of a new building,
    - (ii) the substantial redevelopment or refurbishment of an existing building,
    - (iii) the conversion of an existing building, and
  - (b) the building is at least 3 storeys, not including storeys that provide for car parking that are—
    - (i) below ground level (existing), or
    - (ii) less than 1.2 metres above ground level (existing), and
  - (c) the building contains at least 4 dwellings.
- (2) If particular development comprises development specified in subsection (1) and development for other purposes, only the part of the development specified in subsection (1) is residential apartment development.
- (3) Development is not **residential apartment development** if it involves a class 1a or 1b building within the meaning of the *Building Code of Australia* only.

## 6 Meaning of “urban design development”

- (1) In this Policy, **urban design development** means the following development—
  - (a) development on land that is not in an industrial zone that has a site area greater than 1 hectare,
  - (b) development on land in an industrial zone that has—
    - (i) a capital investment value of \$30 million or more, and
    - (ii) a site area greater than 1 hectare,
  - (c) development in relation to which an environmental planning instrument requires a development control plan or master plan to be prepared for the land before development consent may be granted for the development.
- (2) In this section—  
**industrial zone** means Zones IN1 General Industrial, IN2 Light Industrial and IN4 Working Waterfront.

## 7 Meaning of “non-residential development”

In this Policy, **non-residential development** means development for the following purposes—

- (a) the erection of office premises with a net lettable area of at least 1,000 square metres (**prescribed office premises**),
- (b) the erection of retail premises with a gross lettable area of at least 5,000 square metres (**prescribed retail premises**),
- (c) the erection of hotel or motel accommodation with at least 100 rooms (**prescribed hotel or motel accommodation**),
- (d) State significant development that does not include development for residential purposes (**non-residential State significant development**).

## 8 Land to which Policy applies

- (1) This Policy applies to the State, except as otherwise provided by this section.

- (2) This Policy does not apply to the following—
- (a) development on land wholly in any of the following zones—
    - (i) Zones RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry or RU4 Primary Production Small Lots,
    - (ii) Zone IN3 Heavy Industrial,
    - (iii) Zones E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management,
    - (iv) Zones W1 Natural Waterways, W2 Recreational Waterways or W3 Working Waterways,
  - (b) development that is permitted with or without consent or exempt or complying development under—
    - (i) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or
    - (ii) *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*,
  - (c) development of a kind specified in *State Environmental Planning Policy (State and Regional Development) 2011*, Schedule 1, clauses 1–10, 18 and 20–25 regardless of the capital investment value of the development,
  - (d) development involving only—
    - (i) minor subdivision within the meaning of the *Environmental Planning and Assessment Regulation 2000*, clause 256I, or
    - (ii) a strata subdivision, or
    - (iii) the subdivision involving less than 1 hectare of land,
  - (e) development involving the erection of 24 or less class 1a buildings under the *Building Code of Australia*, or of a class 7a or 10 building, if the buildings do not form part of mixed use development to which this Policy applies.
- (3) Part 3, Division 3 applies to development specified in subsection (2)(a), (c)(i), (e) and (g) if the development is BASIX affected development.

## 9 Relationship with other environmental planning instruments generally

In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

## 10 Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name—
- (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the persons making the instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map and a reference in this Policy to the named map is a reference to the relevant part or aspect of the single map.
- (3) The maps adopted by this Policy are to be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.

## 11 Maps adopted by Policy

In this Policy—

***Climate Zone Map*** means the State Environmental Planning Policy (Design and Place) 2021 BASIX Climate Zone Map.

***Water Use Map*** means the State Environmental Planning Policy (Design and Place) 2021 BASIX Water Use Map.

DRAFT

## Part 2 Design principles and design considerations

### 12 Design principles and design considerations

- (1) The principles for design in New South Wales are the following—
  - (a) to deliver beauty and amenity to create a sense of belonging for people,
  - (b) to deliver inviting public spaces and enhanced public life to create engaged communities,
  - (c) to promote productive and connected places to enable communities to thrive,
  - (d) to deliver sustainable and greener places to ensure the well-being of people and the environment,
  - (e) to deliver resilient, diverse places for enduring communities.

**Note—** The Minister has issued a direction under the Act, section 9.1 to councils generally. The direction requires a council to exercise its functions under the Act, section 3.21 or Division 3.4 that relate to the preparation of a local environmental plan in accordance with the design principles.

- (2) The considerations that guide the implementation of the design principles are as follows—

#### Design principle

Deliver beauty and amenity to create a sense of belonging for people.

Deliver inviting public spaces and enhanced public life to create engaged communities.

Promote productive and connected places to enable communities to thrive.

Deliver sustainable and greener places to ensure the well-being of people and the environment.

Deliver resilient, diverse places for enduring communities.

#### Design considerations

Overall design quality.

Comfortable, inclusive and healthy places.

Culture, character and heritage.

Public space for public life.

Vibrant and affordable neighbourhoods.

Sustainable transport and walkability.

Green infrastructure.

Resource efficiency and emissions reduction.

Resilience and adapting to change.

Optimal and diverse land use.

### 13 Consideration of design principles and design considerations by consent authority

- (1) Development consent must not be granted for development to which this Policy applies unless the consent authority is satisfied that the development is consistent with the design principles.
- (2) In determining whether development is consistent with the design principles, the consent authority must take into account the design considerations for each design principle.
- (3) Sections 14–23 set out the requirements for a consent authority in relation to each design consideration.



## **14 Design consideration—overall design quality**

The consent authority must consider whether overall—

- (a) the scale, massing and siting of the building respond appropriately to the desired character of the surrounding area, and
- (b) the layout and connections of the development respond appropriately to the surrounding area, and
- (c) the detailing of the buildings and spaces respond to the appropriate visual distance at which the buildings and spaces are observed and experienced, and
- (d) the development represents an effective and economical use of space that responds to the constraints of the site, and
- (e) the articulation of the building is proportionate to the scale and massing of the building.

## **15 Design consideration—comfortable, inclusive and healthy places**

The consent authority must consider whether—

- (a) the layout and design of the development maximises passive heating and cooling and minimises adverse impacts on residents and public amenity, and
- (b) the development incorporates inclusive design measures that are appropriate for the purpose of the development, and
- (c) for development that includes open space—the open space is accessible, comfortable and enables pedestrian circulation.

## **16 Design consideration—culture, character and heritage**

The consent authority must consider whether—

- (a) the development detracts from the desired character of the area, and
- (b) the design of the development incorporates or responds to—
  - (i) heritage items and conservation area on or near to the site, and
  - (ii) areas of Aboriginal and non-Aboriginal cultural significance, and
- (c) if the development is State significant development to which the Urban Design Guide applies—the development incorporates a response to Country and takes into account submissions made to the applicant by Aboriginal stakeholders.

## **17 Design consideration—public spaces and public life**

The consent authority must be satisfied of the following—

- (a) for development involving new public space—the public space is—
  - (i) located to maximise equitable access by the public, and
  - (ii) located on land that is fit for purpose, and
  - (iii) designed by a qualified landscape architect,
- (b) for development involving public space—the public space is designed to facilitate social interaction,
- (c) the development does not result in an adverse impact on, or net loss of, public open space,
- (d) the development contributes to connectivity between existing and proposed landscape corridors, public spaces and walking and cycling networks near the site.

## **18 Design consideration—vibrant and affordable neighbourhoods**

The consent authority must consider the following—

- (a) for urban design development involving subdivision—whether the subdivision supports—
  - (i) walkability, and
  - (ii) smart cities by adequately providing for current and future needs for telecommunication infrastructure,
- (b) for development for residential purposes—whether the development contributes to the housing needs of the local population,
- (c) for development that is within walking distance of a train station or in a town centre—whether the development contributes to a diverse mix of uses and active streets,
- (d) whether the development provides enhanced visibility and contributes to passive surveillance and the activation of the neighbourhood at different times of day.

## **19 Design consideration—sustainable transport and walkability**

The consent authority must consider whether the development—

- (a) contributes to minimising car trips and car travel distances by—
  - (i) supporting access to public transport, and
  - (ii) minimising private car parking, and
- (b) minimises the impact of car parking on public space, and
- (c) supports increased opportunities for walking and cycling by integrating with, or improving connections to existing walking and cycling networks, and
- (d) provides bicycle parking and end of trip facilities, and
- (e) supports the installation of infrastructure for charging electric vehicles.

**Note—** See also section 33.

## **20 Design consideration—green infrastructure**

The consent authority must consider the following—

- (a) whether the development retains or improves existing green infrastructure and contributes to the restoration and regeneration of natural systems,
- (b) whether the development maximises tree canopy cover and provides sufficient deep soil to support the tree canopy,
- (c) whether new and existing green infrastructure will be appropriately managed and maintained during at least the first 12 months.

## **21 Design consideration—resource efficiency and emissions reduction**

The consent authority must consider whether the development—

- (a) for urban design development involving subdivision—minimises, and excludes as far as practicable, the use of on-site gas for cooking, heating and hot water, and
- (b) is designed to minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials, and
- (c) minimises greenhouse gas emissions, as part of the goal of achieving net zero emissions by 2050, including by incorporating the following—
  - (i) passive design,

- (ii) energy efficiency,
- (iii) the use of renewable energy, and
- (d) uses water sensitive urban design and maximises water re-use.

## **22 Design consideration—resilience and adapting to change**

The consent authority must be satisfied that the development is resilient to natural hazards by —

- (a) incorporating measures to—
  - (i) avoid or reduce exposure to natural hazards, and
  - (ii) mitigate and adapt to the risks of natural hazards, including risks of climate change and compounding risks, and
- (b) mitigating the impact of expected natural hazards through the siting and design of the development.

## **23 Design consideration—optimal and diverse land uses**

- (1) The consent authority must be satisfied that the development—
  - (a) contributes to an appropriate mix of compatible uses, and
  - (b) for subdivision for new residential accommodation—includes different lot widths and sizes to support diverse residential accommodation types, and
  - (c) for urban design development—includes appropriate residential density close to proposed or existing amenities, including public transport, open space, schools, shops and other services.

## Part 3 Assessment of development

### Division 1 Urban design development

#### 24 Objectives of Urban Design Guide

- (1) Development consent must not be granted to urban design development unless the consent authority is satisfied that the development meets the objectives of the Urban Design Guide.
- (2) Development may meet the objectives of the Urban Design Guide by—
  - (a) meeting the applicable design criteria set out in the Urban Design Guide, to the extent possible, or
  - (b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than meeting the design criteria set out in the Urban Design Guide.
- (3) In determining whether development meets the objectives of the Urban Design Guide, the consent authority must—
  - (a) apply the design criteria set out in the Urban Design Guide flexibly and consider alternative solutions, and
  - (b) consider the objectives of the Urban Design Guide only in relation to the particular development application.

#### 25 Development control plans for urban design development

- (1) Development consent must not be granted to urban design development unless a development control plan applies to the land on which the development is to be carried out.
- (2) A development control plan is not required if the development involves alterations to existing buildings only.

**Note—** The Act, section 4.23 provides for a concept development application to be made instead of a development control plan in certain circumstances.

#### 26 Energy and water use standards for non-residential development

Development consent must not be granted to non-residential development unless the consent authority is satisfied the development—

- (a) enables the following—
  - (i) the reduction and shifting of peak demand for electricity,
  - (ii) storage of renewable energy, for example batteries,
  - (iii) metering and monitoring of energy consumption, and
- (b) is capable of achieving the standards for energy and water use specified in Schedule 1.

### Division 2 BASIX standards for residential development

#### 27 BASIX standards

- (1) Development consent must not be granted to BASIX affected development that involves the erection of a BASIX affected building unless the consent authority is satisfied that the development is capable of achieving the standards for the following specified in Schedule 2—
  - (a) energy use,
  - (b) water use,

- (c) embodied emissions,
  - (d) thermal performance.
- (2) Subsection (1) does not apply to development involving a heritage item or within a heritage conservation area if the Planning Secretary is satisfied that the development is not capable of achieving the standard specified in Schedule 2 because of the development controls that apply.

**Consultation note—** The final version of this Policy will include the standards for energy use, water use and thermal performance for other BASIX affected development, such as alterations and additions.

## 28 Review of BASIX standards

The Planning Secretary must review the standards specified in Schedule 2—

- (a) as soon as practicable after the beginning of 2025, and
- (b) at least once every 3 years after that.

## 29 BASIX commitments not to be displaced

- (1) The aim of this section is to ensure consistency in the implementation of the BASIX scheme throughout the State, by overriding provisions of other environmental planning instruments and development control plans that would otherwise affect an obligation arising under the BASIX scheme.
- (2) The competing provisions of an environmental planning instrument or a development control plan, whenever made, are of no effect to the extent to which they aim—
  - (a) to reduce consumption of mains-supplied potable water, or
  - (b) to reduce emissions of greenhouse gases, or
  - (c) to improve the thermal performance of a building.
- (3) Subsection (2) does not—
  - (a) displace the competing provisions to the extent to which they apply to a part of BASIX affected development that will not be used for residential purposes, or
  - (b) apply to a competing provision that encourages, or offers incentives for, the adoption of measures beyond the measures required by provisions of the kind referred to in the definition of ***competing provision***.
- (4) In this section—

***competing provision*** of an environmental planning instrument or a development control plan means a provision that—

  - (a) establishes a development standard, or
  - (b) requires a consent authority to consider a matter when considering or determining a development application, or
  - (c) requires a consent authority to be satisfied about a matter before granting development consent, or
  - (d) requires a consent authority to impose a condition on a development consent, or
  - (e) affects the granting of a development consent, or the conditions with which a development consent is granted.

## **Division 3 Residential apartment development**

### **30 Objectives of Apartment Design Guide**

- (1) Development consent must not be granted for residential apartment development unless the consent authority is satisfied that the development meets the objectives of the Apartment Design Guide.
- (2) Development may meet the objectives of the Apartment Design Guide by—
  - (a) meeting the applicable design criteria, to the extent possible, and the design guidance set out in the Apartment Design Guide, or
  - (b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than meeting the design criteria and design guidance set out in the Apartment Design Guide.
- (3) In determining whether development meets the objectives of the Apartment Design Guide, the consent authority must—
  - (a) apply the design criteria and design guidance set out in the Apartment Design Guide flexibly and consider alternative solutions, and
  - (b) consider the objectives of the Apartment Design Guide only in relation to the particular development application.

### **31 Development control plans cannot be inconsistent with Apartment Design Guide**

- (1) A provision of a development control plan that specifies a requirement, standard or control in relation to the following matters specified in the Apartment Design Guide has no effect—
  - (a) visual privacy,
  - (b) solar and daylight access,
  - (c) common circulation and spaces,
  - (d) apartment size and layout,
  - (e) ceiling heights,
  - (f) private open space and balconies,
  - (g) natural ventilation,
  - (h) storage.
- (2) This section applies regardless of when the development control plan was made.

### **32 Non-discretionary development standards for residential apartment development**

- (1) This section identifies development standards for particular matters relating to residential apartment development.
- (2) If the standards are complied with, the consent authority cannot require more onerous standards for the matters.
- (3) The following are non-discretionary development standards—
  - (a) the car parking for the building must be equal to, or greater than, the lesser of—
    - (i) the recommended minimum amount of car parking specified in the Apartment Design Guide, or
    - (ii) the minimum amount of car parking required under an applicable environmental planning instrument or development control plan,

- (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in the Apartment Design Guide,
- (c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in the Apartment Design Guide.

## Division 4 Miscellaneous

### 33 Car parking requirements for new buildings and green travel plans

- (1) This section applies to development on land shown as “Public Transport Accessibility Level (PTAL) 6” on the [*insert name of Map*] that involves—
  - (a) the erection of a building, and
  - (b) the provision of less car parking spaces than the minimum number of car parking spaces required under an applicable environmental planning instrument or development control plan.

**Consultation note—** The final Policy will include a map that is similar to the map at <https://opendata.transport.nsw.gov.au/dataset/ptal-public-transport-accessibility-level>.

- (2) Development consent must not be granted unless the consent authority is satisfied that a plan (a **green travel plan**) that complies with subclause (3) has been prepared by a qualified transport planner or traffic engineer.
- (3) A green travel plan must include the following—
  - (a) how the plan implements the design consideration specified in section 19,
  - (b) the targets for mode share that are to be achieved within 3 years after the occupation certificate is issued for the development,
  - (c) the amount of car parking to be made available as a result of the development,
  - (d) measures to facilitate sustainable transport, including end of trip facilities, secure bicycle parking, changing rooms, car sharing arrangements and subsidising public transport.
- (4) In this section—  
**mode share** means the percentage of trips that are taken using different types of transport, for example, walking, public transport and cars.

## Part 4 Design review

### 34 Application of Part

- (1) This Part applies to the following development—
  - (a) State significant development to which this Policy applies,
  - (b) development with a capital investment value of more than \$30 million,
  - (c) development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by a council or the Crown,
  - (d) development with a site area of at least 1 hectare,
  - (e) residential apartment development,
  - (f) other development specified by another environmental planning instrument as being development to which this section applies.
- (2) This Part does not apply to development specified in subsection (1)(c) if the consent authority is satisfied that the development will not have a significant impact on the public domain.

### 35 Design review panel advice

- (1) Development consent must not be granted to development to which this Part applies unless—
  - (a) a design review panel has reviewed the development, and
  - (b) the consent authority has taken into account the design review panel's advice.

**Note—** The *Environmental Planning and Assessment Regulation 2000* deals with design review panels, including by—

  - (a) providing for the constitution, membership and procedures of design review panels, and
  - (b) requiring certain development applications and modification applications to be accompanied by a statement or report about how the development incorporates the advice from a design review panel.
- (2) Subsection (1) does not apply if an architectural design competition is conducted, as provided for in an environmental planning instrument, in accordance with—
  - (a) the *Design Excellence Guidelines* published by the Department in October 2010, or
  - (b) design competition guidelines adopted by the consent authority under the environmental planning instrument.

### 36 Design verification statements and design review reports

Development consent must not be granted to development to which this Part applies unless the consent authority has considered a design verification statement or design review report that accompanied the development application under the *Environmental Planning and Assessment Regulation 2000*.



## Part 5 Miscellaneous

### 37 Repeals

The following State environmental planning policies are repealed—

- (a) *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*,
- (b) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

### 38 Savings and transitional provisions

- (1) This Policy does not apply to the following—
  - (a) a development application lodged but not finally determined before the commencement date,
  - (b) a development application that is part of a concept development application if the development application is lodged within 2 years after development consent was granted to the concept development application,
  - (c) an application for modification of a development consent under the Act, section 4.55 or 4.56 that is—
    - (i) lodged but not finally determined before the commencement date, or
    - (ii) lodged within 2 years after the original development consent was granted, regardless of when the development application for the original development consent was lodged or determined.
- (2) In this section—  
***commencement date*** means the date on which this Policy commences.

## Schedule 1 Energy and water use standards for non-residential development

section 26

### 1 Definitions

In this Schedule—

**Green Star Building rating** means a certification given by or on behalf of the Green Building Council of Australia.

**JP1 energy use standard** means Section JP1 in Volume 1 of the Building Code of Australia verified under Section JV3 in Volume 1 of the Building Code of Australia, as in force on the commencement of this Schedule, by a NABERS independent design review panel.

**NABERS** means the National Australian Built Environment Rating System.

### 2 Energy use

- (1) The standard for energy use for non-residential State significant development is a Green Star Building rating of credit achievement in energy use.
- (2) The standard for energy use for development for the purposes of the erection of prescribed office premises is—
  - (a) the JP1 energy use standard, or
  - (b) a Green Star Building rating of credit achievement in energy use, or
  - (c) a 5.5 star NABERS energy commitment agreement.
- (3) The standard for energy use for development for the purposes of the erection of prescribed retail premises is—
  - (a) the JP1 energy use standard, or
  - (b) a Green Star Building rating of minimum expectation in energy use, or
  - (c) a 4.5 star NABERS energy commitment agreement.
- (4) The standard for energy use for development for the purposes of the erection of prescribed hotel or motel accommodation is—
  - (a) the JP1 energy use standard, or
  - (b) a Green Star Building rating of minimum expectation in energy use, or
  - (c) a 4 star NABERS energy commitment agreement.
- (5) To avoid doubt, different standards may apply to the same building if it is used for different purposes.

### 3 Water use

- (1) The standard for water use for non-residential State significant development is a Green Star Building rating of minimum expectation in water use.
- (2) The standard for water use for development for the purposes of the erection of prescribed office premises, prescribed retail premises or prescribed hotel or motel accommodation is—
  - (a) a Green Star Building rating of minimum expectation in water use, or
  - (b) a 4 star NABERS water rating.

## Schedule 2 Energy and water use, embodied emissions and thermal performance standards for BASIX affected development

section 27

### Part 1 Preliminary

#### 1 Definitions

- (1) In this Schedule—  
***climate zone*** means the climate zone as shown on the Climate Zone Map.  
***prescribed residential accommodation*** means the following—
- (a) attached dwellings,
  - (b) dwelling houses,
  - (c) dual occupancies,
  - (d) group homes,
  - (e) multi dwelling housing,
  - (f) secondary dwellings,
  - (g) semi-detached dwellings,
  - (h) seniors housing that is a group of independent living units.
- total floor area***—
- (a) for Part 1—see section 2, and
  - (b) for Part 5—see section 6.
- (2) In this Schedule—
- (a) a building with a ***slab on the ground*** means a building with a concrete slab laid directly on compacted soil, sand or gravel with no airspace below,
  - (b) a building with a ***suspended floor*** means a building that is not a building with a slab on the ground.
- (3) The number of occupants of a type of development is to be calculated using standard occupancy rates approved by the Planning Secretary.

### Part 2 Energy use

#### 2 Meaning of “total floor area”

In this Part, ***total floor area*** of prescribed residential accommodation means the total floor area within the finished surfaces of the walls, including the floor area occupied by cupboards or built-in furniture, fixtures or fittings, but not including a garage.

#### 3 Energy use

- (1) This section specifies the standard for energy use for different types of development according to the climate zone in which the development will be carried out.
- (2) The standard represents a percentage reduction in the amount of carbon dioxide emissions resulting from the use of energy attributable to each occupant of the particular type of development over a year compared to a baseline amount determined by the Planning Secretary.

# public consultation draft

State Environmental Planning Policy (Design and Place) 2021 [NSW]

Schedule 2 Energy and water use, embodied emissions and thermal performance standards for BASIX affected development

- (3) Table 1 specifies the minimum percentage reduction required for each type of development for the climate zone in which the development will be carried out, according to the following—
- (a) the type of development,
  - (b) for prescribed residential accommodation—the total floor area of the building,
  - (c) for residential flat buildings and shop-top housing—the number of storeys above ground level (existing).

**Table 1**

Climate zone	Prescribed residential accommodation		Residential flat buildings and shop-top housing			
	Total floor area of up to or equal to 110m <sup>2</sup>	Total floor area greater than 110m <sup>2</sup>	Up to 3 storeys above ground level (existing)	4 or 5 storeys above ground level (existing)	6–20 storeys above ground level (existing)	21 or more storeys above ground level (existing)
8	65%	69%	63%	57%	59%	61%
9	65%	67%	64%	59%	57%	58%
10	66%	68%	65%	60%	58%	61%
11	67%	70%	66%	61%	59%	61%
14	62%	65%	62%	57%	55%	58%
15	67%	70%	64%	59%	60%	62%
17	68%	72%	67%	62%	62%	63%
18	66%	69%	63%	58%	60%	61%
20	64%	67%	61%	56%	57%	59%
24	60%	63%	60%	55%	55%	58%
25	51%	53%	52%	47%	43%	48%
27	65%	68%	62%	57%	58%	60%
28	66%	70%	62%	57%	60%	62%
46	65%	68%	62%	57%	58%	61%
48	65%	68%	63%	59%	58%	60%
56	68%	72%	67%	63%	62%	63%
65	60%	62%	60%	55%	53%	56%
69	53%	54%	53%	48%	44%	50%

## Part 3 Water use

### 4 Water use

- (1) The standard for water use is the minimum standard shown on the Water Use Map for the land on which the development is to be carried out.
- (2) The standard represents a percentage reduction in the average daily amount of mains-supplied potable water use attributable to each occupant of the particular type

of development over a year compared to a baseline amount determined by the Planning Secretary.

## Part 4 Embodied emissions

### 5 Embodied emissions

- (1) This section specifies the standard for embodied emissions for different types of development.
- (2) The standard represents the maximum amount of embodied emissions that are attributable to a particular building, taking into account the number of occupants of the building.
- (3) The standard for embodied emissions is a maximum of—
  - (a) for prescribed residential accommodation—12.5 tonnes of carbon dioxide for each occupant of the building, and
  - (b) for residential flat buildings and shop-top housing—9.4 tonnes of carbon dioxide for each occupant of the building.
- (4) In this Part—

***embodied emissions*** means the carbon dioxide emissions resulting from the materials used to construct the building, including by taking into account the following—

  - (a) the extraction of raw materials that are used to construct the building,
  - (b) transporting materials to be manufactured,
  - (c) the manufacture of the materials to be used to construct the building.

## Part 5 Thermal performance

### 6 Application of Part

- (1) This Part specifies the standard for thermal performance for different types of development according to the climate zone in which the development will be carried out.
- (2) The standard represents the maximum amount of energy required to heat and cool a dwelling, measured in megajoules per square metre of the total floor area of the dwelling over a year.
- (3) In this Part—

***total floor area*** of a dwelling means the sum of the floor area of conditioned and unconditioned areas of the dwelling, determined in accordance with the Nationwide House Energy Rating Scheme or NatHERS.

### 7 Thermal performance for prescribed residential accommodation

- (1) Table 2 specifies the maximum thermal performance for dwellings in prescribed residential accommodation according to—
  - (a) whether the building has a slab on the ground or a suspended floor, and
  - (b) the climate zone in which the development is to be carried out.
- (2) Table 2 specifies the maximum thermal performance for—
  - (a) heating a dwelling, and
  - (b) cooling a dwelling, and
  - (c) the total for heating and cooling a dwelling.

# public consultation draft

State Environmental Planning Policy (Design and Place) 2021 [NSW]  
Schedule 2 Energy and water use, embodied emissions and thermal performance standards for BASIX affected development

**Table 2**

Climate zone		Building with slab on ground		Building with suspended floor	
		Heating	Cooling	Heating	Cooling
8	75	52	45	48	53
9	—	24.9	64.6	26.3	67
10	—	20.4	47.1	23.8	45.9
11	—	22.9	31.5	26.3	30.2
14	120	115	10	110	17
15	51	45.9	29.8	36.1	32.9
17	30	15.5	17.5	25	15.1
18	61	55	28.1	53.4	32.5
20	96	90	32.6	85.1	41.1
24	122	117	30	108	35
25	298	—	—	—	—
27	79	75.6	47.3	64.2	52.8
28	60	54.9	37.5	53.6	43.4
46	75	45.3	44.7	51	47.9
48	79	70.9	20.8	67.1	27.9
56	30	24.4	17.9	24.4	18.9
65	156	150	15.7	149.8	38.5
69	277	—	—	—	—

**8 Thermal performance for residential flat buildings and shop-top housing with up to and including 5 storeys**

- (1) Table 3 specifies the maximum thermal performance for dwellings in residential flat buildings and shop-top housing with up to and including 5 storeys above ground level (existing) according to the climate zone in which the development is to be carried out.
- (2) Column 1 specifies the maximum thermal performance for heating each dwelling in the residential flat building or shop-top housing.
- (3) Column 2 specifies the maximum thermal performance for cooling each dwelling in the residential flat building or shop-top housing.
- (4) Column 3 specifies the maximum thermal performance for heating all the dwellings in the residential flat building or shop-top housing, calculated as a weighted average according to the total floor area of each dwelling.
- (5) Column 4 specifies the maximum thermal performance for cooling all the dwellings in the residential flat building or shop-top housing, calculated as a weighted average according to the total floor area of each dwelling.

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# public consultation draft

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State Environmental Planning Policy (Design and Place) 2021 [NSW]  
Schedule 2 Energy and water use, embodied emissions and thermal performance standards for BASIX  
affected development

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**Table 3**

Climate zone	Individual dwelling		Average of all dwellings	
	Column 1	Column 2	Column 3	Column 4
	Heating	Cooling	Heating	Cooling
8	47.8	74.9	45.6	71.3
9	26.4	68.6	24.9	64.6
10	21.4	49.4	20.4	47.1
11	24.1	33.2	22.9	31.5
14	189.2	37.4	176.1	34.8
15	55.8	33	53.3	31.6
17	24.8	27.9	23.9	26.9
18	78.3	33.5	73.5	31.5
20	133.5	52.1	123.6	48.3
24	200.5	40.2	185.7	37.2
25	503	—	475	—
27	80.4	65.5	74.9	61
28	61.7	62.2	56.2	56.7
46	53.3	66	51.4	63.5
48	94.1	48.4	88.4	45.5
56	32.3	21	30.9	20
65	254.4	24.2	239.3	22.7
69	492.1	—	455	—

## **9 Thermal performance for residential flat buildings and shop-top housing with 6 or more storeys**

- (1) Table 4 specifies the maximum thermal performance for dwellings in residential flat buildings and shop-top housing with 6 or more storeys above ground level (existing) according to the climate zone in which the development is to be carried out.
- (2) Column 1 specifies the maximum thermal performance for the total heating and cooling of each dwelling in the residential flat building or shop-top housing.
- (3) Column 2 specifies the maximum thermal performance for heating each dwelling in the residential flat building or shop-top housing.
- (4) Column 3 specifies the maximum thermal performance for cooling each dwelling in the residential flat building or shop-top housing.
- (5) Column 4 specifies the maximum thermal performance for the total heating and cooling of all the dwellings in the residential flat building or shop-top housing, calculated as a weighted average according to the total floor area of each dwelling.
- (6) Column 5 specifies the maximum thermal performance for heating all the dwellings in the residential flat building or shop-top housing, calculated as a weighted average according to the total floor area of each dwelling.

# public consultation draft

State Environmental Planning Policy (Design and Place) 2021 [NSW]

Schedule 2 Energy and water use, embodied emissions and thermal performance standards for BASIX affected development

- (7) Column 6 specifies the maximum thermal performance for cooling all the dwellings in the residential flat building or shop-top housing, calculated as a weighted average according to the total floor area of each dwelling.

**Table 4**

Climate zone	Individual dwelling			Average of all dwellings		
	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
	Total	Heating	Cooling	Total	Heating	Cooling
8	95	68.3	71.9	75	51	50
9	—	26.4	68.6	—	24.9	64.6
10	—	21.4	49.4	—	20.4	47.1
11	—	24.1	33.2	—	22.9	31.5
14	158	155	10.7	120	118	6
15	66	53	33.8	51	45.4	32.3
17	39	35	20.4	30	28	17.6
18	81	65.5	34.4	61	56.2	32.7
20	127	117.2	47.3	96	90	40.9
24	161	157.2	31.9	122	118	24
25	366	—	—	298	—	—
27	103	81.3	54.4	79	68	45.5
28	79	65.1	61.8	60	59.6	45
46	94	65.1	61.8	75	51	48.4
48	104	94.2	30.8	79	75.9	25.2
56	38	32.5	19.8	30	28.1	18.7
65	200	183.5	20.6	156	153.3	33.1
69	339	—	—	277	—	—



## Schedule 3 Dictionary

section 4

**Apartment Design Guide** means the Apartment Design Guide published by the Department on [insert date] that applies to residential apartment development.

**BASIX affected building, BASIX affected development, BASIX certificate and BASIX optional development** have the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

**design considerations** means the considerations specified in sections 14–23.

**design principles** means the principles specified in section 12.

**design review panel** has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

**green infrastructure** means a network of green spaces, natural systems and semi-natural systems, including waterways, bushland, tree canopy, green ground cover, parks and open spaces, that —

- (a) supports sustainable communities, and
- (b) is strategically designed, and managed to support a good quality of life in an urban environment.

**non-residential development**—see section 7.

**non-residential State significant development**—see section 7.

**prescribed hotel or motel accommodation**—see section 7.

**prescribed office premises**—see section 7.

**prescribed retail premises**—see section 7.

**public space** means a place that is available for use by the public free of charge, including the following—

- (a) open spaces, such as parks, gardens, playgrounds, beaches, riverbanks, waterfronts, outdoor playing fields and courts and bushland,
- (b) libraries, museums, galleries, community centres, showgrounds and indoor sports facilities,
- (c) streets, avenues, squares, pavements, paths and bicycle paths.

**residential apartment development**—see section 5.

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

**urban design development**—see section 6.

**Urban Design Guide** means the Urban Design Guide published by the Department on [insert date] that applies to urban design development.