



Environmental Defenders Office

Our Ref: KR:KR:S5534

Your Ref:

27 July 2023

James Conlan
350 Australia
1 52 Reservoir Street
Surry Hills NSW 2010

By post and email: james@350.org.au

Dear James

350 Australia 'Electrify your Council'-Sustainable Buildings SEPP Guidance Note

1. We refer to the request for advice in relation to the 'Electrify your Council' Campaign'. We have provided some guidance below on the *State Environmental Planning Policy -Sustainable Buildings 2022 (Sustainable Buildings SEPP)*.
2. There is a long-standing NSW State Government policy that councils cannot impose standards on development that go beyond BASIX. This is to ensure a consistent statewide application of building standards. This is still the case under the Sustainable Buildings SEPP, particularly in relation to greenhouse emission reduction as it is designed to ensure consistent assessment of the sustainability of buildings. The Sustainable Buildings SEPP implements an amended BASIX which imposes higher thermal performance standards and reduces greenhouse gas emission while still facilitating choice of fuel sources. It aims to minimise the consumption of energy and potable water; reduce greenhouse gas emissions from energy use; monitor the embodied emissions of building materials; and deliver buildings that are comfortable in summer and winter.
3. In relation to residential development, other than small apartment buildings of up to five stories, councils cannot develop planning instruments that require all electric buildings if the purpose of the requirement is greenhouse gas reduction. It may however be possible to justify a requirement that prohibits gas appliances to reduce air pollutants associated with the onsite combustion of gas to improve air quality for occupants.¹ This is because there is substantial scientific evidence of the impacts of gas on health, particularly indoors.² Further, operational

¹ Objective 2 from part 6.8, Parramatta City Centre DCP.

² <https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-harm-health-202209072811#:~:text=Gas%20stoves%20leak%20even%20when%20they%20are%20off&text=Both%20methane%20and%20nitrogen%20dioxide,gas%20and%20worsens%20climate%20change,https://theconversation.com/are-gas-stoves-bad-for-your-health-heres-why-the-federal-government-is-considering-new-safety-regulations-186454;https://rmi.org/insight/gas-stoves-pollution-health,https://www1.racgp.org.au/ajgp/2022/december/health-risks-from-indoor-gas-appliances>

T +61 2 9262 6989

E info@edo.org.au **W** edo.org.au

Suite 8.02, 6 O'Connell St Sydney, NSW 2000

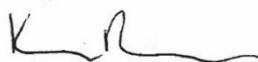
ABN: 72002 880 864

cost savings to developers and occupants through the avoidance of gas installation, connection and ongoing connection and disconnection charges³ may also be a means of justifying all electric buildings.

4. In relation to non-residential development, the Sustainable Buildings SEPP provides a minimum, baseline standard. Councils may implement higher standards in relation to those buildings to which the Sustainable Buildings SEPP applies, such as the Sydney City Council's required for new office buildings, hotels and shopping centres, and major redevelopment of existing buildings to meet minimum energy rating standards and achieve net-zero energy use by 2026.⁴
5. The Sustainable Buildings SEPP (implementing the amended BASIX standards) is due to commence simultaneously with the National Construction Code on 1 October 2023. These work in concert to ensure consistency and deliver the aims of the COAG agreed Trajectory for Low Energy Buildings to meet the national commitment to a net-zero trajectory and the NSW Net-Zero Plan.
6. The Sustainable Buildings SEPP will be reviewed in 2025 and then every three years.

Yours faithfully

Environmental Defenders Office



Kirsty Ruddock

Managing Lawyer

Safe Climate

Managing Lawyer, Safe Climate - Corporate/Commercial

³ Object 3 of part 6.8, Parramatta City Centre DCP.

⁴ <https://news.cityofsydney.nsw.gov.au/articles/new-net-zero-targets-for-development-approvals>