



State Environmental Planning Policy (Activation Precincts) 2020

Explanation of Intended Effect
Consultation Report

June 2020

Acknowledgement

NSW Department of Planning and Environment acknowledges the Traditional Custodians of the land and pays respect to all Elders past, present and future.

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Cover image: *Fields of canola growing at a farm with views across to the Parkes Observatory. Courtesy of Destination NSW.*

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Introduction

Purpose of the report

This report has been prepared to document the feedback received during the exhibition of the Explanation of Intended Effect (EIE) for a proposed State Environmental Planning Policy (SEPP) to support the delivery of the Special Activation Precincts.

From 20 September until 20 October 2019, the Explanation of Intended Effect (EIE) for the Activation Precincts SEPP went on public exhibition for feedback from stakeholders. The Department of Planning, Industry and Environment received 18 submissions that responded to the Explanation of Intended Effect of the proposed Activation Precincts SEPP.

At the same time, the Department also exhibited the draft master plan for the Parkes Special Activation Precinct. A separate report has been prepared to summarise and respond to submissions on the Master Plan. Refer to the Parkes Draft Master plan Consultation Report.

The responses have guided the refinement of the Activation Precincts SEPP.

Background

In July 2018, the Deputy Premier announced the establishment of Special Activation Precincts as part of the NSW Government's 20-year economic vision for Regional NSW.

Special Activation Precincts are one of the five regional priorities funded by the NSW Government's \$4.2 billion Snowy Hydro Legacy Fund. All \$4.2 billion is earmarked to be spent in regional NSW to build on the rapid growth and opportunities in the regions.

Special Activation Precincts are dedicated areas in regional NSW, identified by the NSW Government, to become thriving business hubs by streamlining planning approvals and attracting investors with the aim of creating jobs and improving the economic viability of regions.

What are Special Activation Precincts?

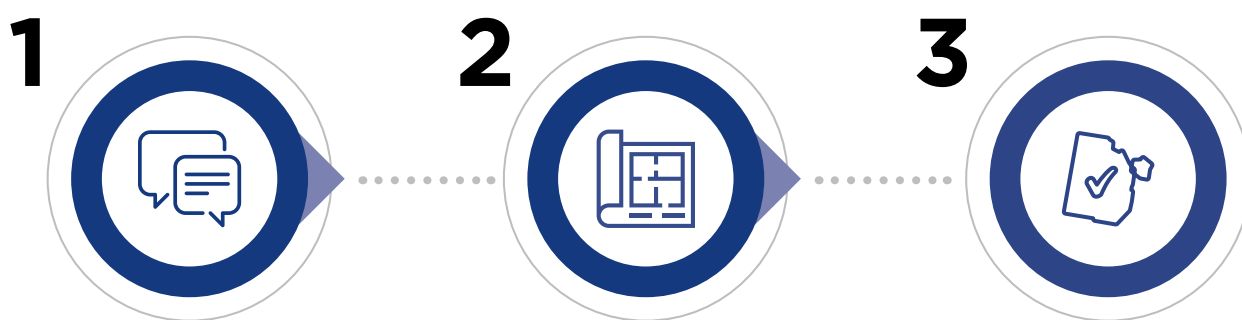
Special Activation Precincts are existing or proposed employment precincts in Regional NSW that have been nominated by the NSW Government as having potential for growth, and where planning and investment will be prioritised. The Special Activation Precincts program is an important part of the NSW Government's 20 Year Economic Vision for Regional NSW and will be delivered in part through the \$4.2 billion Snowy Hydro Legacy Fund.

The NSW Department of Planning, Industry and Environment is responsible for preparing the planning framework for each Precinct. The approach is to undertake upfront planning and environmental assessment to allow for most employment uses to be undertaken as complying or exempt development, and reduce the cost and time associated with obtaining development consent for suitable businesses.

The State Environmental Planning Policy (Activation Precincts) 2020 (proposed SEPP) provides the planning framework to achieve these outcomes. A Master Plan for each Special Activation Precinct will provide performance measures to ensure good environmental and planning outcomes.

The planning framework for Special Activation Precincts

The following planning framework ensures the right mechanisms are in place for industry to access and comply with a streamlined planning process for the effective delivery of Special Activation Precincts.



State Environmental Planning Policy (Activation Precincts) 2020

- Identifies each Special Activation Precinct
- Requires that an Activation Precinct Certificate be sought prior to and development application, to ensure the development is consistent with the Master Plan and Delivery Plan.
- Provides zoning and land use controls for each Precinct
- Identifies Exempt and Complying Development pathways for certain development

Special Activation Precinct Master Plans

- Made by the NSW Department of Planning, Industry and Environment and approved by the Minister
- Identifies the Vision, Aspirations and Principles for the Precinct.
- Provides more detailed, sub-precinct land use controls where required.
- Identifies Performance criteria at a Precinct-scale for amenity, environmental performance and infrastructure provision.
- Identifies the matters to be addressed as part of the Delivery Plan

Special Activation Precinct Delivery Plans

- Prepared by the Regional Growth NSW Development Corporation and approved by the Planning Secretary
- Identifies site-level development controls
- Provides detailed strategies and plans for:
 - Aboriginal cultural heritage
 - Environmental protection and management
 - Protection of amenity
 - Infrastructure and services
 - Staging
- Provides procedures for ongoing monitoring and reporting

Engagement approach

The Department exhibited the EIE for the Activation Precincts SEPP from 20 September to 20 October 2019, at the same time as the Parkes Special Activation Precinct draft master plan.

The Department's engagement program to support the exhibition of the EIE was in tandem with the exhibition of the Parkes Special Activation Precinct draft master plan, as Parkes will be the first precinct covered by the Activation Precincts SEPP.

Wagga Wagga was also announced as a Special Activation Precinct and the Department is undertaking an extensive consultation program to inform the development of the draft master plan. The Department also engaged with stakeholders in Wagga Wagga about the EIE as part of its consultation program.

While the EIE is technical in nature, landowners and the general community were more interested in the draft land use table around permissible and prohibited uses, with local councils and state government agencies showing more interest in the development standards, the role of government, and amendments to other planning legislation.

The aim of the engagement program was to raise awareness and seek formal feedback on the EIE and the proposed Activation Precincts SEPP.

Who the Department engaged with?

During the four-week exhibition period from 20 September – 20 October 2019, the Department communicated and engaged with:



Landowners in the Parkes and Wagga Wagga Special Activation Precincts



Parkes Shire Council and Wagga Wagga City Council



Immediate neighbours in both Precincts



Businesses and PEAK bodies



The broader Parkes community



Other interested parties across NSW

How the Department engaged?

The engagement program mirrored that of the Parkes draft master plan, whereby the Department sought feedback on the EIE during the engagement activities for the Parkes draft master plan.

In addition, the Department also consulted on the EIE in Wagga Wagga.

The activities included were:



Mailout to 96 landowners and immediate neighbours in Parkes



19 one-on-one landowner meetings with landowners who live in and around the Parkes precinct



A briefing for Parkes Shire Council and Wagga Wagga City Council Councillors



Social media campaign which saw 2,523 clicks to the Planning Portal website



An article in the Department of Planning, Industry and Environment e-newsletter



A Parkes community presentation where six people attended



A presentation to 25 Parkes Chamber of Commerce members



A webinar that attracted 150 people across government, regional areas and private sectors throughout the state



Notification ads in the Sydney Morning Herald, the Daily Telegraph, the Parkes Champion Post and the Wagga Wagga Daily Advertiser



A community meeting was held in Wagga Wagga where 21 people attended



Two pop-ups at Parkes Shire Council's Project Management Office, in Clarinda Street, Parkes, which saw 10 people visit the pop-ups



Responded to 15 inquiries via phone and email about the Parkes draft master plan, which also where applicable, included responses about the EIE



Submissions

A total of thirty-three submissions were received in relation to the exhibition of both the EIE and the Parkes Special Activation Precinct draft master plan.

18 submissions provided comment in relation to the EIE.

The objections and issues raised in the eighteen submissions can be categorised under the following themes:

- Land use and zoning
- Infrastructure funding and development contributions
- Roles and responsibilities
- Approvals from other government agencies
- Consultation

Stakeholders that sent submissions included:

- PEAK bodies
- Local councils
- Individuals
- Corporations

Support was shown for:

- Up-front strategic planning approach
- Government policies that encourage regional economic development
- Wider rollout of Special Activation Precincts

Greatest concerns were:

- Clarity around permissible and prohibited land uses within the Special Activation Precinct including more detail on what development types would be exempt or complying development and what development standards would apply to these
- Approvals and governance arrangements
- Better collaboration and involvement with local Councils to identify future Special Activation Precincts and economic development opportunities

Analysis and response

The review and analysis of the exhibition submissions have been summarised on page 7 by identifying themes, general support for the Activation Precincts SEPP in enabling regional development and the requirement for further information on the mechanisms for streamlined planning approvals, development standards, governance arrangements and consultation.

Through the submissions review process, the Department has also considered specific issues raised in relation to the EIE and has responded by, undertaking further targeted stakeholder, government agency and community consultation and finalising the planning framework.

There is insufficient detail in the EIE on the content of the Master Plans and the Delivery Plans and how requirements will be mandated through the Activations Precincts SEPP

Response

- Post-exhibition, the Master Plan has been further developed to comprise precinct-level performance criteria and protection against environmental impacts.
- The master plan also requires certain detail be contained in the Delivery Plan.
- The SEPP requires that development be consistent with the Master Plan and Delivery Plan.
- At the time the EIE was exhibited, the legislative framework was still in development. Since then, many matters have been resolved, including the complex relationship of the Activation Precinct SEPP with other planning and environmental legislation. We now have a very clear framework and understanding of the Activations Precinct SEPP's role, and how it works with the Master Plan and Delivery Plan.
- The SEPP now includes provisions for mandatory provision in the Master Plan and Delivery Plan.

Further explanation of the process and requirements for developing design guidelines is required

Response

- Critical requirements for development (such as protection of biodiversity and the high-level street network) have been elevated into the Master Plan.
- The Delivery Plan will include site-specific development controls for matters like stormwater management. It will also comprise strategies for the public domain and the street network. The Delivery Plan may apply to the whole of the Precinct, or just the first development stage, thereby controlling the staging of the Precinct.
- The EIE indicated that the planning framework might also comprise Design Guidelines. Since exhibition, and in response to further developing the contents of the Master Plan, it has been determined that the types of controls that might have been included in the Design Guidelines (setbacks, landscaping) would be appropriately located in the Delivery Plan.

The relationship between the Proposal Certificate and the planning approval pathway is unclear

Response

The Proposal Certificate will be named 'Activation Precinct Certificate' by the Activation Precincts SEPP.

An amendment to the *Environmental Planning and Assessment Regulation 2000* creates the process for the Certificate. An Activation Certificate must be obtained for, and submitted with any application for development.

The Activation Precincts SEPP contains provisions for what must be considered in issuing a Certificate, and who is responsible for issuing the certificate (either the Regional Growth NSW Development Corporation or the Planning Secretary).

The purpose of the Certification process is to ensure that development is consistent with the staging and vision of the Special Activation Precinct.

Once a Certificate has been issued, development consent must still be obtained. The pathways are:

- Complying Development under the *Environmental Planning and Assessment Act 1979*
- DA or State Significant DA under Part 4 of the *Environmental Planning and Assessment Act 1979*.
- Consent under Part 5 of the *Environmental Planning and Assessment Act 1979*, by a Public Authority.

When issuing an Activation Precinct Certificate, the Regional Growth NSW Development Corporation will ensure the development is consistent with the Master Plan and Delivery Plan.

Exempt development does not require an Activation Precinct Certificate.

Public authorities are not required to obtain an Activation Precinct Certificate.

Suggestions that the SAP boundary should be released ahead of the public exhibition

Response

- The Special Activation Precinct area is communicated when the draft master plan goes on public exhibition.
- The technical studies undertaken as part of the investigation area, has the purpose of informing the draft master plan, which also confirms the extent of the Special Activation Precinct area.
- It is not orderly planning to communicate boundaries ahead of this stage, whilst the boundaries are still being tested and may change.

The ability for local councils and the community to nominate and have input into future Special Activation Precinct areas

Response

- Special Activation Precincts are funded under the Snowy Hydro Legacy Fund and this fund is not an application-based funding model.
- The Snowy Hydro Legacy Fund invests in regional nation-building projects that have economic development opportunities within NSW, Australia and on an international scale, that benefits local and regional areas, and contributes towards the NSW economy at large.
- Investment decisions are made by the NSW Government. The NSW Government's 20-Year Economic Vision for Regional NSW, the 10 NSW Regional Plans and the 37 Regional Economic Development Area strategies are the blueprint that guide these investment decisions.
- Other criteria including market failures that warrant government intervention; catalyst events, locations or triggers (eg Inland Rail); community benefit; land suitability.
- Where investigations for a Special Activation Precinct has been announced, the government actively engages with local councils and communities to contribute to their development.

Land uses and zoning

Each Schedule under the Activation Precincts SEPP will include the relevant zone(s) and zone objectives, the land use table(s) for each zone and the approval pathways for land uses, including exempt, complying and prohibited development.

The EIE provided a draft list of permissible and prohibited land uses for the Parkes Special Activation Precinct. Each Special Activation Precinct will have a different set of land uses, based on the strategic planning and technical studies, local environmental and heritage constraints, compatibility with other land uses and economic drivers for that precinct.

Clarity required on land use descriptions contained in the land use table

Response

- There will be a separate Schedule for each Special Activation Precinct in the Activation Precincts SEPP. Each Schedule will include a zoning map, zoning objectives and a land use table.
- The Activation Precincts SEPP relies on standard land use terms, defined in the Standard Instrument - Principal Local Environmental Plan and other planning legislation.

It is unclear from the land use table which permissible land uses are complying and which are exempt development

Response

- The EIE did not provide the details of which development was to be exempt and complying development because DPIE were still resolving the details of the legislative framework at the time.
- The EIE expresses the intent that most development would be either Exempt or Complying Development, and the provisions in the Activation Precinct SEPP are consistent with this intent.
- Schedule 1 of the Activation Precinct SEPP provides Exempt Development provisions and development standards that have been specifically developed for the Parkes SAP. There are also provisions for development that is Complying Development.

Concerns raised about the potential planning and environmental risks associated with permitting hazardous and offensive industries as complying development.

Response

- Hazardous and offensive industries are prohibited land uses within the Special Activation Precincts.
- The *State Environmental Planning Policy No 33 – Hazardous and Offensive Development* continues to apply to development within Special Activation Precincts.
- A SEPP 33 checklist will need to be submitted as part of an application for an Activation Precinct Certificate.

What are the transitional arrangements from current land uses to new land uses

Response

- Development permitted under existing approvals will still be able to be undertaken once the Activation Precincts SEPP is made, even if that land use is no longer permissible.
- Uses that are no longer permissible in the zone will have existing use rights under the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.



Infrastructure funding and development contributions

The infrastructure needed to support new development within the Special Activation Precincts is identified through the Master Plan process, and then refined through the development of the Delivery Plan.

The NSW Government will be making a major contribution towards the construction and development of infrastructure of the Special Activation Precincts, which will be funded by the Snowy Hydro Legacy Fund. There will be however, some costs over and above the Fund which will be required to fund infrastructure in the Special Activation Precincts.

How will development contributions be determined for development in a Special Activation Precinct and how will they be administered?

Response

- The Parkes Shire Section 94A Contributions Plan 2016 will continue to apply to development in the Parkes Special Activation Precinct.
- The Regional Development Corporation are currently preparing detailed designs for infrastructure as part of the Delivery Plan. The infrastructure will be funded through a combination of NSW Government funding, the proceeds of land sales by the Development Corporation and through other potential funding mechanisms, such as a Special Infrastructure Contribution

Roles and responsibilities

The Department's Planning and Assessment Group leads the master planning process including the strategic planning and technical studies and will administer the new Activation Precincts SEPP, including any amendments. The group will also review the Delivery Plans for each Special Activation Precinct and assess development proposals where the Regional Growth NSW Development Corporation is the developer. The Department can also be the relevant consent authority for development proposals that are not complying or exempt development and require approval (DA) under Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979*.

The Regional Growth NSW Development Corporation delivers the vision and objectives of the Master Plan by preparing Delivery Plans, and issues Activation Precinct Certificates to certify whether a proposed development is consistent with the relevant Master Plan and Delivery Plan. It will develop, own and lease land, deliver key infrastructure and secure economic development opportunities.

Local Councils can act as a certifier for complying development, be the regulator for non-scheduled development under the *Protection of the Environment (Operations) Act 1997* and can be the relevant consent authority where development proposals are not complying or exempt development and require approval (DA) under Part 4 of the *Environmental Planning and Assessment Act 1979*.

Clarity on the assessment role of the Regional Growth NSW Development Corporation and how this relates to Councils and other consent authorities

Response

- The Regional Growth NSW Development Corporation will be responsible for issuing Activation Precinct Certificates where development can demonstrate it is consistent with the Master Plan and Delivery Plan as outlined in the Activation Precincts SEPP.
- After an applicant obtains an Activation Precinct Certificate, permitted development will proceed through either:
 - an exempt or complying development pathway. Complying development will require consent (from councils or a private certifier) through the issuing of a Complying Development Certificate, or

- obtaining a development approval (DA) under Part 4 of the EP&A Act
- obtaining consent under Part 5 of the EP&A Act

- Council are the consent authority for DAs and the Minister continues to be the Consent Authority for State Significant Developments.
- Development within a Special Activation Precinct may require additional licences or approvals to be obtained from other government agencies such as NSW EPA. The Regional Growth NSW Development Corporation Business concierge service will facilitate developers gaining approvals from other agencies specific to their proposal.

Clarity required on the development assessment role of Councils

Response

- Councils will continue to be assessment authorities for development that requires consent for either Complying development or a DA under Part 4 of the *Environmental Planning and Assessment Act 1979*.
- A private certifier may also issue complying development certificates.

How will disputes be resolved between Councils, the Regional Growth NSW Development Corporation and other agencies?

Response

Firstly, there will be clear guidelines regarding:

- Regional Growth NSW Development Corporation Governance.
- agency responsibilities in the Activation Precincts SEPP.

The Department and the Regional Growth NSW Development Corporation have worked closely with Parkes Shire Council in developing the Activation Precincts SEPP and believe it represents a shared vision.

Regional Growth NSW Development Corporation will continue to work closely with the Council and the community through the development phase.

Approvals from other agencies

Certain types of development within the Special Activation Precinct may require licensing and approvals from other government authorities that administer non-planning legislation, such as NSW EPA, NSW Health or NSW Department of Primary Industries.

The Activation Precincts SEPP provides for simplifying planning approvals under the *Environmental Planning and Assessment Act 1979*, however does not provide for simplifying other legislation requiring licensing and approvals within the Special Activation Precincts.

The Department and the Regional Growth NSW Development Corporation will work with other stakeholder agencies to facilitate the streamlining of approval processes (where appropriate) to support developers in meeting the legislative requirements of their proposals.

Concerns that delays will be caused by seeking approvals by other agencies (other than EPA) such as licences or permits.

Response

- The Activation Precincts SEPP does not override the requirement for approvals under other legislation.
- The Regional Growth NSW Development Corporation Business Concierge service will support proponents through the process of obtaining any other approvals required.

Clarity on how approvals from other agencies (other than NSW EPA) will be streamlined

Response

- The Department will prepare a guideline regarding processes for obtaining approvals from and meeting the compliance requirements of other government agencies within Special Activation Precincts.
- The Regional Growth NSW Development Corporation Business Concierge service will develop relationships with approval agencies and establish streamlined processes where appropriate.
- Some approval times may also be reduced where an agency has been involved in the upfront environmental impact assessments for the Precinct.

Consultation

The Department consulted with Parkes and Wagga Wagga stakeholders during the exhibition period as these are the first two Special Activation Precinct locations.

The Department also hosted a webinar and placed notification ads in local and state-wide newspapers to inform the wider community about the exhibition of the EIE.

The Department will communicate the new Activation Precincts SEPP when it is gazetted and offer briefings so stakeholders are educated about how the new Activation Precincts SEPP will be applied.

Will the Activation Precincts SEPP mandate requirements for community and stakeholder consultation?

Response

- The Activation Precincts SEPP requires exhibition of the draft Master Plan for each Special Activation Precinct.

Requests for further stakeholder consultation on development of the Activation Precincts SEPP

Response

- The exhibition period provided the opportunity for consultation and feedback.
- The Department and the Regional Growth NSW Development Corporation will continue to engage with stakeholders once the Activation Precincts SEPP is gazetted to ensure its application is well understood and applied correctly through the delivery phase
- The Activation Precincts SEPP comprises provisions for notifying the Master Plan for future Special Activation Precincts.
- The Activation Precincts SEPP will need to be amended for the inclusion of each new Special Activation Precinct, and be subject to its own exhibition process.

Which part of government consults with the community during the master planning and delivery phases

Response

- The Department's Planning and Assessment Group leads the master planning process and in line with this, leads the communications and engagement program.
- Once the Master Plan is endorsed, the Regional Growth NSW Development Corporation will lead the delivery and the communications and engagement program to support the Delivery Plan in each location.



To find out more, please visit:

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