

State Environmental Planning Policy (Activation Precincts) 2020

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New South Wales

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State Environmental Planning Policy (Activation Precincts) 2020



New South Wales

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State Environmental Planning Policy (Activation Precincts) 2020



New South Wales

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Activation Precincts) 2020*.

2 Commencement

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

3 Aims of Policy

The aim of this Policy is to identify Activation Precincts in order to—

- (a) promote economic development, industry investment and innovation and to create employment in those Precincts, and
- (b) facilitate strategic and efficient development of land and infrastructure in those Precincts, and
- (c) protect and enhance land in those Precincts that has natural and cultural heritage value.

4 Definitions

(1) In this Policy—

Activation Precinct means land declared to be an Activation Precinct by this Policy.

delivery plan for an Activation Precinct means a delivery plan for the Precinct that is approved by the Planning Secretary under clause 9.

Development Corporation means the Regional Growth NSW Development Corporation constituted by the *Growth Centres (Development Corporations) Act 1974*.

master plan for an Activation Precinct means a master plan for the Precinct that is prepared and approved by the Minister under clause 8.

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

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

- (2) A word or expression used in this Policy has the same meaning as in the standard local environmental planning instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Policy.
- (3) Notes included in this Policy do not form part of this Policy.

5 Land to which Policy applies

This Policy applies to land within an Activation Precinct.

6 Relationship with other environmental planning instruments

- (1) 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.
- (2) A local environmental plan does not apply to land within an Activation Precinct.

7 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) Any 2 or more named maps may be combined into a single map.
- (3) In that case, a reference in this Policy to the named map is a reference to the relevant part or aspect of the single map.
- (4) The maps adopted by this Policy are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (5) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Part 2 Master plans and delivery plans

8 Master plans for Activation Precincts

- (1) The Minister is to prepare and approve a master plan that applies to all land within an Activation Precinct.
- (2) The master plan for an Activation Precinct must contain the following information—
 - (a) the strategic vision and general objectives for the Activation Precinct,
 - (b) a map showing proposed land uses for land within the Activation Precinct,
 - (c) the performance criteria for development on land within the Activation Precinct,
 - (d) information about any heritage items, heritage conservation areas or places of heritage significance within the Activation Precinct,
 - (e) limitations on development on land within the Activation Precinct, such as environmentally sensitive areas, contaminated land, flooding and cultural heritage.
- (3) The master plan for an Activation Precinct may also contain proposals for public utility infrastructure and roads and transport.
- (4) The master plan for an Activation Precinct must be consistent with this Policy.
- (5) The Minister may amend or replace a master plan.
- (6) A draft master plan is to be published on the NSW planning portal for at least 28 days before it is approved by the Minister.
- (7) A master plan approved by the Minister must be published on the NSW planning portal and takes effect on the day it is so published.

9 Delivery plans for Activation Precincts

- (1) There is to be at least one delivery plan for an Activation Precinct.
- (2) A delivery plan is to be prepared by the Development Corporation and must be approved by the Planning Secretary.
- (3) A delivery plan may apply to all land or specified land within the Activation Precinct.
- (4) A delivery plan must be consistent with the master plan for the Activation Precinct.
- (5) A delivery plan must contain the following information—
 - (a) the specific development controls for particular development on land within the Activation Precinct,

- (b) the basis on which particular development is proposed, having regard to applicable economic, social and environmental factors,
 - (c) existing and proposed infrastructure, public open spaces, public transport and road networks within the Activation Precinct,
 - (d) any areas of environmental significance within the Activation Precinct,
 - (e) the location and details of any infrastructure corridor designated under Division 5.3 of the Act on land within the Activation Precinct,
 - (f) how the development achieves the general objectives for land within the Activation Precinct that are specified in the master plan for the Precinct.
- (6) A delivery plan approved by the Planning Secretary must be published on the NSW planning portal and takes effect on the day it is so published.

10 Consent authority to consider master plans and delivery plans

A consent authority must have regard to the following when determining an application for development consent to carry out development on land within an Activation Precinct—

- (a) the master plan for the Activation Precinct,
- (b) any delivery plan that applies to the land on which the development is to be carried out,
- (c) any draft master plan or draft delivery plan that is published on the NSW planning portal.

Part 3 Activation Precinct certificates

Note—

Under the *Environmental Planning and Assessment Regulation 2000*, an Activation Precinct certificate is required to accompany an application for development consent for development on land within an Activation Precinct and an application for a complying development certificate on land within an Activation Precinct.

11 Applications for Activation Precinct certificates

- (1) An application for an Activation Precinct certificate in respect of proposed development on land within an Activation Precinct may be made to the issuing authority.
- (2) An application may be made only by the person who proposes to carry out the proposed development with the consent of the owner of the land to which the Activation Precinct certificate relates.
- (3) An application must be in the form approved by the Development Corporation and include the following information—

- (a) the name and address of the applicant,
 - (b) the address, and particulars of title, of the subject land,
 - (c) a description of the proposed development.
- (4) In this Part, **issuing authority** means—
- (a) the Development Corporation in the case of—
 - (i) development for the purposes of subdivision, and
 - (ii) development other than for the purposes of subdivision if the Development Corporation is not the applicant for development consent, and
 - (b) the Planning Secretary—in any other case.

12 Determination of applications for Activation Precinct certificates

- (1) The issuing authority must determine an application by issuing an Activation Precinct certificate in accordance with this Part or refusing to issue a certificate.
- (2) The issuing authority must determine an application within 30 days of the application being made.

Note—

There is no right of review or appeal in relation to a determination of, or a failure to determine, an application for an Activation Precinct certificate.

- (3) The issuing authority may issue an Activation Precinct certificate for development on land only if—
 - (a) there is a master plan and delivery plan that apply to the land concerned, and
 - (b) the issuing authority is of the opinion that the development is consistent with the master plan and delivery plan.
- (4) If the issuing authority is of the opinion that the development is not consistent with the master plan and delivery plan for the land, the issuing authority is to give the applicant an opportunity to modify the application to ensure that it is consistent.
- (5) The issuing authority must provide its reasons for refusing to issue an Activation Precinct certificate.
- (6) Clauses 12 and 13 of *State Environmental Planning Policy No 33—Hazardous and Offensive Development* and clause 7 of *State Environmental Planning Policy No 55—Remediation of Land* apply to an application for an Activation Precinct certificate that relates to complying development in the same way as they apply to an application for development consent.

Note—

State Environmental Planning Policy No 33—Hazardous and Offensive Development and *State Environmental Planning Policy No 55—Remediation of Land* apply to development within an Activation Precinct that is not complying development.

- (7) For the purposes of subclause (6), any reference in those clauses to a development application, development consent or a consent authority is to be read as a reference to an application for an Activation Precinct certificate, the issuing of an Activation Precinct certificate or the issuing authority, respectively.

13 Duration of Activation Precinct certificates

An Activation Precinct certificate remains in force for 3 years after it is issued.

Schedule 1 Parkes Activation Precinct

Part 1 Declaration and zoning

1 Declaration of Parkes Activation Precinct

The land shown as Parkes Activation Precinct on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Land Application Map](#) is declared to be the Parkes Activation Precinct.

2 Land use zones

The land use zones in the Parkes Activation Precinct are as follows—

- Regional Enterprise Zone
- SP2 Infrastructure Zone

3 Zoning of land within Parkes Activation Precinct

For the purposes of this Schedule, land is within the zones shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Land Zoning Map](#).

4 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies for each zone—
- (a) the objectives for development, and
 - (b) development that may be carried out without development consent, and
 - (c) development that may be carried out only with development consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

(3) In the Land Use Table at the end of this Part—

- (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
- (b) a reference to a type of building or other thing does not include (despite any definition in this Policy) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the zone.

(4) This clause is subject to the other provisions of this Policy.

Land Use Table Regional Enterprise Zone

1 Objectives of zone

- To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.
- To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.
- To provide opportunities for regional economic development and employment.
- To attract industries that would contribute to and benefit from being close to major freight transport networks.
- To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.
- To encourage the development of industry leading renewable energy generation and resource and waste management.

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Cellar door premises; Food and drink premises; Hotel or motel accommodation; Kiosks; Neighbourhood shops; Timber yards; Any other development not specified in item 2 or 4

4 Prohibited

Air transport facilities; Amusement centres; Animal boarding or training establishments; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Commercial premises; Correctional centres; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Function centres; Hazardous industries; Hazardous storage establishments; Health services facilities; Home-based child care; Home businesses; Home industries; Mortuaries; Offensive industries; Offensive storage establishments; Open cut mining; Places of public worship; Public administration

buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Schools; Sex services premises; Tourist and visitor accommodation; Water recreation structures

SP2 Infrastructure Zone

1 Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Nil

3 Permitted with consent

Aquaculture; Roads; The purpose shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

4 Prohibited

Any development not specified in item 2 or 3

Part 2 Development permitted with consent

5 Solar energy farms

- (1) Development for the purposes of solar energy farms is permitted with consent on land within the Parkes Activation Precinct.
- (2) In this clause, **solar energy farm** means a photovoltaic or concentrated solar power electricity generating system that—
 - (a) is located on ground level and is ground-mounted, and
 - (b) has a capacity to generate 1 megawatt or more.

6 Thermal electricity generating works

- (1) The Planning Secretary is the consent authority for development for the purposes of thermal electricity generating works on land within the Regional Enterprise Zone.
- (2) Development consent must not be granted for development for the purposes of thermal electricity generating works unless the consent authority is satisfied that the development is consistent with the *NSW Energy from Waste Policy Statement*

published by the Environment Protection Authority in January 2015.

(3) Development for the purposes of thermal electricity generating works on land within the Regional Enterprise Zone is not State significant development.

(4) In this clause—

excluded waste means hazardous waste, restricted solid waste, liquid waste or special waste (all within the meaning of Schedule 1 to the [Protection of the Environment Operations Act 1997](#)).

thermal electricity generating works means electricity generating works that process waste (other than excluded waste) by thermal treatment for the purposes of generating electricity.

thermal treatment has the same meaning as in Schedule 1 to the [Protection of the Environment Operations Act 1997](#) but does not include incineration.

Part 3 Exempt and complying development

Division 1 General

7 Exempt and Complying Development SEPP does not apply to land in Parkes Activation Precinct

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) does not apply to land in the Parkes Activation Precinct, except as provided by clause 9(1).

8 Complying development

- (1) Development that is permitted with development consent on land within the Parkes Activation Precinct is complying development if the development is carried out in compliance with the development standards specified in this clause.
- (2) Despite subclause (1), development for the purposes of electricity generating works (including thermal electricity generating works within the meaning of clause 6) is not complying development.
- (3) To be complying development, the development must—
 - (a) meet the relevant provisions of the *Building Code of Australia*, and
 - (b) in the case of development other than for the purposes of environmental protection works or recreation areas—not be carried out on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Environmentally Sensitive Areas Map](#), and
 - (c) not be carried out on land on which a heritage item or Aboriginal object is located

or that is within a heritage conservation area or Aboriginal place of heritage significance, and

- (d) not be for the purpose of remediation work within the meaning of *State Environmental Planning Policy No 55—Remediation of Land*.

Division 2 Exempt development

9 Exempt development

- (1) Clauses 2.54A, 2.54B, 2.77, 2.78, 2.78E, 2.78F, 2.109–2.112 and 2.117–2.124 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* apply to land within the Parkes Activation Precinct.
- (2) Development specified in those clauses is exempt development if—
- it is exempt development for the purposes of that Policy, and
 - it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Environmentally Sensitive Areas Map](#).
- (3) Development specified in the following Table is exempt development if—
- it meets the standards specified for that development in the Table, and
 - it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Environmentally Sensitive Areas Map](#).

Table

Development purpose	Development standards
Access ramps	Must not interfere with the functioning of existing drainage fixtures or the natural surface flow of water. If located on bush fire prone land and less than 5m from a dwelling—must be constructed of non-combustible material.
Aerials, antennae and communication dishes	Must resist loads in accordance with AS/NZS 1170.0:2002, <i>Structural design actions, Part 0: General Principles</i> and AS/NZS 1170.2:2011, <i>Structural design actions, Part 2: Wind actions</i> . Must be anchored by a concrete slab or footing designed in accordance with AS 3600:2018, <i>Concrete structures</i> .

Air-conditioning units	<p>Must be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road.</p> <p>Must not reduce the existing fire resistance level of a wall.</p> <p>Must be designed so as not to operate during peak time at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary.</p>
Bollards	<p>Must not reduce any existing means of entry to, or exit from, any such associated development or the lot on which it is situated.</p> <p>Must not have a floor area of more than 100 square metres.</p>
Carport (within the meaning of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008)	<p>Must not involve the construction of a new driveway or gutter crossing unless the consent of the relevant road authority for each opening of a public road required for the development has been obtained under the Roads Act 1993.</p> <p>Must not be located between the building line and the primary road.</p>
Emergency work and repairs, consisting of the repair of any damage to a building or structure caused by an event that constitutes a significant and widespread danger to life or property in land within the Parkes Activation Precinct in an area declared by an order under section 33 of the State Emergency and Rescue Management Act 1989 to be an area where a state of emergency exists	<p>Must be carried out within 6 months of the declaration being made.</p> <p>Must not change the configuration of the floor space of the building or structure being repaired.</p> <p>Must not increase the floor space of the building or structure being repaired.</p>
Farm building (within the meaning of the Standard Instrument) (other than a stock holding yard, grain silo or grain bunker)	<p>Must not be used for habitable purposes.</p>

Stock holding yard	<p>Must not be used for habitable purposes. Must not include or comprise a stock and sale yard. Must not be roofed. Must be located at least 10m from any road boundary and at least 200m from any other boundary. Must be located at least 200m from any dwelling that is located on land on the opposite side of a road that separates the landholding on which the development is located and that other lot. Must be located at least 6m from any other farm building (including any farm building that is a grain silo or grain bunker) on the landholding or on an adjoining landholding. Must be located at least 100m from a waterbody (natural).</p>
Grain silo or grain bunker	<p>Must not be used for habitable purposes. Must be located at least 100m from any dwelling. Must be located at least 6m from any other farm building (including any farm building that is a stock holding yard) on the landholding or on an adjoining landholding. Must be located at least 50m from a waterbody (natural).</p>
Signage	<p>Must be a business identification sign and must not include any advertising of goods, products or services. Must have the consent in writing of the owner of the land on which the sign is to be located and, if the sign or part of the sign projects over adjoining land, the consent of the owner of the adjoining land. Must be approved under section 138 of the Roads Act 1993, if the sign or part of the sign projects over a public road, including a footway. Must not obstruct or interfere with any traffic sign.</p>
Stairways	<p>Must be constructed in accordance with AS 1657:2018, <i>Fixed platforms, walkways, stairways and ladders—Design, construction and installation</i>. If it is located on bush fire prone land and is less than 5m from a dwelling—must be constructed of non-combustible material.</p>

Fuel tanks and gas storage
(above ground)

Must not have a capacity of more than—

(a) for a fuel tank—5,000 L, or

(b) for a gas tank—1,000 L.

Must be located at least 20m from the primary road frontage of the lot and at least 10m from each other lot boundary.

Must be bunded with the capacity to contain at least 110% of the capacity of the tank.

Must be located at least 1m from any registered easement, sewer main or water main.

For a fuel tank—must be constructed of prefabricated metal, be freestanding and installed in accordance with the requirements of AS 1940:2017, *The storage and handling of flammable and combustible liquids*.

For a gas tank—must be designed and constructed in accordance with the requirements of AS/NZS 1596:2014, *The storage and handling of LP Gas* by a professional engineer.

Note—

Other existing legislative requirements still apply in relation to work health and safety issues.

Minor external non-structural building alteration, such as the following—

(a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,

(b) the replacement of an external window, glazing areas or a door (other than those on bush fire prone land),

Must not reduce the existing fire resistance level of a wall or roof.

If located on bush fire prone land, must be adequately sealed or protected to prevent the entry of embers and must use equivalent or improved quality materials.

(c) the repair to or replacement of a non-structural wall or roof cladding,

Must not affect any existing fire resisting components of the building.

Must not involve the use of external combustible cladding.

(d) the installation of a security screen or grill to a door or window or a security door,

Must not affect the means of egress from the building in an emergency.

(e) the repair to or replacement of a balustrade,

(f) restumping or repairing structure foundations without increasing the height of the structure.

Rainwater tanks (above and below ground)

Must not have a capacity of more than 25,000 litres.

Must be fitted with a screened rain head designed to ensure self-cleaning and prevent leaf litter entering into the water tank.

Must be fitted with a first-flush device incorporating an automatic resetting valve that causes initial run-off rainwater to bypass the tank.

Must be constructed or installed with inlets and outlets designed to prevent mosquitoes breeding in it.

Must have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners.

Must have a sign affixed to it with a statement to the effect that the water in the tank is rainwater.

If reticulated water is provided to the lot—must not be interconnected with any system supplying drinking water to the lot unless it complies with the Parkes Shire Council's requirements.

Demolition of development that would be exempt development under this Division if it were being constructed or installed

Letter boxes

Part 4 Miscellaneous

10 Additional permitted uses for particular land

- (1) Development for the purposes of specialised retail premises is permitted with development consent on land identified as “Area 1” on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Additional Permitted Uses Map](#).
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Schedule.

11 Application of provisions of other environmental planning instruments

- (1) Clauses 2.2-2.4, 2.6(1), 2.7 and 2.8 of [Parkes Local Environmental Plan 2012](#) apply to land within the Parkes Activation Precinct in the same way as they apply to land to which that Plan applies.
- (2) The following provisions of [State Environmental Planning Policy \(Infrastructure\) 2007](#) apply to land within the Regional Enterprise Zone in the same way as they apply to land within a prescribed zone within the meaning of that Policy—
 - (a) clause 48,
 - (b) clauses 94 and 95A,
 - (c) clause 106 (other than clause 106(2A) and (3A)(a)),
 - (d) clause 125 (in respect of land within Regional Enterprise Zone).

Note—

[State Environmental Planning Policy \(Infrastructure\) 2007](#) applies to land within the SP2 Infrastructure Zone.

12 Existing development applications

A development application for development on land within the Parkes Activation Precinct that was lodged before the land was part of that Precinct and that has not been finally determined is to be determined as if this Schedule had not commenced.