Environmental Defenders Office

SUBMISSION GUIDE

PARKES ENERGY RECOVERY FACILITY

This Submission Guide is intended to help you prepare a written submission in response to the Environmental Impact Statement (**EIS**) dated 22 October 2026, for the proposed Parkes Energy Recovery Facility (**Facility**).

The EIS was submitted by the proponent of the Facility, The Trustee for Parkes Energy Recovery Project Trust (**Proponent**) and is open for public comment until **17 December 2026**. This is known as the public exhibition period. Only written submissions received by 17 December 2026 (i.e. during the public comment/exhibition period) are required to be considered by the consent authority, which is the Independent Planning Commission (**IPC**).

You can obtain further information about the proposed Facility and lodge your submission through the Department of Planning Major Projects Portal.

This Submission Guide covers the following:

1. Background information
2. Assessment Pathway
3. Environmental Assessment
4. Preparing your submission
5. Engaging an Expert
6. Avenues to challenge the Facility if approved
7. Useful resources

1. BACKGROUND INFORMATION

The Facility is located at 546 and 664 Nelungaloo Road, Parkes. According to information in the EIS, the Facility will receive and process 732,000 tonnes of residential waste per annum. The Proponent proposes to burn waste at the Facility to produce electricity.

The EIS says the waste will be non-hazardous and be made up of:

- Residual municipal solid waste (predominately collected through the household red bin system and a small proportion of household bulky waste)
- Residual waste from commercial and industrial sources.

T +61 2 9262 6989 F +61 2 9264 2414
E sydney@edo.org.au W edo.org.au
Suite 8.02, Level 8, 6 O'Connell Street Sydney, NSW 2000
ABN: 72002 880 864

The Facility seeks approval to operate 24 hours a day, seven days a week. It is proposed the waste will be transported from the Greater Sydney area to Parkes by train. Prime mover trucks will transport the waste from the proposed Parkes Intermodal Terminal to the Facility.[1]

The EIS states the Facility will generate approximately 70-80 megawatts (**MW**) of electricity, with approximately 65 MW of energy proposed to be exported to the electricity network.

Parliamentary Inquiry

A Select Committee of the NSW Parliament held an Inquiry into proposed energy from waste facilities. The report was released on 20 October 2026. The Committee recommended that a moratorium on all current waste-to-energy proposals be imposed until there has been an independent, transparent review of all designated precincts, including the site-selection criteria and processes, the restriction to regional areas, and the inconsistencies of the current restricted regional precinct model.

The NSW Government's response to the Select Committee's report is due early 2027.

It is important to note that the Select Committee's Inquiry is a separate process from the EIS process. The Select Committee's report does not impact the current assessment of the Facility, and it could still be approved despite the Inquiry's recommendation for a moratorium. However, we suggest you review the report which may have information relevant to your submission.

2. ASSESSMENT PATHWAY

Consent Authority

The Facility is the subject of a State Significant Development application (SSD-109430741) (**SSD Application**).[2] The Department of Planning's website indicates the Minister has referred the SSD Application for the Facility to the Independent Planning Commission (**IPC**) for determination. This means the Department of Planning will assess the SSD Application and prepare an Assessment Report that will be referred to the IPC. The IPC will then decide whether to approve or refuse the Facility.

The Minister can direct the IPC to hold a public hearing on the SSD Application for the Facility.[3] If the Minister does not direct the IPC to hold a public *hearing*, the IPC can choose to hold a public *meeting*.

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[1] The EIS states the Activation Precinct Certificate (APC) for the Parkes Intermodal Terminal was approved by the Regional Growth NSW Development Coordination (RGDC) on 22.9.2026. The Register listing Special Activation Precinct certificate determinations was last updated on 11.9.26. You could contact the Regional Growth NSW Development Corporation if you would like further information about the Intermodal.

[2] The Facility was declared to be SSD by the Minister for Planning NSW Government Gazette No 100 of 13 March 2026

[3] *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**), section 2.9(1)(d).

The distinction between a public hearing and public meeting is important for any potential appeal rights (see Avenues to Challenge the Facility, below).

If the IPC holds a public hearing or public meeting, there may be a chance for concerned community members to make further submissions. However, we strongly recommend that you make a detailed submission, outlining your concerns with the Facility during the public exhibition period.

Further information on the public meeting and hearing process can be found on the IPC's website.

How the Facility will be assessed

The Facility will be assessed in accordance with the *Environmental Planning and Assessment Act* (1979) (**EP&A Act**) and in particular sections 4.15 and 4.38.

Under section 4.15 the IPC must consider:

- The significant likely impacts of the development, including environmental impact on both the natural and built environment, and social and economic impacts on the locality
- The suitability of the site
- Any submissions made in accordance with the Act or regulations (see note below)
- The public interest

The 'public interest' includes consideration of ecologically sustainable development (**ESD**). ESD includes the Precautionary Principle, which says that where there is a risk of serious or irreversible environmental damage, the lack of full scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation. The Chief Judge of the Land and Environment Court has published a useful paper on the application of ecologically sustainable development to planning law which may assist you in the preparation of your submission.

The Facility is in the Parkes Special Activation Precinct (*State Environmental Planning Policy (Precincts – Regional) 2021* (**Precincts SEPP**), Schedule 1) which means the Parkes Local Environmental Plan does not apply to the extent of any inconsistency between the instruments.[4]

The Land Use zones are set out under Schedule 1, Part 1, section 2 of the Precincts SEPP. Development that is prohibited in the Parkes Activation Area is set out under Item 5 of the land use zones table and does not exclude the proposed Facility.

The IPC must also have regard to the following:[5]

- Parkes Special Activation Precinct Master Plan

[4] Precincts SEPP, section 2.6.
[5] Precincts SEPP, section 3.8.

- Parkes Special Activation Delivery Plan

NSW EPA Energy from Waste Framework

In addition to approval under the EP&A Act, the Facility also requires an Environment Protection Licence (**EPL**) issued by the Environment Protection Authority (**EPA**) and regulated under the *Protection of the Environment Operations Act 1997* (**POEO Act**) and *Protection of the Environment Operations (General) Regulation 2022* (**POEO Reg**).

The EIS says the Facility has been designed to comply with the NSW EPA's *Energy from Waste Framework* and *Energy from Waste Technical Note* (together, **Framework**).

You could raise any concerns regarding compliance with the Framework, in the context of an EPL, in your submission. This is because an EPL application cannot be refused by the EPA if the SSD Application for the Facility is approved.[6]

3. ENVIRONMENTAL ASSESSMENT

The Planning Secretary's Environmental Assessment Requirements (**SEARs**) were issued on 17 March 2026. Amended SEARs were issued on 20 October 2026. The SEARs are issued by the Planning Secretary and set out the matters that **must** be addressed in the EIS. The EIS must also comply with Division 5, Part 8 of the *Environmental Planning and Assessment Regulation 2021* (**EP&A Regulation**).
Issues included in the SEARs which must be addressed in the EIS include:

- Suitability of the site
- Air Quality and Odour
- Human Health Risks
- Agriculture Risk
- Waste Management
- Hazardous Goods Transport
- Noise and Vibrations
- Soils
- Water Management
- Aboriginal and non-Aboriginal Cultural Heritage
- Biodiversity
- Greenhouse Gas Emissions

[6] EP&A Act, section 4.42(1)(e).

Detailed reports have been prepared by experts engaged by the Proponent to support the SSD Application and these form Appendices to the EIS. These are available on the Major Projects Planning Portal.

It can be helpful to obtain a report from an expert to support your submission if possible. Further information on making a submission and briefing an expert is below.

Biodiversity Assessment

The SEARs state that a Biodiversity Development Assessment Report (**BDAR)** will be required except where a BDAR waiver has been granted or the site is on Biodiversity certified land.[7]

According to information in the EIS, the Facility is sited in an area that has been strategically assessed and approved for industrial development, including the clearing of native vegetation.[8] The EIS states a BDAR waiver was granted on 4 August 2026.

Section 7.9 of the *Biodiversity Conservation Act 2016* (**BC Act**) states the Planning Agency Head can waive the requirement for a BDAR if they determine the proposed development is not likely to have any significant impact on biodiversity values.

We have not identified the BDAR waiver on the Major Projects portal. You may wish to contact the Department of Planning to request a copy of the BDAR waiver.

4. PREPARING YOUR SUBMISSION

The IPC is required to consider all written submissions made in accordance with the EP&A Act or regulations. It is important your written submission is lodged through the planning portal **during the public exhibition period** which opened on 5 November 2026 and will **close on 17 December 2026.**

The IPC is not required to consider any submissions made after this date, although they can choose to do so. Ensuring your submission is lodged within the exhibition period is also important for a potential merit appeal (if available – see Avenues to Challenge the Facility below for more information).

How to structure your submission

There is no set way to draft a submission. However, it is important to make your point as convincingly and persuasively as possible. It is helpful to be clear and succinct, and where possible, back up your points with expert evidence.

You do not need to address the whole EIS in your submission. It may be preferable to focus on specific areas of concern rather than provide brief commentary on all the issues raised.

The headings below provide a template that you can modify to suit your submission.

[7] EIS, Biodiversity (p.37).
[8] The EIS suggests that the Facility is located wholly within the boundaries subject to existing approval for native vegetation clearing and the subject of a BDAR – DA 25/19805 – Parkes SAP Vegetation Clearing.

1. Introduction:

- **Context**: Identify your submission relates to the Parkes Energy Recovery Facility - SSD-109430741
- **Purpose**: Briefly state your purpose for submitting a response to the public consultation.

2. Overview of Key Issues:

- **Summary of Concerns**: Highlight the main environmental concerns raised in the EIS, such as impacts on biodiversity, air and water quality, etc.
- **Personal or Organisational Perspective**: Explain your interest in these issues, whether from a personal, community, or professional standpoint.

3. Detailed Analysis of EIS Findings

- **Assessment of Impacts**: Critically evaluate the EIS's assessment of environmental impacts. Are there any areas that you feel have not been adequately addressed?
- **Review the Terms of Reference for the EIS which are set out in the SEARS and highlight any areas that you do not believe have been addressed. Also address whether the content requirements in the EP&A Regulations (see s 190 to 193) have been followed.**
- **Data and Methodology**: Discuss the adequacy of data and methodologies used in the EIS. Are they sound and robust? Are there alternative methods that should be considered?

4. Recommendations for Improvement (if any)

- **Mitigation Measures**: Suggest additional or improved mitigation measures that should be implemented to reduce negative impacts.
- **Alternatives**: Propose alternative approaches or designs that could minimise environmental harm.
- **Further Studies**: Recommend additional studies or assessments that should be conducted to better understand potential impacts.

5. Supporting Evidence

- **References**: Include relevant scientific studies, case examples, or data that support your points and recommendations.
- **Visuals**: If applicable, consider adding maps, graphs, or charts to illustrate your arguments.

6. Conclusion

- **Summarise Key Points**: Recap the most important issues and recommendations you've outlined.

- **Call to Action**: Encourage the relevant authorities to take your concerns seriously and to consider your recommendations in their decision-making process. You can ask that the consent be refused as well as seeking that certain conditions be imposed if consent is granted. Clearly outline the conditions you are seeking and why they should be imposed.

We have a factsheet on making a submission which may be of assistance.

5. ENGAGING AN EXPERT

It can add weight to a submission if you have a report from an expert in the relevant area. It is important that the expert has specialised knowledge about the facts of the issue based on their education, training or experience. The expert can be you, someone in your organisation, or someone independent of you.

The consent authority is likely to place greater weight on evidence from an expert who is:

- Independent
- Holds appropriate qualifications in the relevant area
- Has demonstrated experience in the relevant area

It is important to consider whether the expert you propose to retain is independent. While you can use experts who are not independent, such as an expert who has been involved in the campaign opposing the Facility, it is important to disclose this information. A failure to disclose this information could weaken the strength of the submission and affect how the consent authority considers it.

It can be difficult to find an expert to assist. Contacting universities in your area can be a useful place to start. There are also consultancies in a range of disciplines, including ecology and town planning who may be able to provide an expert report. However, consultants usually charge significant fees for the preparation of reports.

Briefing an expert to provide a report

When briefing an expert to give evidence, your brief should include the following:

- A concise background about the specific issue you wish to address, including the location and type of Facility
- Timeline – it can be useful to provide a timeline of key dates in the Facility assessment process including the deadline date for the evidence to be submitted;
- Links to relevant documents (such as the SSD Application, EIS, Relevant reports provided by the Proponent and where possible the Department of Planning, Housing and Infrastructure Assessment Report)
- Questions you would like the expert to address
- Summary of the factual assumptions which the expert is asked to rely on
- Agreed Fees for the preparation of the report

We recommend providing the Expert with a copy of Part 31 Division 2 and Schedule 7 (Expert Witness Code of Conduct) (**Code of Conduct**) of the *Uniform Civil Procedure Rules 2005* (**UCPR**)**.** Ideally the expert report should include an acknowledgment that the expert has been provided with these documents and agrees to be bound by the Code of Conduct. While it is possible to ask experts to prepare a report or submission without briefing them under the Code of Conduct this is likely to impact the weight the IPC attaches to the expert evidence – whether they are presenting themselves as independent or not.

It may also have consequences for whether the expert can be later retained for any court proceedings (to the extent there are potentially litigation opportunities in NSW involving expert evidence). That is, whether a Court would consider them independent if they have been informally briefed, i.e. not under the Code.

In addition, if they are used later as experts, it is possible your communications to the expert may not be protected by client legal professional privilege and may have to be disclosed to other parties in the litigation.

6. AVENUES TO CHALLENGE THE FACILITY IF APPROVED

The avenues to challenge an approval, if made, are dependent on whether the IPC holds a public hearing.

Class 1 Merit appeal

The Facility satisfies the criteria for 'designated development' under section 25, Part 2 of Schedule 3 of the EP&A Regulation.[9]

If no public hearing is held by the IPC an objector, which is a person who made a written submission objecting to the development **during the public exhibition period**, can appeal to the Land and Environment Court (**LEC**) against the IPC's determination.[10] This is referred to as a Class 1 merits appeal.

In a merits appeal, the LEC will stand in the shoes of the IPC and consider and determine the application afresh. It is open to the LEC to hear fresh evidence. The LEC can remake the decision if it considers it appropriate to do so or impose additional conditions on any approval. The LEC can also choose to not grant consent.

It is important to note that an appeal must be made within **28 days after the date on which the objector is notified of the IPC's decision**.

Any legal proceedings are costly and time consuming. We **strongly recommend you seek legal advice on potential grounds, your prospects of success and cost risks before contemplating proceedings.**

[9] Schedule 3, Part 2, s 25(1)(a) states that development for the purpose of an energy recovery facility is designated development if the facility processes more than 200 tonnes per year of waste, other than hazardous waste, liquid waste, restricted solid waste or special waste. An *energy recovery facility* means a building or place that received waste from or on site or off site and recovers energy from waste.
[10] EP&A Act, section 8.8(2). Note this provision only applies to development for designated development, including SSD that would be designated development but for s 4.10(2) (see s 8.8(1)).

If the IPC holds a **public hearing**, you do not have merit review rights, which means you are unable to lodge an appeal in the LEC based on the merits of the decision.[11] A public **meeting** on the other hand does not impact your merit appeal rights.

Class 4 - Judicial Review Proceedings

In judicial review, the LEC is not concerned with the merits of a proposal, that is, whether the decision was correct on the evidence – it is only concerned with whether the decision was made in accordance with law (this often means whether the correct procedure and law was followed when the decision was made).

Judicial review is limited, in that it can only determine whether there has been a legal error. Even if successful, the decision can often simply be remade shortly after a successful outcome in Court.

Applications for judicial review in the LEC must be made within **3 months of the public notification of the decision**. [12]

Again, we **strongly recommend you seek legal advice on potential grounds, your prospects of success and cost risks before contemplating judicial review proceedings.**

7. USEFUL RESOURCES

EDO has several published legal resources to assist you in making your submission:

- How to have your say in development across NSW
- Land and Environment Court
- Submissions, Letter and Petitions NSW

For further information on this submission guide, please contact our National Intake Team: **enquiries@edo.org.au**.

Evaluate this resource

EDO welcomes feedback on this guide. Your feedback will help us ensure we are providing useful information.

If you have any concerns or suggestions regarding this factsheet, please fill out the Legal Resources evaluation form by clicking here or scanning the QR code below:

[11] EP&A Act, section 8.6(3)(a).
[12] EP&A Act, section 4.59.