

Parkes Special Activation Precinct



Brolgan One project opportunity
Invitation for Expression of Interest P22-4170
August 2022



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1. Introduction

The Regional Growth NSW Development Corporation (RGDC) is seeking expressions of interest from suitably experienced and capable parties (or consortia) to undertake development opportunities on approximately 113 hectares of land strategically located along Brolgan Road in Parkes NSW.

The site provides a high-profile industrial development opportunity in the Parkes Special Activation Precinct (SAP).

SAPs are dedicated areas within regional NSW that have been identified by the NSW Government for the potential of their existing endowments to drive economic growth. They bring together planning and investment support services to increase job opportunities and drive economic activity.

The Parkes SAP aims to become Australia’s largest inland freight and logistics region centred around Inland Rail and the Parkes National Logistics Hub. This is a major new transport-logistics precinct which leverages Parkes’ central location at the junction of the north-south Inland Rail project (under construction) and Trans-Australian Railway rail line.

Highlights of the EOI opportunity include:



access to approximately 113 hectares of land in the Central West’s newest and most prominent enterprise precinct



access to a streamlined planning and development process that leverages NSW Government Master Planning, government-funded infrastructure and business support services to reduce the time and cost of setting up business



opportunity to establish in a prime industrial location at the cross-section of new and existing rail lines, accommodating a range of businesses including, but not limited to, rail and road transport terminals, warehousing, advanced manufacturing and food processing businesses



opportunity to establish in Australia’s first UNIDO aligned Eco-Industrial Precinct which will exemplify circular economy design and sustainability in all development



opportunity to leverage major government infrastructure investment, including upgrade of Brolgan Road and services, the Inland Rail and Parkes Bypass projects.

Expressions of interest (EOI) must be lodged via the dedicated Ansarada Data Room by no later than 2:00pm on 19 September 2022 (AEST).

2. Project site information

Item	Details
Site description	<ul style="list-style-type: none"> • The Site is owned by Regional Growth NSW Development Corporation and comprises part of folio 171/818194, the whole of folio 172/818194 and part of folio 55/1243131. • The Site is located within the Regional Enterprise sub-precinct of the Parkes SAP on the northern side of Brolgan Road. Refer to Figure 1. • The Site provides frontage to Brolgan Road. • Newly upgraded Brolgan Road and utilities available to the Site boundary on Brolgan Road forecast for completion by the end of 2023. • Natural grades for the site between 1% and 3%. • Greenfield site currently used for agriculture, and in the vicinity of the planned plastics recycling facility and proposed energy from waste facility. • Soil is generally colluvium, inactive alluvium and aeolian sandy clay / silty clay/sand with gravels.
Real property description	<p>Part of folio 171/818194, all of folio 172/818194 and part of folio 55/1243131.</p> <p>Note: Real property description is subject to change for:</p> <ul style="list-style-type: none"> • any required boundary adjustment and/or subdivision following completion of the Parkes SAP Stage 1 infrastructure project • Proponent land area requirements under this EOI Invitation
Land area	<p>Approximately 113 hectares is being offered to the market for individual, or multiple, large-scale development consistent with the project vision and objectives. Proponents are able to nominate their land area requirement (minimum 5 hectares) and preferred location within the Site. Results of this EOI Invitation may be used to inform RGDC’s future subdivision of the Site.</p>
Available services	<p>The Site boundary (on Brolgan Road) will be serviced by:</p> <ul style="list-style-type: none"> • potable water • gas • power • low pressure sewer system and • communications fibre optics. <p>Works relating to these services is underway and is estimated to be completed by end of 2023.</p>

Item	Details
Infrastructure Contributions	<p>The NSW Government is currently working through a review of the State Infrastructure Contributions system. This includes prescribed rates for industrial and commercial development.</p> <p>Project Delivery Agreements transacted under this EOI Invitation will not be subject to a State Infrastructure Contribution or equivalent state charge and it is expected that this will be reflected in the proponent's offer to purchase land in this EOI Invitation.</p> <p>The Site is however, subject to local infrastructure contributions as prescribed by Parkes Shire Council for community facilities and water and sewer infrastructure. These contributions are based on development specifics and included water / sewer demand and capital value of works proposed. Further information can be obtained from Parkes Shire Council.</p>
Property access	<p>Proponents should assume they will have direct access to Brolgan Road, which they will need to design and construct. RGDC will not be providing deceleration, acceleration lanes or local widening in the vicinity of the direct access.</p>
Planning framework	<p>State Environmental Planning Policy (Precincts-Regional) 2021 (Precincts – Regional SEPP)</p> <p>All development within the precinct is required to be consistent with the provisions of the Parkes SAP Master Plan and the Parkes SAP Delivery Plan (Stage 1).</p> <p>Any proposed development will be required to obtain an Activation Precinct Certificate prior to obtaining development consent.</p> <p>RGDC is responsible for the delivery of the Parkes SAP in line with the Delivery Plan (refer to Section 5 for further details).</p>
Zoning	<p>Regional Enterprise Zone (under the Precincts-Regional SEPP)</p>
Project Delivery Structure	<p>RGDC is seeking to enter into a Project Delivery Agreement and associated land sale documents governing Project implementation, with appropriately experienced and capable Proponents (or consortia).</p> <p>See Section 7.2 for a project delivery structure overview.</p>

Figure 1: Indicative Brolgan One EOI Site

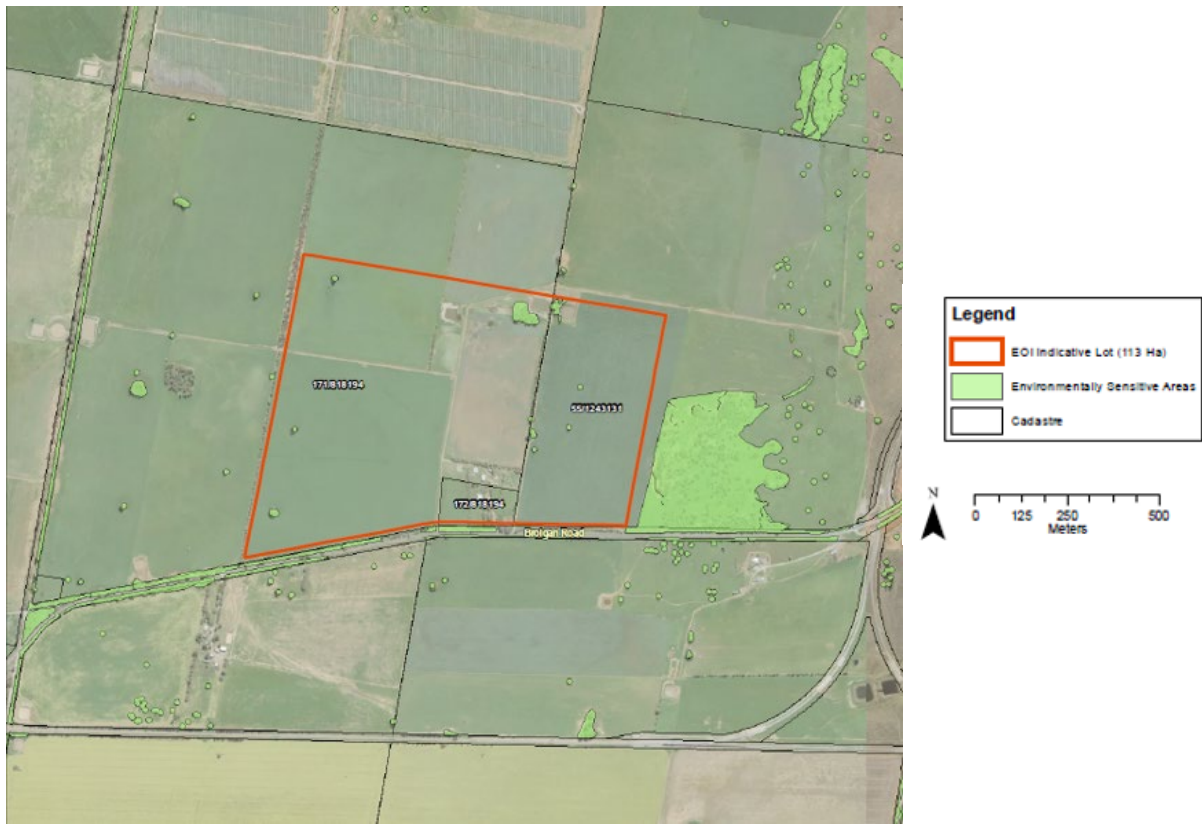
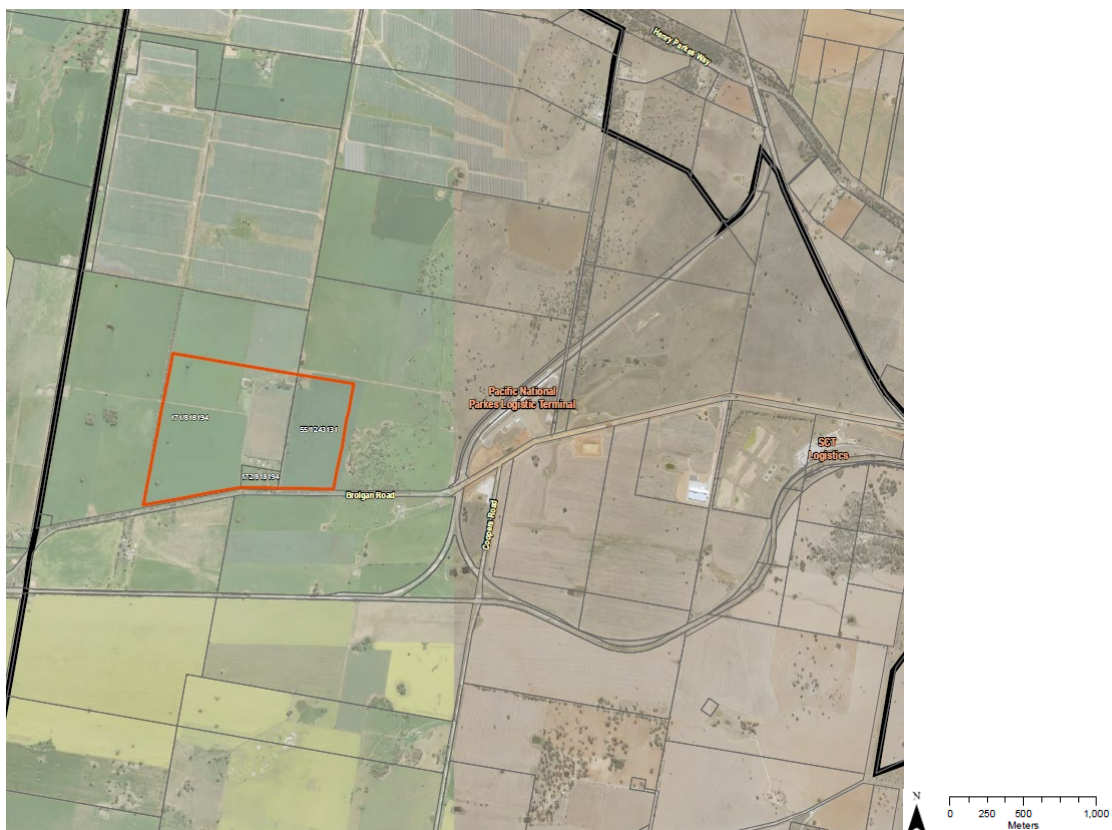


Figure 2: EOI site in relation to rail terminals



3. Project vision and objectives

3.1 Project vision

The Site is located in the Regional Enterprise sub-precinct of the Parkes SAP and is envisaged as an opportunity for a number of larger scale Projects to be developed and located prominently along the northern side of the newly upgraded Brolgan Road. The Site is in proximity to rail terminals and intermodal facilities and includes good access to transport connections and services.

A planned plastics recycling facility, and energy from waste facility are proposed on the southern side of Brolgan Road, making this an opportunity to become another key anchor project in the SAP.

The sub-precinct area can support a wide range of compatible land uses and industries such as freight and logistics, advanced manufacturing and agribusiness that align with eco-industrial precinct principles and present net zero and circular economy opportunities.

Development projects being sought by RGDC in this area include:

- warehousing
- food processing
- road and rail transport terminals
- developments that contribute to the security and reliability of the SAP's energy infrastructure

RGDC is committed to establishing a SAP that aligns with the UNIDO eco-industrial precinct principles. A UNIDO eco-industrial park is a community of businesses who work together to achieve enhanced environmental, economic and social performance through collaboration to manage environmental and resource issues. This is a means by which companies can gain a competitive advantage through the physical exchange of materials, energy, water and by-products.

3.2 Project objectives

RGDC is seeking to enter into one or more Project Delivery Agreements for Projects with minimum land requirements of 5 hectares that meet the following key project objectives:

- 1 Deliver a catalyst Project on the Site within three (3) years to grow the Parkes SAP. Projects being sought could include:
 - warehousing
 - food processing
 - road and rail transport terminals
 - advanced manufacturing
 - energy infrastructure

- 2 Demonstrate Project delivery outcomes that support the NSW Government SAP objectives of economic growth and job creation in Parkes and the broader Central West NSW region.

- 3 Deliver use(s) complementary to the Parkes SAP and appropriate in the context of the Site's locational attributes and scale.

- 4 Delivering initiatives which benefit local communities.

- 5 Achieve a value for money outcome for NSW Government from sale of the Site or part of the Site.

- 6 Demonstrate commitment to sustainability and circular economic practices.

4. Precincts and delivery

Special Activation Precincts are part of the NSW Government's commitment to economic growth and employment generation in the regions.

4.1 What is a Special Activation Precinct?

A Special Activation Precinct (SAP) is a dedicated regional location identified by the NSW Government for their potential to drive economic growth and employment.

The SAPs offer investors the opportunity to capitalise on future growth in industry by developing master-planned sites with unparalleled connections to national and international markets.

Key elements include:

- faster and easier planning processes with an approved planning instrument (Precincts-Regional SEPP), Master Plan and Delivery Plan
- government-funded infrastructure, coordinated land use and streamlined planning approvals, and
- a dedicated Business Concierge responsible for providing business support and collaborating with precinct investors on innovation and sustainability opportunities.

Elements of a Special Activation Precinct



Government-led studies



Streamlined planning



Government-led development



Infrastructure investment



Business Concierge

4.2 Role of Regional Growth NSW Development Corporation (RGDC)

- RGDC is responsible for developing the Delivery Plan in a SAP and delivering the initial enabling utility infrastructure.
- RGDC partners with government, business, industry and education providers to bring to life world-class and sustainable economic precincts at the forefront of innovation.
- RGDC helps to lower the cost and time of setting up in SAPs by delivering government-funded infrastructure, stream-lined planning and approvals and business support services.
- RGDC is responsible for issuing Activation Precinct Certificates for all developments, in line with the Precincts-Regional SEPP.

4.3 Special Activation Precinct planning framework overview



State Environmental Planning Policy (Precincts-Regional) 2021

- Identifies each Special Activation Precinct.
- Requires that an Activation Precinct Certificate be sought prior to any 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.

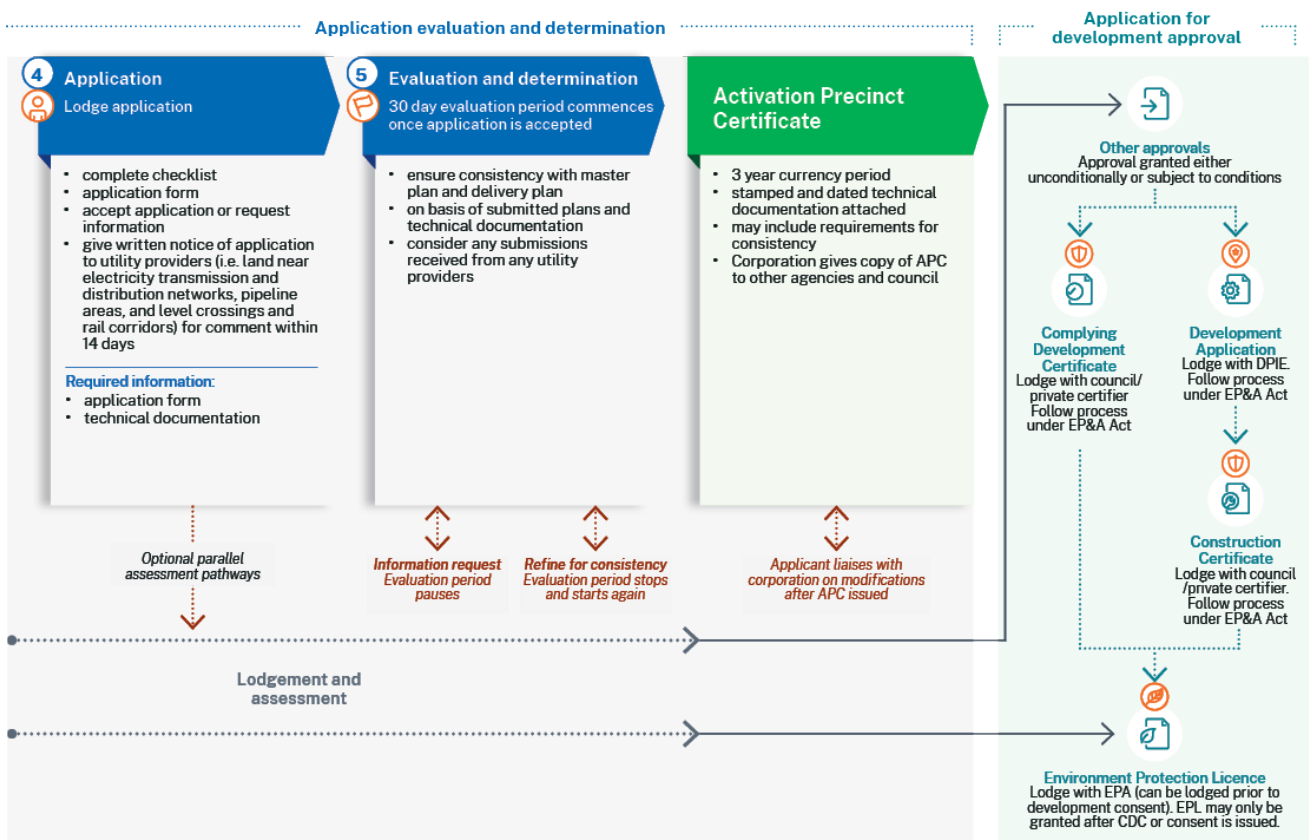
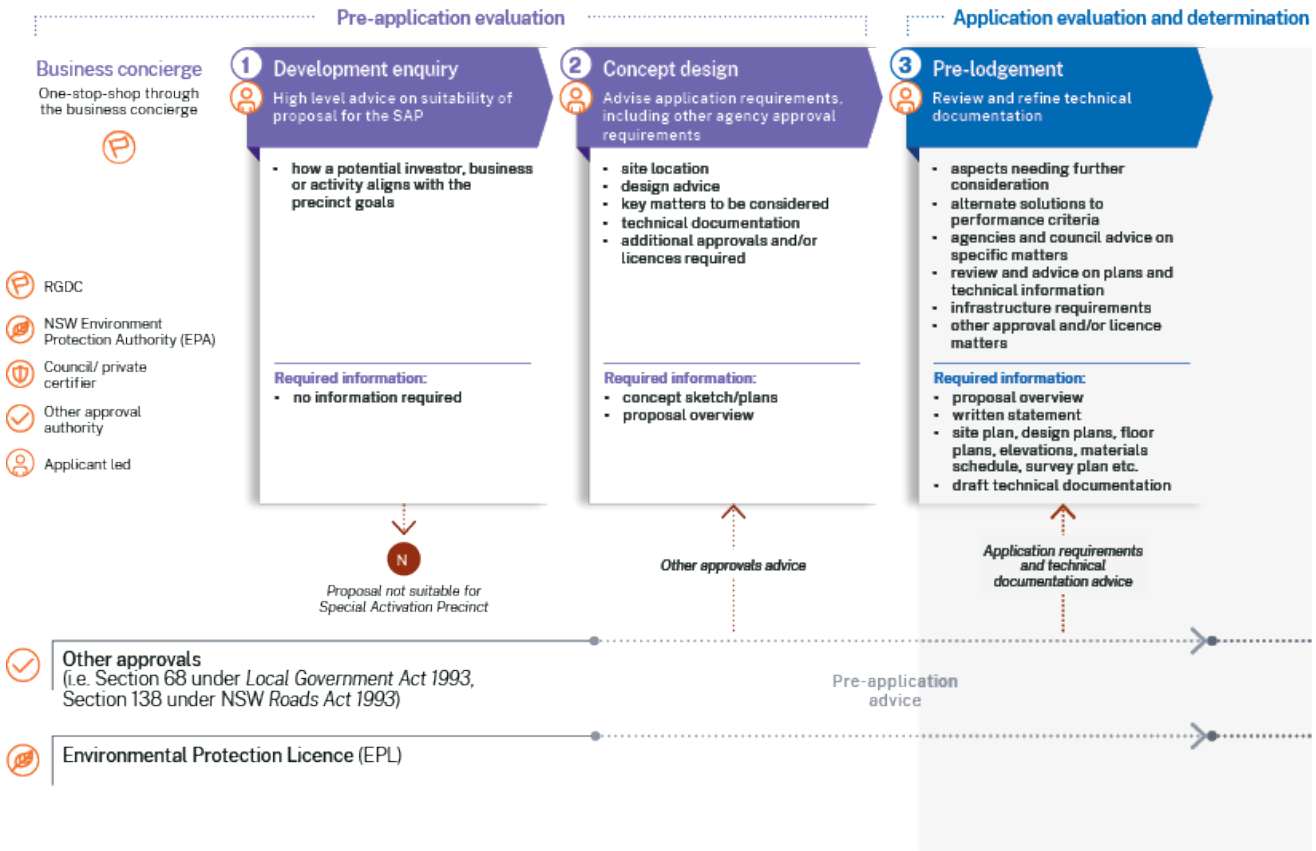
Special Activation Precinct master plans

- Made by the NSW Department of Planning 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

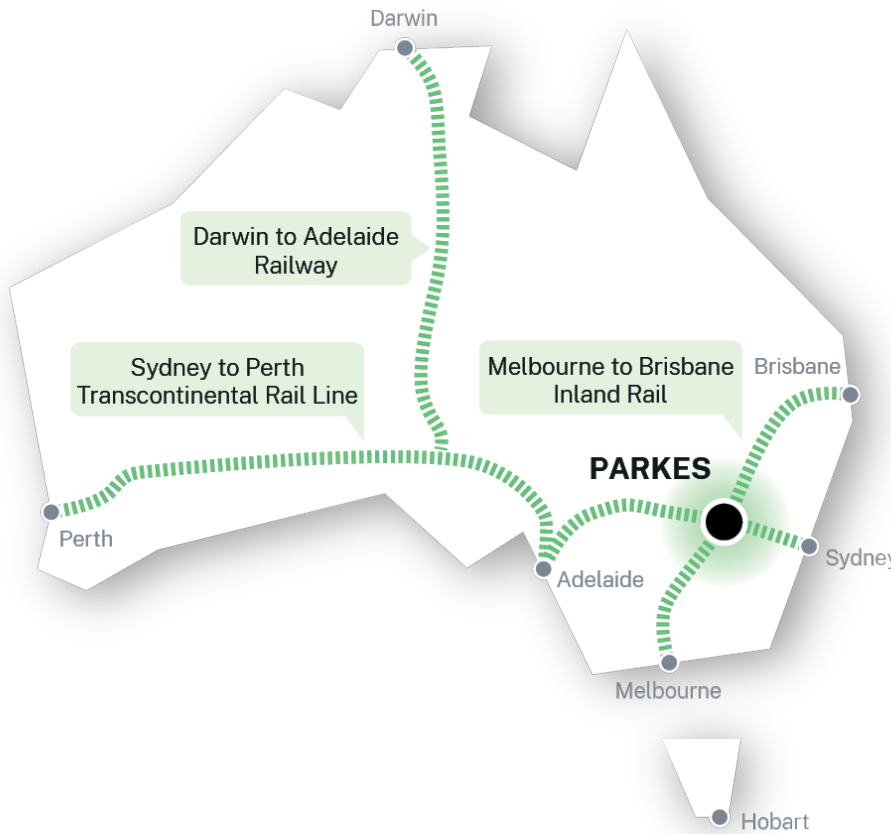
- Prepared by the Regional Growth NSW Development Corporation (and approved by the Planning Secretary).
- Includes site-scale performance-based provisions.
- Incorporates design guidelines and landscape strategy.
- Key considerations on sustainability, circular economy and environmental protection, including provisions for ongoing reporting, monitoring and compliance.

4.4 Activation Precinct Certification process



5. Parkes Special Activation Precinct

The Parkes SAP covers an area of approximately 4,800 hectares, located at the only junction of Australia’s two rail spines, the Inland Rail and the Trans-Australian Railway.



Details

Parkes Special Activation Precinct

- The Parkes SAP will be a new and thriving enterprise hub located at the only intersection of Australia’s two main rail corridors - the Inland Rail and Trans-Australian Railway.
- This 4,800ha precinct builds on the previous work of Parkes Shire Council in developing the Parkes National Logistics Hub.
- The SAP’s location offers suppliers access to 80 per cent of Australia’s markets within 12 hours by road or rail and is set to provide opportunities to connect engine industries including agriculture, freight and logistics, manufacturing, energy and resource recovery and critical minerals.
- The SAP aspires to be a true eco-industrial precinct, setting new benchmarks for efficient management of, and environmental performance standards in energy, waste, water, climate resilience and emissions.
- Further details regarding the Parkes Special Activation Precinct can be found at rgdc.nsw.gov.au

Details

Precincts-Regional SEPP

- The Precincts-Regional SEPP came into effect on 1 March 2022. It establishes the statutory planning framework that gives power to the Master Plan and Delivery Plan.

Parkes Special Activation Precinct Master Plan

- The Parkes Special Activation Precinct Master Plan came into effect on 12 June 2020.
- The Parkes Special Activation Precinct Master Plan is a statutory planning document that supports the new Precincts-Regional SEPP. It describes the vision and principles for the Precinct, provides detailed land use provisions by sub-precinct and provides performance criteria for environmental considerations like air quality, noise, biodiversity and water management.
- For further details, refer to NSW Department of Planning and Environment Planning Portal.

Parkes Special Activation Precinct Delivery Plan

- The Parkes Special Activation Precinct Delivery Plan came into effect on 26 November 2021.
- The Delivery Plan establishes a series of performance criteria to ensure that development is consistent with the strategic vision for the precinct.

Parkes SAP enabling works

- In July 2020, the NSW Government committed an initial \$185 million to fund construction of the precinct infrastructure outlined in the Master Plan. The enabling works program includes upgrades to Brolgan Road and utilities. Construction commenced in 2021 and is expected to be completed by approximately the end of 2023.

Regional Enterprise sub-precinct

- Located at the cross-section of new and existing rail lines, this sub-precinct will accommodate a range of businesses including rail and road transport terminals, warehousing, advanced manufacturing, and food processing businesses.

Sustainability

- RGDC is committed to establishing a SAP that aligns with the UNIDO eco-industrial precinct principles. An eco-industrial precinct is a community of businesses who work together to achieve enhanced environmental, economic and social performance through collaboration, to manage environmental and resource issues.
-

6. SAP attributes

Attributes



Image courtesy of ARTC Inland Rail

Inland Rail-Trans-Australian Railway junction

Parkes is a thriving Shire in Central NSW situated at the only junction of Australia’s two rail spines – the Inland Rail – a 1,700km freight rail system which will link Melbourne to Brisbane (via Parkes), and the existing Trans-Australian Railway linking the eastern seaboard to Adelaide, Perth and Darwin.

Inland Rail is scheduled to be completed in approximately 2027 and will:

- facilitate the delivery of freight from Melbourne to Brisbane in less than 24 hours
- connect to Melbourne and Brisbane ports via existing rail lines.

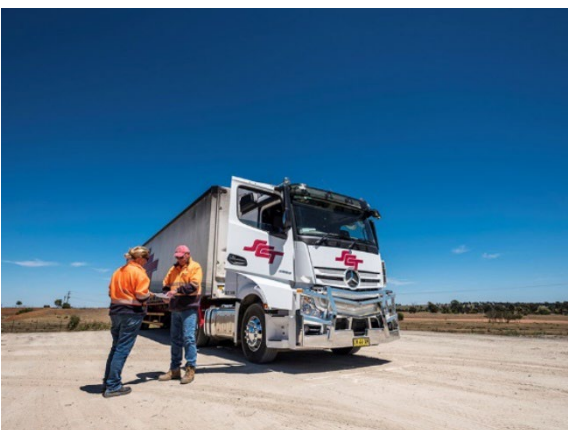
For further details, refer inlandrail.artc.com.au



Road - Newell Highway freight route

The Newell Highway is the major arterial road linking Melbourne and Brisbane via Parkes. Parkes is also easily accessible to Sydney by road by either the Great Western Highway or Bells Line of Road.

At Parkes, the Newell Highway accommodates approximately 4,000 vehicles per day, with 30% being heavy vehicles. B-Double access to Parkes is available on all major routes and road-train access is available from the west. Parkes is centrally located approximately halfway between Melbourne and Brisbane on the Newell Highway.



Transport-Logistics efficiencies

These unique characteristics deliver unprecedented efficiencies and major investment opportunities for transport and logistic operators, manufacturers, freight forwarders, agri-businesses, service industries, importers and exporters with products able to reach 80% of Australia’s population overnight.

Attributes



Special Activation Precinct to drive growth

The Parkes Special Activation Precinct will build on the region's connectivity to create Australia's largest inland port – servicing domestic and international markets.

7. EOI process

7.1 Invitation for Expressions of Interest (EOI Invitation)

RGDC is inviting EOIs from suitably experienced and capable parties or consortia (Proponents) who are interested in developing on the Site under a Project Delivery Agreement with RGDC.

This non-exclusive open-market process is designed to provide a fair and competitive process for the development of the Site. At the end of the submission period RGDC will assess the offers received against pre-determined evaluation criteria before deciding whether to progress with a Shortlisted Proponent (or Proponents).

The EOI invitation is open to Proponents who:

- a) can demonstrate experience in the development or operation of projects of a nature and scale aligned with the Parkes SAP Delivery Plan (Stage 1)
- b) have the financial capacity to develop and perform the Proponent's obligations under a Project Delivery Agreement (including payment of development rights fees / land payments) and
- c) seek to maximise value of the Site whilst realising the intent of the Parkes SAP Delivery Plan (Stage 1).

Without limiting any of RGDC's rights, and to the greatest extent permitted by law, RGDC reserves the right to alter the proposed process at any time, including by suspending or terminating the process.

7.2 Project delivery structure overview

For the purpose of this EOI Invitation, Proponents should assume RGDC's preferred project delivery structure will involve:

- a) RGDC will retain ownership of the land until certain conditions precedent are satisfied including, without limitation:
 - i) the Successful Proponent obtaining development consent to deliver the Project; and
 - ii) the Successful Proponent having committed finance available to deliver the Project; and
 - iii) the Successful Proponent having a building and construction contract in place to deliver the Project; and
 - iv) the Successful Proponent having achieved substantial commencement
- b) RGDC's expectation is that the final project delivery structure will include the Successful Proponent:
 - i) Developing a concept plan for development of the Site which will form the basis for project delivery.
 - ii) Managing development of the Site to achieve the Project objectives.
 - iii) Purchasing the land, subject to the Successful Proponent achieving the conditions precedent to acquire the land. Once the land is purchased the Successful Proponent will need to deliver the Project in line with certain defined delivery milestones, in line with the Proponent's submission, with RGDC having rights to buy-back the land if these milestones are not met.
 - iv) Delivering any required services from the trunk services and utilities running parallel to Brolgan Road within the road reservation onto the Site as the Proponent requires.

7.3 EOI content and lodgement

Should you wish to submit an EOI, Proponents are required to:

Step	Requirement
1	Register at brolganone@hallandwilcox.com.au . Access to the Data Room will be provided after the Proponent signs a confidentiality deed in the form required by RGDC
2	Complete each of the Returnable Schedules which are attached as Annexure 1 to this EOI Invitation
3	Lodge the completed Returnable Schedules, together with other documentation requested in this EOI Invitation, via the Data Room before the EOI Closing Time and Date.

7.4 EOI evaluation

The evaluation of each EOI will be conducted by an evaluation committee appointed by RGDC within an established probity framework (Evaluation Committee). RGDC’s advisors may provide support in providing advice to the Evaluation Committee in relation to the EOIs.

Without limiting any provision of this EOI Invitation (including the Conditions), the Evaluation Committee intends to evaluate each EOI against the Evaluation Criteria set out in Table 7.4a:

Table 7.4a EOI Evaluation Criteria

Category	Evaluation Criteria	Returnable Schedule Reference
1 Project understanding and details	<ul style="list-style-type: none"> • Demonstrated understanding of the Project Objectives and project delivery structure • Description of proposed Project and land uses • Land requirements and preferred land size and location within the Site • Timing of Project delivery • Demonstrated economic and employment outcomes • Understanding of and compliance with planning requirements • Details of the Project’s infrastructure servicing requirements • Considered market appreciation of and proposed use of the Site 	2
2 Financial capacity	<ul style="list-style-type: none"> • Demonstrated availability of financial resources, or ability to access financial resources to 	3

Category	Evaluation Criteria	Returnable Schedule Reference
	successfully fulfill all the obligations, responsibilities and liabilities expected to be associated with delivering the Project	
3 Demonstrated experience and capability	<ul style="list-style-type: none"> • Demonstrated experience developing or operating projects of a similar nature and scale to the proposed Project • Demonstrated project outcomes and/or initiatives that contribute to community and/or provide positive social outcomes 	4
4 Transaction Terms and Financial Offer	<ul style="list-style-type: none"> • Compliance with Key Terms • Financial offer to RGDC • Risks relating to the financial offer 	5
5 Environmental Sustainability and Social Impact	<ul style="list-style-type: none"> • Commitment to sustainability, net zero and circular economy objectives in the SAP • Demonstrated experience, or commitment to, delivering sustainability, net zero and circular economy initiatives • Demonstrated experience or commitment to, social equity initiatives 	6

7.5 Procurement Process

The evaluation of each EOI will be conducted by the Evaluation Committee appointed by RGDC. The Evaluation Committee will then make a recommendation to RGDC’s Review Panel as to which EOIs will be shortlisted (if any). RGDC’s Review Panel will then make a determination on which EOIs will be shortlisted (if any).

Once RGDC has determined which EOIs will be shortlisted (if any) it will notify the shortlisted Proponents (Shortlisted Proponent).

After shortlisting one or more Proponents RGDC anticipates the following will occur:

1. RGDC intends to request the Shortlisted Proponent(s) provide Project concept plans, Project plans and a Project timeline to RGDC for RGDC’s consideration. The plans and timeline should align with the Proponent’s submission.
2. RGDC intends to enter into further discussions with the Shortlisted Proponent(s).
3. RGDC intends to release draft Transaction Documents to the Shortlisted Proponent(s).
4. RGDC intends to negotiate the Transaction Documents with the Shortlisted Proponent(s).
5. RGDC will then determine, in its complete discretion, whether it will enter into Transaction Documents with any Shortlisted Proponent(s).
6. RGDC reserves the rights set out in the terms and conditions in Annexure 2 of this EOI Invitation including the right not to shortlist any Proponent or enter into Transaction

Documents with any Proponent.

RGDC must obtain Ministerial approval for all land disposals under section 11 of the *Growth Centres (Development Corporations) Act 1974* and any disposal is subject to RGDC obtaining this consent.

7.6 Due diligence information

Documents relevant to the Project will be made available via the Data Room during the EOI Process. This includes the Parkes Delivery Plan (Stage 1).

Technical studies were conducted for the broader Parkes SAP as part of the master planning process and are publicly available on the NSW planning portal website -

<https://www.planningportal.nsw.gov.au/Parkes-SAP>

Other useful links to websites containing further information which may be relevant to the Site and the Project include those below:

- Regional Growth NSW Development Corporation www.rgdc.nsw.gov.au
- Parkes Shire Council <https://www.parkes.nsw.gov.au/>
- Parkes Bypass Project <https://roads-waterways.transport.nsw.gov.au/projects/newell-highway/parkes/>
- Inland Rail Project www.inlandrail.artc.com.au

7.7 Indicative timing

RGDC's current intention with regard to indicative timing of the EOI process is as follows:

Table 7.7a Indicative timing

EOI Process	
EOI Closing Time and Date	2pm (AEST) 19 September 2022
Notification of one or more Shortlisted Proponents	November 2022
Transaction Documentation finalised	January 2023

RGDC is committed to achieving outcomes in the proposed timeframes. Nevertheless, RGDC reserves the right to amend the timeframe as it sees fit to achieve the best possible outcome for RGDC.

7.8 Enquiries and clarifications

All questions during the EOI Invitation period must be lodged via the Q&A facility in the Data Room.

If you have any difficulty accessing the Data Room or have any other technical difficulty with lodging your EOI, please contact:

Ansarada 24/7 Support Line

Phone 02 8241 0888

Email support@ansarada.com

Unless a Proponent expresses an indication to the contrary (by typing the words 'Confidential Question' when submitting a question) all responses to Questions or requests for clarification raised

through the Q&A Process will be made available for viewing by all Proponents in a manner determined by RGDC, in its discretion.

If a Proponent nominates the question as a ‘Confidential Question’ then RGDC will determine whether it accepts the question as confidential or whether the answer should be made available to other Proponents.

If RGDC determines that the answer should be made available to other Proponents, it will notify the Proponent that it does not consider the question to be confidential and it intends to make the answer available to other Proponents.

The Proponent will then be given the opportunity to withdraw the question before RGDC makes the answer available to other Proponents.

If the Proponent continues to request a response to that question, the question and the response may be made available to all Proponents via the Data Room as RGDC considers appropriate, in its discretion.

7.9 Summary of key information

Item	Detail
Project Vision	See Section 3.1
Site	Part of folio 171/818194, all of folio 172/818194 and part of folio 55/1243131 Note: Real property description is subject to change for: <ul style="list-style-type: none"> any required boundary adjustment and/or subdivision following completion of the Parkes SAP Stage 1 infrastructure project; and Proponent land area requirements under this EOI Invitation.
Project Objectives	See Section 3.2
Key Dates:	The EOI Closing Time and Date is Monday 19 September 2.00pm (AEST)
How to lodge an EOI	<ul style="list-style-type: none"> EOIs must be lodged by the Closing Time and Date. EOIs are only to be lodged electronically via the secure Ansarada platform. Submissions that are emailed or posted will not be accepted.
Site Inspections	Proponents (and their representatives) wanting to inspect the Site during the EOI Invitation period must coordinate attendance with Emma.Ridley@rgdc.nsw.gov.au. Site inspections, while recommended, are not mandatory.
Who is RGDC’s lawyer?	Katrina Reye, Partner, Hall & Wilcox Katrina.Reye@hallandwilcox.com.au Phone: 0419 403 409
Who is RGDC’s Probity Advisor?	Beth Nilan, Principal, OCM Phone: 0425 809 856

Item	Detail
	If you have any probity questions or concerns about the process please contact Beth Nilan.

7.10 Terms, conditions and glossary

Refer to Annexure 2 to this EOI Invitation for the Conditions applicable to the EOI Process and a glossary of terms.

8. Key Terms

Term	Details
Parties	<ul style="list-style-type: none"> • Regional Growth NSW Development Corporation (RGDC) • Successful Proponent • Guarantor (if applicable) <p>A Guarantor will be required if the Successful Proponent is not an entity of substance and does not have the required financial capacity to complete the Project in its own right.</p>
RGDC transaction objectives	<p>RGDC’s objectives for the Project will be set out in the Transaction Documents and will be acknowledged by the Successful Proponent as being important to RGDC and required to be implemented in the delivery of the Project.</p>
Transaction overview	<p>The Parties will enter into a Project Delivery Agreement which will provide for:</p> <ul style="list-style-type: none"> • entry into a put and call option deed for the sale of the Site to the Successful Proponent on the date of entry into the Project Delivery Agreement • payment of a non-refundable Option Fee by the Successful Proponent to RGDC on entry into the Project Delivery Agreement • exercise of the call option by the Successful Proponent will be subject to certain conditions precedent described below • if the Successful Proponent exercises the call option, the Successful Proponent will acquire the Site for the purposes of the Project and will be required to deliver the Project in stages in accordance with the Project Delivery Agreement • if the Successful Proponent does not achieve certain milestones by certain agreed Sunset Dates set out in the Project Delivery Agreement, then RGDC will have the right to buy back the Site on the terms of the Buy Back Option Deed • the Site will be subject to development and construction covenants for the Project and • RGDC will have a put option it can exercise if the Successful Proponent does not exercise its call option by the applicable expiry date.

Term	Details
Conditions Precedent to call option	<p>The conditions precedent for exercise of the call option by the Successful Proponent includes (Conditions Precedent):</p> <ul style="list-style-type: none"> • development consent for the Project reasonably acceptable to the Successful Proponent and RGDC • evidence satisfactory to RGDC that all finance required for the Project is committed and legally available to the Successful Proponent • signed building contract with the Successful Proponent’s builder for the construction and completion of the Project and • signed positive covenant which sets out development and construction covenants for the Project. • substantial commencement of the Project
Transaction Documents	<p>The following are the possible Transaction Documents. The final transaction structure is not confirmed yet and depends on feedback from the Proponent’s EOI which RGDC will consider in its absolute discretion.</p> <p>Project Delivery Agreement and associated documents, including:</p> <ul style="list-style-type: none"> • Put and call option deed • Contract for sale of land • Parent company guarantee deed • Buy Back Option Deed • Positive covenant • Independent certifier’s deed • Construction licence (if any construction will take place prior to transfer of land) • Builders side deed • Financiers side deed • Precinct management agreement • Project branding & promotional agreement and • Real Property Act charge in relation to RGDC’s rights under its Buy Back Option Deed.

Term	Details
<p>Proponent’s proposal</p>	<ul style="list-style-type: none"> • The Successful Proponent must apply for and obtain, at its sole cost and risk, all approvals, consents, and certifications required from an Authority for or in connection with the Project including an Activation Precinct Certificate. • Prior to entering into the Project Delivery Agreement the Successful Proponent will be required to provide a project proposal for the Site that includes: <ul style="list-style-type: none"> (a) the Successful Proponent’s concept plan for the Project; (b) a Project plan; and (c) a timeline for delivery of the Project <p>(the Proponent’s Project Proposal).</p> • The Successful Proponent will be required to apply for and use its best endeavours to obtain all required approvals from any applicable Authority for the Project, including the development approval and an Activation Precinct Certificate. • The Activation Precinct Certificate and the development approval for the Project must be obtained by an agreed Milestone Date, failing which RGDC will have rights to terminate the Project Delivery Agreement and retain the Option Fee. • RGDC must be consulted throughout the planning process. • All development of the Site must be consistent with the Parkes Special Activation Precinct Master Plan and other applicable planning guidelines.
<p>Time</p>	<ul style="list-style-type: none"> • The Successful Proponent will be required to deliver the Project by agreed staged Milestone Dates. • The Successful Proponent may claim limited extensions of time to the applicable Milestone Date to the extent that such delays are caused by force majeure events. • If the Successful Proponent does not deliver the Project to achieve agreed specifications and targets by the applicable Sunset Dates then RGDC will have rights to buy back the Site under a Buy Back Option Deed. No extensions of time to the applicable Milestone Date will be allowed beyond the Sunset Date (unless otherwise agreed with RGDC in its absolute discretion).

Term	Details
Subdivision	<ul style="list-style-type: none"> • Site subdivision will depend on the applicable Project’s land requirement within folios 171/818194, 172/818194 and 55/1243131. • The Successful Proponent will be responsible for undertaking the subdivision plan and registration at its own cost and risk. Transfer of the Site will be subject to the subdivision occurring by an agreed Sunset Date. • If there are multiple Successful Proponents, RGDC may elect to undertake the subdivision plan and registration on behalf of all Successful Proponents. • If there are multiple Successful Proponents, RGDC may in its absolute discretion, based on the lot size and configuration elect to fund and deliver an internal access road with services and utilities.
RGDC’s security	<ul style="list-style-type: none"> • RGDC expects that all money payable for the Site will be fully paid on transfer of title of the Site to the Successful Proponent. • The Project Delivery Agreement will give RGDC the right to buy back the land if the Successful Proponent significantly defaults in its development obligations or commits an act of insolvency or finance default. • The price payable by RGDC if the Buy Back Option Deed is exercised will be the aggregate of: <ul style="list-style-type: none"> – the lower of the price actually paid by the Successful Proponent of the relevant land and the then current independent value of that land and – the lower of the cost of the works physically carried out on the land and the value of those works as assessed by an independent quantity surveyor which RGDC has notified the Successful Proponent that it intends to utilise (after deducting the cost of demolishing and removing any works that RGDC determines is not required in its sole discretion). • RGDC will register a caveat to secure its rights under the Buy Back Option Deed until the Buy Back Option Deed expires. • RGDC accepts that the Successful Proponent’s financier will have prior step in and cure rights but otherwise the financier must discharge its mortgage over the relevant stage upon payment of the buyback price by RGDC.

Term	Details
Financial offer	<ul style="list-style-type: none">• The Project Delivery Agreement will include provisions to document the Successful Proponent’s financial offer as accepted by RGDC.• The offer is expected to include an initial non-refundable Option Fee, which is payable by the Successful Proponent on entry into the Project Delivery Agreement. If the required development approvals are not granted by the applicable Sunset Date, then RGDC will retain this non- refundable Option Fee.• The offer is also expected to include security of a proportion of the financial offer for the Site (the Initial Security). The quantum of the Initial Security will be a bid back item.• The Initial Security is to be paid as a Bank Guarantee or security deposit and is to be used as security for performance under the Project Delivery Agreement.• A 10% deposit for the Site will be payable on entry into the contract for sale of land under the put and call option deed.• The purchase price is payable by the Successful Proponent under the contract for sale of land on the settlement date (and the Option Fee already paid will be offset from the purchase price).• The Successful Proponent must bear all GST and stamp duty risk in relation to the Project and indemnifies RGDC against any claims for GST and stamp duty in relation to the Project.
Licence to access	<ul style="list-style-type: none">• From the date of the Project Delivery Agreement, RGDC will provide the Successful Proponent with a non-exclusive licence on terms acceptable to RGDC to access the Site for investigations associated with the Successful Proponent’s planning applications. A licence fee will not be payable.

Term	Details
Proponent risk	<ul style="list-style-type: none"> • The Successful Proponent accepts the Site on an “as is” and “where is” basis. • The Proponent is responsible for its own due diligence and making its own enquiries about the Site. • RGDC provides information about the Site in the Data Room for the Proponent’s convenience. However, RGDC does not warrant the information provided is true, complete or accurate and the Proponent relies on any information in the Data Room or otherwise provided by RGDC and its employees, contractors and agents at its own risk. • This EOI Invitation sets out approximate dates for certain things to occur, such as the construction of the Inland Rail. These dates are based on information currently available to RGDC and are estimates only. RGDC does not control the timing of completion of these events and does not guarantee that they will occur, or occur within a certain time period. • In particular but without limitation, the Successful Proponent takes all risk of: <ul style="list-style-type: none"> – contamination – remediation of any contamination – flooding including any restrictions imposed relating to potential flooding – existing or future cables, pipes, underground infrastructure or other rights relating to infrastructure including telecommunications services – any acid sulphate soil conditions – services to the Site – latent site conditions including archaeological or heritage artefacts and – planning matters.
Cultural heritage and native title	<ul style="list-style-type: none"> • The Successful Proponent will be responsible for the resolution and agreement of all native title and cultural heritage matters that may be required in relation to its activities on the Site.
Costs and expenses	<ul style="list-style-type: none"> • All costs and expenses of the Project, including all of the Proponent’s consultant costs and the costs of compiling the EOI and participating in the EOI Process, will be paid by the Proponent (whether or not the Proponent is successful). • Each party will bear their own legal costs.

Term	Details
Site management	<ul style="list-style-type: none"> The Successful Proponent will be responsible for all aspects of site management including, without limitation, all work, health and safety obligations and complying with the requirements of all Authorities in connection with the Project. The Successful Proponent must hold, and ensure that all its contractors and subcontractors hold all required licences to comply with all applicable laws. The Successful Proponent is responsible for procuring any required service connections to the Site, and must pay the costs of any services consumed on the land in connection with the Project.
Risks, insurance and indemnity	<ul style="list-style-type: none"> The Successful Proponent must undertake the Project solely at its own risk and cost. The Successful Proponent must hold appropriate insurances required by RGDC prior to accessing the Site under any access licence and must name RGDC as an insured party on these insurance policies. The Successful Proponent must release RGDC from all liabilities associated with the Project and must indemnify RGDC from and against all liabilities which RGDC suffers or incurs as a result of the Successful Proponent's act or omission or breach of the Transaction Documents.
Termination rights	<ul style="list-style-type: none"> The Transaction Documents will include a default, breach and termination regime. RGDC will have the right to terminate for an event of default, which will include matters such as unremedied default by the Successful Proponent, an insolvency event in relation to the Successful Proponent, failure to meet key Milestone Dates and the passing of Sunset Dates. Before RGDC has a right to terminate, there will be an agreed notification, cure plan and remedy regime. No compensation will be payable to the Successful Proponent if the Transaction Documents are terminated due to the Successful Proponent's default. RGDC may terminate the Project Delivery Agreement if the Successful Proponent does not meet the conditions precedent to exercise of the call option by an agreed Sunset Date. In these circumstances the Option Fee will be forfeited by the Successful Proponent and will not be refunded.
Legal relationship	<p>Neither party will have the ability to bind the other party in any way.</p> <p>The parties will not be entering into a joint venture agreement or partnership.</p> <p>Neither party has any fiduciary duties with respect to the other party.</p>
Industry best practice	<p>The Project is to be delivered using Industry Best Practice for developments of the type of Project set out in the Project Delivery Agreement.</p>

Term	Details
Governance	The parties will establish a Project Control Group to discuss and review the progress of the Project. The parties are to be equally represented on the Project Control Group. The Project Control Group will not be entitled to make decisions that are legally binding on the parties.
ESG commitments	The Project Delivery Agreement will set out any ESG commitments set out in the Proponent's Project Proposal and the Successful Proponent will be required to deliver on these by agreed Milestone Dates.

Annexure 1

Returnable Schedules

Returnable Schedule 1: Proponent details

1.1 Proponent details

I, the Duly Authorised Delegate of the Proponent named below certify that in submitting this EOI, we have read, understood and complied with the conditions of the EOI Invitation, and have the delegated authority to make this submission.

Table 1 Proponent Entity Details

Title	Response
Legal entity	
ABN	
ACN	
Registered business address	
Postal address	
Corporate website	
Duly authorised delegate contact name	
Company position	
Mobile	
Email	
Does the Proponent require FIRB approval to acquire development rights or deliver the Project?	
Signature authorised delegate	
Signature witness	
Address of witness	
Date of execution	

1.2 Consortia details

Where the Proponent comprises a consortium:

1. provide the information identified in Section 1.1 (above) for each consortium member
2. provide an overall structure diagram outlining the role that each consortium member will undertake in delivering the Project.

Returnable Schedule 2: Project understanding & details

In addressing Evaluation Criteria 1, Proponents are required to provide the information requested in this Returnable Schedule.

2.1 Project understanding - development intent

Table 2.1 Project understanding

No.	Requested information
<p>1.</p>	<p>Overall development intent</p> <p>Provide a description of the Proponent’s overall vision and development intent for the Project, including development use/s that would optimise site value and achieve the Project Objectives. Consideration to be given to:</p> <ul style="list-style-type: none"> • whether the Project is consistent with RGDC’s vision and objectives as set out in this EOI Invitation • quantifying local employment generation both during construction phase and operation phase • demonstrable social / community benefits <p>[maximum 3 pages]</p>
<p>2.</p>	<p>Timing of development of the Site</p> <p>Provide proposed timing/program for development planning approvals, development commencement and target completion date.</p> <p>[maximum 3 pages]</p>

No.	Requested information
3.	<p data-bbox="220 371 352 405">Planning</p> <p data-bbox="220 427 1469 524">Provide an overview of your knowledge of the applicable statutory planning framework, and Proponent’s commitment to compliance, including any constraints or additional approvals required.</p> <p data-bbox="220 568 464 602">[maximum 1 page]</p>
4.	<p data-bbox="220 851 507 884">Land requirements</p> <p data-bbox="220 907 347 936">Describe:</p> <ul data-bbox="220 958 1310 1086" style="list-style-type: none">• an indicative land area (sqm) requirement for the proposed development and• any possible future expansion requirements• Proponent’s preferred location within the Site and why.
5.	<p data-bbox="220 1429 619 1462">Site identification process</p> <p data-bbox="220 1485 533 1514">Describe the following:</p> <ul data-bbox="220 1536 1461 1783" style="list-style-type: none">• any site identification process that you may have undertaken and/or• any due-diligence and/or assurance measures to inform why Parkes SAP is best aligned to your development, and’• any identified site development needs• Include a timeline of your engagements, if any with State or Local Government regarding the Parkes SAP.

No.	Requested information
	[maximum 2 pages]
6.	<p>6. Servicing and infrastructure</p> <p>Outline the Proponent’s estimated requirements regarding provision of roads / utilities / services during construction and once fully operational. For example:</p> <ul style="list-style-type: none"> • estimated daily truck/vehicle/rail movements • estimate of Proponent’s electricity, gas, sewer, water (potable and non-potable) and telecommunications consumption or outputs, including an estimate of peak demand and its expected timing in construction and operation phases of the project. <p>This information needs to be provided in the following units unless a justification for other approach is included:</p> <ul style="list-style-type: none"> - Electricity (MVA) - Water (potable) - Peak in L (litres)/day and supply & demand KL(kilolitres)/year - Water (non-potable) - Peak in L (litres)/day and supply & demand KL (kilolitres)/year - Sewer – KL (kilolitres)/day - Telecommunications – Mbps (megabits per second) - Gas – TJ (terajoules)/day and TJ (terajoules)/year <p>[response in table format is preferred]</p>

2.2 Market appreciation

Table 2.2 Market appreciation

Market appreciation

Provide a brief market appreciation for the proposed uses identified in Section 2.1 above (including appreciation of potential capital values).

[maximum 2 pages]

Returnable Schedule 3: Financial capacity

In addressing Evaluation Criteria 2, Proponents are required to provide the information requested in this Returnable Schedule. The Proponent is to assume RGDC, the Evaluation Committee and RGDC’s consultant team have no knowledge of its business operations or financial backing / capacity in completing this Returnable Schedule.

3.1 Project funding intentions

Table 3.1 Project funding intentions

Item to be provided	Response
How does the Proponent intend to fund project delivery and land settlement amounts?	Funding structure:
	Proposed sources of funding:

3.2 Proponent financial capacity

Table 3.2 Proponent financial capacity

Item to be provided	Provided as part of EOI proposal	Attached as appendix
1 The Proponent entity’s latest full year audited financial statements	Yes / No	Refer Appendix [x]
2 Where the Proponent’s latest full year audited financial statements are not provided, other suitable evidence of the Proponent’s financial capacity, including:		
• letters from financiers confirming the Proponent’s track record in financing projects and/or	Yes / No	Refer Appendix [x]
• most recent full year audited financial statements and/or	Yes / No	Refer Appendix [x]
• other evidence of the Proponent’s available funds to deliver the Project and support the Proponent’s obligations under a Project Delivery Agreement and related Transaction Documents	Yes / No	Refer Appendix [x]

Item to be provided	Provided as part of EOI proposal	Attached as appendix
3. Where the Proponent is reliant on the financial backing and capacity of a Guarantor:		
a) provide information requested in items 1 and 2 above as if the Guarantor were the Proponent.	Yes / No	Refer Appendix [x]
b) provide details of the proposed Guarantor for Project delivery and the Proponent's Obligations (if different from Proponent)	Name: ABN:	

Returnable Schedule 4: Demonstrated experience

In addressing Evaluation Criteria 3, Proponents are required to provide the information requested in this Returnable Schedule.

4.1 Stakeholder engagement experience

Table 4.1 Stakeholders and outcomes

Provide details regarding Proponent's:

- experience working in regional locations
- project outcomes or initiatives that contribute to community, social or environmental outcomes.

[maximum two pages]

4.2 Proponent experience

Provide up to three (3) relevant examples of experience developing or operating projects of a similar nature and scale.

Table 4.2a Similar development or operation experience

Title	Project 1	Project 2	Project 3
Project name			
Project description			
Property address			
Status of completion	(e.g. construction / completed)		
Date of completion			
Land area	sqm	sqm	sqm
Proponent role			

Table 4.2b Similar development or operation experience

Development mix	GFA	GFA	GFA
Industrial	sqm	sqm	sqm
Retail/Hospitality	sqm	sqm	sqm
Hospitality	sqm	sqm	sqm
Commercial	sqm	sqm	sqm
Other	sqm	sqm	sqm
Total	sqm	sqm	sqm
Total build cost (\$m)			
Project financier and funding structure			
Ownership structure on-completion			
Project delivery structure	(e.g. PDA/Proponent owned land)		
State / Local Government involvement in project			

Returnable Schedule 5: Financial Offer, Transaction Terms and Risk

In addressing Evaluation Criteria 4, Proponents are required to provide the information requested in this Returnable Schedule.

5.1 Financial offer

Table 5.1 Financial offer

Financial Offer to RGDC

Based on the development intent outlined in 2.1.1 provide a financial offer to RGDC as a current dollar land value rate per sqm for the land requirement identified in 2.1.4

	Land area	Price \$ (ex-GST)
Land acquisition value (purchase)	Hectares	\$/sqm land area

5.2 Transaction terms and risk

Proponents are required to confirm whether they accept the Key Terms and risk allocation in Section 8 of this EOI Invitation.

If Proponents do not accept any of the Key Terms and risk allocation in Section 8 of this EOI Invitation, then particulars of these departures need to be specified along with reasons why the Proponent does not accept the Key Term and risk allocation in the table below.

It is preferred that there are no departures from the Key Terms and risk allocation preferred by RGDC.

Table 5.2 Key terms departures

Key Term	Requested Departure (if any)	Rationale for Requested Departure (if any)

Returnable Schedule 6: Environment, Sustainability and Social Impact

In addressing Evaluation Criteria 5, Proponents are required to provide the information requested in this Returnable Schedule. The Proponent should outline their current sustainability, net zero and circular economy commitment, and also confirm their willingness to participate in collaborative initiatives to achieve SAP outcomes.

Table 6.1 Environment, Sustainability, Social Impact

No.	Requested information
1.	<p>Environmental sustainability</p> <ul style="list-style-type: none"> • Provide an overview of any environmental management systems (EMS) and built environment ratings commitments that you currently have in place, and what you will commit to, if establishing in the Parkes SAP. • If you do not have a current EMS, confirm your commitment to developing one if establishing in the Parkes SAP. <p>Confirm in principle agreement to sharing data on your utilities and materials inputs and outputs and environmental performance to facilitate whole of precinct monitoring, reporting and evaluation.</p> <p>[maximum one page]</p>
2.	<p>Circular economy and net zero outcomes</p> <ul style="list-style-type: none"> • Provide an overview of any carbon reduction, circular economy or sustainability commitments/strategies that you currently have in place, and what you will commit to, if establishing in the Parkes SAP. • Outline your approach to maximising resource efficiency and emissions reductions that you currently have in place and what you will commit to regarding the construction and operation of your proposed development if establishing in the Parkes SAP. <p>Confirm in principle agreement to identifying and pursuing feasible circular economy opportunities within the precinct and potentially region.</p> <p>[maximum one page]</p>
3.	<p>Innovation and collaboration</p> <ul style="list-style-type: none"> • Provide an overview of any innovation or collaborative partnership arrangements you have in place that support sustainable outcomes, and any that you would commit to if establishing in the Parkes SAP.

No.	Requested information
	<ul style="list-style-type: none">• Confirm your willingness to participate in collaborative partnerships and innovation opportunities within the Parkes SAP. <p>Describe your interest in participating in precinct governance (e.g. organisational or co-ordinating structure that guides precinct agenda and co-ordinated activities).</p> <p>[maximum one page]</p>
4.	Positive social outcomes <ul style="list-style-type: none">• Provide an overview of any initiatives you deliver/support that drive positive social outcomes (e.g. job creation, training pathways, Aboriginal and community outcomes) in regions where you are located and what you will commit to if establishing in the Parkes SAP. <p>Confirm your willingness to participate in collaborative initiatives within the Parkes SAP that aim to achieve positive social outcomes.</p> <p>[maximum one page]</p>

Returnable Schedule 7: Proponent deed poll

7.1 Proponent deed poll

Table 7.1a Proponent deed poll

Item to be provided	Provided as part of EOI proposal	Attached as appendix
1 Attach completed and appropriately executed Proponent Deed Poll to EOI proposal	Yes / No	Refer Appendix [x]

Annexure 2

Terms, conditions and glossary

9. Terms and conditions

9.1 EOI invitation purpose

The purpose of this EOI Invitation is to identify Proponents and their EOI which best satisfy the Project Objectives to allow RGDC to identify one or more Shortlisted Proponents to be involved in negotiating Transaction Documents.

9.2 Lodgement

EOIs must be lodged on or before the Closing Time and Date. Proponents must allow sufficient time for uploading and downloading of their EOI.

RGDC and its consultants and agents accept no liability or responsibility whatsoever for the non-receipt of EOI's submitted electronically.

9.3 Items to be submitted

A Conforming EOI may only be submitted by the Proponent lodging:

- a) all of the Returnable Schedules, which must include all of the information and supporting evidence requested by the Returnable Schedules, and must be signed where indicated by a person(s) authorised to bind the Proponent
 - b) a certified copy of the power of attorney and declaration of non-revocation of that power of attorney if any document referred to in this Section 9.3 is executed by a person or corporation under a power of attorney and
 - c) other documentation requested in this EOI Invitation,
- via the Data Room before the Closing Time and Date.

9.4 Conforming EOI

An EOI will be regarded as a conforming EOI if it is accompanied by all of the documents listed in Section 9.3 (**Conforming EOI**).

9.5 Non-conforming EOIs

An EOI will be regarded as a non-conforming EOI if it is not accompanied by all of the documents referred to in Section 9.3 (**Non-Conforming EOI**).

If the Evaluation Committee receives a Non-Conforming EOI, it reserves the right to:

- evaluate and assess a Non-Conforming EOI
- exclude a Non-Conforming EOI from further evaluation and assessment
- inform or not inform a Proponent that its EOI is a Non-Conforming EOI and
- invite or not invite that Proponent to lodge a Conforming EOI within a nominated timeframe having regard to Section 9.6.

9.6 Late EOI

The Evaluation Committee may accept or exclude an EOI that is submitted after the Closing Time and Date from further evaluation and assessment. In making its determination, the Evaluation Committee may consider the following:

- (a) if the EOI was received after the Closing Time and Date because of events beyond the Proponent's reasonable control

- (b) if the Proponent notified RGDC's Solicitor before the Closing Time and Date that its EOI would not be lodged before the Closing Time and Date
- (c) whether the Proponent may gain a material competitive advantage as a result of its EOI being lodged after the Closing Time and Date
- (d) whether the acceptance of a late EOI may compromise the integrity of the EOI Process and/or
- (e) any other matter to be taken into account in the NSW Procurement Policy Framework dated August 2021 (as varied from time to time).

The onus is on the Proponent to provide evidence to RGDC of the above events and RGDC may request that the Proponent provides such evidence.

9.7 Irrevocable offer

In consideration of RGDC agreeing to consider a Proponent's EOI on the terms of these Conditions, each EOI lodged constitutes an agreement by the Proponent to be bound by these Conditions.

9.8 Modification of EOI

RGDC will consider a modification of an EOI already lodged by a Proponent only if the modification is lodged before the Closing Time and Date. All modifications must be in writing, executed and submitted before the Closing Time and Date (or within the time nominated by RGDC if the modification has been requested after the Closing Time and Date) in the same form and manner as the original EOI or as otherwise requested by RGDC.

9.9 Outcome of EOI Process

9.9.1 Shortlisting

RGDC will, subject to its rights under these Conditions and subject to receiving satisfactory submissions, notify the Proponents who have been shortlisted to proceed to negotiations of the Transaction Documents and any other discussions (**Shortlisted Proponents**).

9.9.2 Negotiation in good faith

- (a) If RGDC elects to negotiate with one or more Shortlisted Proponent(s), a Shortlisted Proponent must:
 - (i) negotiate in good faith with RGDC to agree commercial and other issues
 - (ii) co-operate with RGDC's Solicitor
 - (iii) use its best endeavours to comply with time frames for responses set by RGDC and
 - (iv) act consistently with the information and representations in its EOI.
- (b) Notwithstanding that RGDC has selected one or more Shortlisted Proponent(s), RGDC reserves the right to open negotiations with any of the other Proponents or any other person at any time in respect of the Project.
- (c) Nothing in this EOI Invitation obliges RGDC to disclose negotiations with any Shortlisted Proponent or any other person to other Proponents.
- (d) Negotiations with a Shortlisted Proponent may be discontinued by RGDC at any time and without giving reasons.
- (e) Nothing in this Section requires RGDC to negotiate in good faith.

9.9.3 Unsuccessful Proponents

- (a) Upon selection of the Shortlisted Proponent(s), RGDC is not required to notify the Proponents

who have not been shortlisted to negotiate the Transaction Documents. If RGDC does decide to notify unsuccessful Proponents, RGDC is not obliged to give reasons for that decision but may decide to offer de-briefing sessions to unsuccessful Proponents.

- (b) An unsuccessful Proponent is not entitled to make any Claim against RGDC in relation to any decision it makes in relation to this EOI Process and RGDC's decision is final.
- (c) Proponents will have no Claim against RGDC for any costs or expenses the Proponent incurs in connection with preparing any EOI.

9.10 Evaluation of EOI

- (a) The Evaluation Committee will evaluate and assess EOIs based on the Evaluation Criteria.
- (b) Proponents must provide the information requested by the Returnable Schedules in adequate detail to allow evaluation and assessment by the Evaluation Committee.
- (c) RGDC has the unfettered right to take into account not only the EOI but also information RGDC obtains in relation to it including:
 - (i) RGDC's or other government entities' knowledge and previous experience and dealings with any of the Proponents and information about the past or current performance of a Proponent under any contract, arrangement or dealing with RGDC or other government entities
 - (ii) any information that a Proponent has provided to RGDC or another government entity
 - (iii) any independently obtained information about the Proponent or the Proponent's Core Project Delivery Team (including by reference checking) and
 - (iv) any other information about the Proponent or Proponent's Core Project Delivery Team in relation to this EOI Invitation that is available in the public domain.
- (d) RGDC reserves the right to set aside from further consideration and evaluation any EOI which is identified as achieving a rating of Marginal or less against any one or more of the Evaluation Criteria.
- (e) For the purposes of this Section, **Marginal** means:
 - (i) does not meet minimum requirements
 - (ii) meets minimum requirements to a low standard
 - (iii) claims are generally not substantiated
 - (iv) the transaction terms and risk allocation proposed by the Proponent is not acceptable to RGDC
 - (v) the Returnable Schedules submitted are generally weak in key areas, or are unable to be properly assessed
 - (vi) the submission represents a moderate to high risk to RGDC or
 - (vii) RGDC considers the submission presents a marginal probability of a successful outcome.

RGDC is not required to notify Proponents that any part of its EOI has been rated as Marginal.

9.11 Language

EOIs must be prepared in English.

9.12 Currency

All monetary values in an EOI are to be in Australian Dollars.

9.13 Joint EOI

9.13.1 Multiple Proponents jointly and severally bound

Two or more persons or corporations or a combination of both may lodge an EOI. If so, they will be jointly and severally bound by the EOI.

9.13.2 Notices to multiple parties

Where a joint EOI is lodged under Section 9.13.1, any notice, order, direction, request or other communication which RGDC must or may give to a Proponent will be properly given to all persons being a Proponent if given to any one or more of such persons. Any notice, request or other communication given by one or more of such persons to RGDC under these Conditions will be deemed to have been given by and will bind all persons being the Proponent.

9.14 RGDC's rights

Despite any other provision of these Conditions, RGDC may conduct the EOI Process as it considers appropriate. RGDC has the right at any stage of the EOI Process and without giving reasons to:

- (a) extend the Closing Time and Date at any time before the Closing Time and Date by notice to potential Proponents
- (b) shortlist one or more Proponents to engage in negotiation on the Transaction Documents
- (c) not shortlist an EOI with the highest financial offer
- (d) reject any or all EOIs
- (e) accept an EOI before the Closing Time and Date
- (f) negotiate a private agreement with a Proponent or any other person at any time
- (g) discontinue any negotiations with any Proponent for any reason
- (h) request one or more Proponents to review, improve, clarify and/or enhance any part of its EOI
- (i) evaluate, or exclude from further consideration, an EOI that is a Non-Conforming EOI or an EOI that is considered Marginal against any one or more of the Evaluation Criteria
- (j) enter into Transaction Documents with any Shortlisted Proponent or any other person at any time
- (k) invite one or more Proponents to engage in discussions with RGDC regarding its EOI and engage in discussions on terms that RGDC considers appropriate
- (l) invite one or more Proponents to make one or more formal presentations or participate in an interactive workshop(s)
- (m) amend, suspend, discontinue or terminate this EOI Process
- (n) vary the indicative program described in this EOI Invitation
- (o) determine not to proceed with the Project at all or under this procurement process
- (p) at any time review and change the information or requirements contained in and attached to these Conditions by notice in writing to one or more Proponents whose EOI has not been excluded from further evaluation and assessment
- (q) provide additional information or clarification to one or more Proponent
- (r) allow or not allow another legal entity to take over an EOI in substitution for the EOI of the original Proponent or take an assignment of an EOI
- (s) conduct a financial assessment of an EOI or a Proponent including through its appointed

consultant, and Proponents will be required to make available sufficient information to RGDC for the assessment to be undertaken including current profit and loss statements, cash flow analysis, balance sheet or other audited financial statements

- (t) invite any other person to participate as a Proponent in the EOI Process
- (u) have regard to RGDC's knowledge and previous experience and dealings with any of the Proponents and information about the past or current performance of a Proponent under any contract, arrangement or dealing with RGDC or other government entities
- (v) terminate a Proponent's involvement in the EOI Process and/or discontinue the evaluation and assessment of an EOI where a Proponent has breached these Conditions or where RGDC determines that the EOI is unsuitable, unsatisfactory, substantially incomplete or clearly uncompetitive and without first evaluating and assessing the EOI against all of the Evaluation Criteria
- (w) accept or reject any EOI which:
 - (i) is a late EOI
 - (ii) is in any way incomplete or irregular
 - (iii) does not comply with any requirements of these Conditions,

and RGDC's decision to exercise any or none of the rights in these Conditions is final. RGDC will not be liable to a Proponent because RGDC has exercised any or none of its rights in these Conditions.

9.15 Additional information and addenda

RGDC may issue additional information to Proponents as addenda. No interpretation or explanation of this EOI Invitation by RGDC or its employees, contractors and agents may be relied upon by Proponents unless issued as an addendum.

9.16 Proponents to inform themselves

Proponents shall be deemed to have:

- examined the EOI Invitation, these Conditions, the information in the Data Room and any other information made available in writing by RGDC to Proponents for the purpose of responding to the EOI Invitation
- examined all information relevant to the risks, contingencies, and other circumstances having an effect on their EOI and which is obtainable by the making of reasonable enquiries
- satisfied themselves as to all matters and things relating to the Project as appropriate including any development or other approval may be required in connection with the Project
- satisfied themselves as to the correctness and sufficiency of their EOI
- satisfied themselves that their EOI addresses all of the requirements of this EOI Invitation and
- inspected the Site and its surrounds.

9.17 Communication protocol

9.17.1 Communication protocol

On and from the date of this EOI Invitation until the Closing Time and Date, all communications regarding this EOI Invitation and the EOI Process between the Proponents and RGDC must be through:

- the Q&A function in the Data Room

- RGDC's Solicitor or
- the Probity Advisor.

9.17.2 Questions and answers (Q&A)

- (a) All Questions from Proponents prior to the Closing Time and Date must be submitted through the Q&A function in the Data Room.
- (b) Unless a Proponent expresses an indication to the contrary (by typing the words 'Confidential Question' in the subject box when submitting a Question), all responses to Questions or requests for clarification raised through the Q&A Process will be made available for viewing by all Proponents in a manner RGDC determines, in its discretion.
- (c) To the extent a Question raised by a Proponent has been nominated as being confidential in the Q&A Process RGDC may determine whether that Question (and any response to that Question) should be made available to other Proponents.
- (d) If RGDC determines that a matter which a Proponent considers to be confidential (and its response) should be made available to all Proponents, RGDC will notify the relevant Proponent, through the Q&A Process, that:
 - (i) RGDC does not consider the Question to be confidential
 - (ii) it intends to make the Question and the associated response available to all other parties with access to the Data Room and
 - (iii) the Proponent has an opportunity to withdraw the Question or otherwise re-submit the Question on a non-confidential basis.
- (e) Subject to Section 9.17.2(d), RGDC will respond in writing to Questions submitted by Proponents as soon as possible following receipt of the Questions. However, the nature and content of the Questions will determine the time frame within which RGDC will be able to respond and RGDC does not guarantee or warrant a particular time frame for a response.
- (f) All Questions must be lodged by Proponents prior to 5 Business Days before the Closing Time and Date.

9.17.3 No contact with NSW Government or Media Outlet

On and from the date of this EOI Invitation until the Closing Time and Date, Proponents must not under any circumstances contact:

- the Government of NSW
- any Minister of the Government of NSW
- any public service senior executives of the Government of NSW
- any company or organisation that publishes or disseminates information, opinion or commentary through any media channel including newspapers, television, radio or any other news platform,

to discuss the EOI Invitation, the preparation of an EOI or any other element of the EOI Process without the prior written consent of RGDC, which may be withheld in RGDC's absolute discretion.

If a Proponent breaches this Section 9.17.3 then RGDC may determine that the Proponent may be excluded from the EOI Process or an EOI from further evaluation or assessment.

9.18 Briefing session

Notwithstanding anything inconsistent in these Conditions, RGDC may request Proponents to attend a briefing session which will provide a further explanation of the EOI Process, the Project Objectives and the scope of the Project. The briefing session may involve RGDC, RGDC's Solicitor, and the

Probity Advisor . Participation in these briefing sessions by Proponents is permissible under these Conditions.

9.19 RGDC's consultants and conflict of interest matters

9.19.1 RGDC's consultants

RGDC has engaged the following consultants and transaction advisers in connection with this EOI Process:

- (a) Hall & Wilcox – Katrina Reye
- (b) O'Connor Marsden & Associates - Beth Nilan
- (c) Aspect Property Consultants – Chris Attenborough

Proponents are not permitted to seek advice from these consultants in connection with this EOI Process unless RGDC provides express written consent (which may be withheld in RGDC's absolute discretion). RGDC may exclude a Proponent from the EOI Process or an EOI from further evaluation and assessment if a Proponent breaches this Section.

9.19.2 Conflict of Interest

Proponents must promptly make full and frank disclosure in writing to RGDC of any conflict of interest in relation to this EOI Invitation including, without limitation, involving their consultants for the Project whether actual or perceived, which exists or arises or has the potential to arise. If RGDC is of the opinion that a conflict of interest exists or could reasonably exist, RGDC may:

- exclude the Proponent from the EOI Process
- exclude the Proponent's EOI from further evaluation and assessment or
- require the Proponent to undertake Mitigation Actions as directed by RGDC.

If the Proponent does not comply with this Section or take the Mitigation Actions directed by RGDC in relation to a conflict of interest then RGDC may exclude the Proponent from the EOI Process or exclude any EOI from further evaluation and assessment.

9.19.3 Offers of employment

It is a condition of participation in this EOI Invitation that Proponents and their consultants on the Project:

- (a) refrain from making an approach or an offer of employment at any time to any Excluded Individual at any time before the earlier of:
 - (i) the date that RGDC enters into the Transaction Documents and
 - (ii) the date that the Proponent's participation in the EOI Process is terminated or comes to an end and
- (b) immediately notify the Probity Advisor of any offers of employment made to any employees of RGDC who are not Excluded Individuals.

If an approach or offer of employment referred to in paragraph (a) above is made then RGDC may determine that the Proponent should be excluded from the EOI Process or that any EOI may be excluded from further evaluation and assessment. RGDC may also require the Proponent to undertake such Mitigation Actions recommended by the Probity Advisor.

9.19.4 Collusive and unacceptable behaviour

- (a) Proponents must not, and must procure that their employees, contractors and agents do not, engage in any collusive bidding or anti-competitive conduct with any person, or any other unethical, improper or unlawful conduct in relation to this EOI Process or an EOI.

- (b) RGDC may involve the Australian Competition and Consumer Commission (**ACCC**) to provide assistance in relation to any competition issues concerning a Proponent or related to an EOI.
- (c) Proponents must not, and must procure that their employees, contractors and agents do not use the improper assistance of any of RGDC's employees or use information obtained unlawfully, unethically or in breach of an obligation of confidentiality to RGDC in relation to this EOI Invitation, the EOI Process or any EOI.
- (d) If a Proponent is in breach of any part of Section 9 then, in addition to any other remedies available under law, RGDC may determine that the Proponent may be excluded from the EOI Process or that any EOI may be excluded from further evaluation or assessment.
- (e) If a Proponent or any of their employees, contractors or agents working on the EOI are accused of corrupt conduct or are the subject of any ICAC proceedings then RGDC may determine that the Proponent may be excluded from the EOI Process and any EOI by the Proponent may be excluded from further evaluation and assessment.
- (f) Proponents must not and must procure that their employees, contractors and agents do not offer inducements at any time in connection with preparation of an EOI or make any false or misleading statements in an EOI. If a Proponent is in breach of any part of this Section then, in addition to any other remedies available under law, RGDC may determine that the Proponent may be excluded from the EOI Process and any EOI by the Proponent may be excluded from further evaluation and assessment.

9.19.5 Investigations

RGDC reserves the right to undertake an investigation into any of the matters in this Section 9 and the Proponent must co-operate with any such investigation.

9.20 No offer

The Proponent acknowledges that:

- a) this EOI Invitation constitutes a call for expressions of interest to submit EOIs. By this EOI Invitation, Proponents are invited to submit EOIs but this EOI Invitation does not constitute an offer capable of legal acceptance by a Proponent and
- b) other than as expressly set out in these Conditions, no legal or other obligation, right or relationship will arise (and no contract will be taken for any purpose to have been entered into or created) between a Proponent and RGDC whether by virtue of this EOI Invitation, the EOI Process or otherwise unless and until the Transaction Documents have been signed and all Ministerial approvals and other NSW Government consents have been obtained.

9.21 Cost to be borne by Proponent

RGDC will not be liable for any costs incurred by Proponents through participation in the EOI Process.

Each Proponent must pay its own costs and pay all duty in connection with:

- a) this EOI Invitation, and/or the Project
- b) preparing, submitting, executing and completion of any documents required by this EOI Invitation or any other documents delivered to RGDC in accordance with these Conditions
- c) attending meetings, negotiations, discussions or presentations with RGDC or its employees, contractors or agents
- d) providing additional information or enhancements of its EOI if requested by RGDC or
- e) any work undertaken by any Proponent before or after its EOI is submitted,

whether or not RGDC accepts any EOI, and whether or not RGDC proceeds with the Project the subject of the EOI.

9.22 Probity Advisor

RGDC has appointed the Probity Advisor to:

- a) overview the processes and procedures contemplated by this EOI Invitation and
- b) administer all probity issues arising from this EOI Invitation and negotiations and discussions arising from it.

RGDC reserves the right to change the Probity Advisor at any time.

The Probity Advisor will not be a member of the Evaluation Committee and will not be involved in the evaluation and assessment of any EOI but will be an independent observer of the EOI Process.

Should any Proponent have concerns about the conduct or probity of the processes and procedures of this EOI Invitation, then they should raise them at the earliest opportunity with the Probity Advisor.

The Probity Advisor may consider the matter and make an appropriate recommendation to RGDC. Any action taken as a result of such recommendation will be at the discretion of RGDC.

9.23 Probity procedures

RGDC reserves the right to require any Proponent to implement appropriate procedures and measures to ensure the probity and competitiveness of the processes contemplated by this EOI Invitation, including separation barrier arrangements, the appointment of an independent probity advisor and the execution of appropriate probity deeds by the Proponent.

9.24 Addenda to this invitation for EOI

Where RGDC issues any further written information in relation to this EOI Invitation (other than information which is made publicly available by RGDC), RGDC will issue such information as an addendum to this EOI. Such addenda will, upon being made available by RGDC, become part of this EOI Invitation.

RGDC may also in its discretion issue responses to requests for clarification as addenda. All Proponents must submit an undertaking via the Proponent Deed Poll in the Returnable Schedules that they have received and understood all of the addenda.

9.25 Data Room

RGDC notifies the Proponent that some information is available in the Data Room. It is the responsibility of Proponents to regularly log on/access the Data Room to check for communications and further information provided by RGDC.

9.26 Inconsistencies

If a Proponent finds any discrepancy, error or omission in this EOI Invitation or in the information in the Data Room, the Proponent must inform RGDC's Solicitor in writing immediately and seek clarification from RGDC.

RGDC is under no obligation to notify Proponents of any discrepancy or error in, or omission from, this EOI Invitation or the Data Room discovered by or notified to RGDC before or after the Closing Time and Date.

9.27 Identity of Proponents

RGDC may enquire as to the identity and standing of the Proponent, any member of the Proponent, and any guarantor or referee named in the Proponent's EOI.

9.28 Credit Information

RGDC may have access to and give consideration to:

- (a) any risk assessment undertaken by any credit rating agency; and
- (b) any information produced by a bank, financial institution or accountant of a Proponent, so as to assess the EOI and may consider such materials as tools in the assessment and evaluation process.

In submitting an EOI, the Proponent will be taken to have consented to RGDC accessing this risk assessment and information, including any relevant personal information.

9.29 No fetter

Nothing in this EOI Invitation shall fetter or restrict the power or discretion of RGDC to make or impose requirements or conditions in connection with any use or development of the Site.

RGDC may exercise any power, right, discretion or remedy (however described) under this EOI Invitation, in its absolute discretion, unless these Conditions expressly contemplate otherwise.

9.30 Disclaimer

The Data Room contains Disclosure Materials.

Whilst the Disclosure Materials have been formulated with care, RGDC and its employees, contractors and agents make no representation or warranty, express or implied, that the Disclosure Material is complete, accurate or free from errors or omissions.

No obligation is imposed on RGDC to advise any Proponent of any future information of which it becomes aware or any change to, or error in, the information and material made available in the Data Room or otherwise in connection with this EOI Invitation.

RGDC and its officers, employees, agents, and consultants assume no duty of care in relation to any Proponent.

All information given to a Proponent by RGDC or its respective employees, contractors and agents will be given on an "all care and no responsibility" basis. Proponents must form independent judgements about any information in the Disclosure Material and must make their own enquiries.

The information provided in this EOI Invitation is provided for general context only on a non-reliance basis. Proponents must make and rely on their own investigations and satisfy themselves in relation to all aspects of the Project, including any planning related matters.

Proponents must accept all consequences and risks of undertaking or not undertaking their own investigations, even if they later discover things that they do not know, or are not told, now.

The information is made available on the understanding that RGDC and its employees, contractors and agents will have no liability (including liability by reason of negligence) for any loss, damage, cost or expense incurred or arising by reason of the Project or this EOI Process.

9.31 Warranty

Each Proponent warrants that information provided by the Proponent in its EOI is accurate, up to date, and complete, and that the Proponent is aware that the information submitted will be used by RGDC and the Evaluation Committee for the purpose of evaluating the Proponent's EOI.

The Proponent acknowledges that RGDC will rely on the above warranties and undertakings.

9.32 Changes in circumstances

Proponents must advise RGDC immediately in writing of any material change to the information contained in its EOI, including any substantial change in their ownership, any of the nominated personnel or their financial or technical capacity.

A Proponent must notify RGDC and obtain RGDC's prior written consent (which may be withheld in RGDC's absolute discretion) if the Proponent proposes to change or vary the Proponent's Core Project Delivery Team.

Copies of relevant documents must be submitted with the advice.

9.33 Reliance on Proponent statements

Each Proponent acknowledges and agrees that RGDC may rely on any statements made by the Proponent (including the Proponent's Core Project Delivery Team). The statements that RGDC may rely on include those contained in the EOI, those made in any written or verbal communications or in any negotiations with RGDC. If RGDC believes that the Proponent has made any false or misleading statements, or breached these Conditions, RGDC may exclude the Proponent from the EOI Process or the EOI by that Proponent from further evaluation and assessment.

9.34 Confidentiality and disclosure

9.34.1 GIPA

RGDC is subject to the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**) which requires that documents held by New South Wales public sector agencies (including local governments) be disclosed upon request, unless the documents are exempt or, on balance, disclosure is contrary to the public interest. Information provided by a Proponent is potentially subject to disclosure to third parties pursuant to the GIPA Act.

If disclosure under the GIPA Act, or general disclosure of information provided by the Proponent would be of substantial concern because it would disclose trade secrets, information of commercial value, the purpose or results of research or other information of a confidential nature, then this should be stated by the Proponent in its EOI. However, RGDC cannot guarantee that any information provided by a Proponent will be protected from disclosure under the GIPA Act.

9.34.2 Privacy Act

RGDC is bound by the provisions of the *Privacy and Personal Information Protection Act 1998* (NSW) (**PPIP Act**) and any Personal Information (as defined in the PPIP Act) exchanged between Proponents and RGDC must be dealt with in accordance with the PPIP Act.

In particular, by submitting an EOI, the Proponent warrants that it has obtained the consent of any individual whose personal information is included in the EOI for:

- (a) the inclusion of their personal information in the EOI
- (b) the use of the personal information by RGDC for the purpose of evaluating the EOI and
- (c) the disclosure of the personal information to other parties (including consultants) involved in assisting RGDC with the evaluation of the EOI.

9.34.3 Proponent's Confidential Information

To the extent that any confidential information included in an EOI is in the nature of know-how or commercial-in-confidence information, the Proponent must inform RGDC. RGDC may disclose that information to its employees, contractors and agents and any other representatives of the NSW Government, however it will take reasonable steps to ensure that such information is not used or

disclosed by it or any of the persons it discloses the information to except in accordance with the terms of this EOI Invitation.

9.34.4 Proponent's obligation

These Conditions and all information supplied to or obtained by the Proponent in relation to this EOI Invitation must be kept confidential by the Proponent and may not be disclosed to any person except:

- (a) to the Proponent's Core Project Delivery Team or (as required) retained by the Proponent in relation to the EOI
- (b) to the Proponent's board
- (c) otherwise with the consent of RGDC
- (d) if required by law or a stock exchange (and then only after RGDC is previously informed of such proposed disclosure and has had an opportunity to negotiate the terms of that disclosure)
- (e) in connection with legal proceedings relating to this EOI Invitation or
- (f) if the information is generally and publicly available otherwise than as a result of a breach of this Section or another confidentiality agreement between the person and a third party.

The Proponent must not publicise its EOI or proposed EOI in any way.

The Proponent must procure that its Core Project Delivery Team and consultants retained by the Proponent in relation to the EOI keep confidential all information supplied to or obtained by the Proponent in relation to this EOI Invitation and do not disclose or publicise any part of an EOI or any information in connection with an EOI without obtaining RGDC's written consent.

This Section continues to bind each Proponent despite RGDC shortlisting any other Proponent and, despite the Transaction Documents being entered into.

RGDC may (but is not obliged to) exclude a Proponent from the EOI Process or exclude that Proponent's EOI from further evaluation and assessment in the event of a breach of this Section.

9.35 NSW Government Supplier Code of Conduct

- (a) The NSW Government *Supplier Code of Conduct* and the *NSW Industrial Relations Guidelines Building and Construction Procurement (NSW Code and Guidelines)* apply to this Project.
- (b) Terms used in this Section have the same meaning as is attributed to them in the NSW Code and Guidelines.
- (c) By lodging an EOI, the Proponent acknowledges and agrees that it:
 - (i) is aware that the NSW Code and Guidelines apply to the Project
 - (ii) is taken to have read and understood the NSW Code and Guidelines and the obligations they impose
 - (iii) will comply with the NSW Code and Guidelines in relation to this Project (if successful)
 - (iv) will agree, if successful in this process, to contractual terms that give effect to the NSW Code and Guidelines and mechanisms to ensure their compliance and enforcement and
 - (v) will comply and ensure that all of its related entities (as defined in the NSW Code and Guidelines) comply with the NSW Code and Guidelines in respect of any building and construction work on the Site.
- (d) Failure to agree to this Section 9.35 may result in a Proponent being excluded from the EOI Process or an EOI not being considered or evaluated.

9.36 Intellectual property and ownership of EOI documents

All EOI documents will become the property of RGDC on lodgement.

Intellectual property rights in the EOI do not pass to RGDC with the lodgement of the EOI. However, in submitting an EOI, the Proponent grants RGDC a licence to retain, use, disclose and copy the information contained in any EOI document (including but not limited to drawings and models) for the purposes of:

- (a) evaluating or clarifying the EOI
- (b) evaluating any subsequent EOI
- (c) responding to any challenge to the EOI Process, audit and complying with governmental and parliamentary reporting requirements or request for information, including but not limited to requests from parliament or parliamentary committees and
- (d) any other purpose related to the EOI Process or to the above purposes.

To the extent that any information in an EOI is protected by intellectual property rights (for example, patents, registered designs, copyright) the Proponent must inform RGDC.

9.37 FIRB

RGDC may, but is not required to, decide not to shortlist a Proponent unless and until that Proponent warrants that the Commonwealth Treasurer cannot prohibit that Proponent entering into and completing the Transaction Documents under the FATA Act.

RGDC may, without providing reasons, exclude an EOI from evaluation and assessment which is conditional on the Proponent obtaining the consent of the Commonwealth Treasurer to the Proponent entering into and completing the Transaction Documents. RGDC's decision as to whether to exclude such an EOI from further evaluation and assessment is final, and RGDC will not be liable to any Proponent because RGDC has or has not exercised this right.

9.38 Electronic signing of EOI

In this Section 9.38, **electronic signature** means a digital signature or other visual representation of a person's handwritten signature or mark, placed or typed on a copy of the Proponent's EOI by electronic or mechanical means (including by using DocuSign or other electronic signing platforms agreed by RGDC) and **electronically signed** has a corresponding meaning.

RGDC consents to a Proponent signing any part of their EOI by electronic signature.

Where any part of an EOI is electronically signed by or on behalf of a Proponent, that Proponent warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the Proponent intends to be bound by that document.

9.39 Governing law

This EOI Invitation and the associated EOI Process is governed by the law of New South Wales.

The Proponent irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

10. Glossary of EOI terms

The definitions and key terms used in this document are given in the table below.

Table 10a Glossary of Terms

Term	Description
Activation Precinct Certificate or APC	An 'Activation Precinct certificate' is a requirement of <i>State Environmental Planning Policy (Precincts-Regional) 2021</i> (NSW), and ensures that development on land with a SAP is consistent with the master plan and delivery plan of that SAP.
Authority	Any government, statutory, public or other authority or body having jurisdiction in connection with the Project.
Bank Guarantee	An unconditional and irrevocable undertaking by an Australia trading bank on terms acceptable to RGDC.
Business Day	A day that is not a Saturday, Sunday or public holiday in Sydney, New South Wales.
Buy Back Option Deed	A call option deed under which RGDC may exercise an option to buy back the Site from the Successful Proponent if certain milestones are not achieved by the agreed Sunset Dates set out in the Project Delivery Agreement.
Claim	Includes any claim, cause of action, proceeding, right, entitlement, liability or demand however it arises and whether it is past, present or future, fixed or unascertained, actual potential or contingent.
Closing Time and Date	The closing time and date specified in Table 7.7a.
Conditions	The terms, conditions, warranties, acknowledgments, requirements and obligations for this EOI Invitation set out in this Annexure 2.
Conditions Precedent	The conditions precedent set out in the Key Terms.
Conforming EOI	See meaning given in Section 9.4 of this EOI Invitation.
Data Room	The online secure Ansarada data room.
Delivery Plan	The Parkes Special Activation Precinct Delivery Plan referred to in Section 5.
Disclosure Materials	The information provided by RGDC in this EOI Invitation and in the Data Room.
EMS	Environmental Management System.

Term	Description
EOI Invitation	This invitation for expressions of interest in relation to the Project on the terms of the Conditions, including all annexures, attachments, schedules and any document referred to or contemplated by any of them including the Disclosure Material.
EOI Process	The processes and procedures contemplated by, or pursuant to, this EOI Invitation.
EP&A Act	<i>Environmental Planning and Assessment Act 1979 (NSW)</i>
Evaluation Committee	The evaluation committee established by RGDC to consider EOIs submitted in response to this EOI Invitation.
Evaluation Criteria	The criteria specified in Table 7.4a – Evaluation Criteria under Section 7 of this EOI Invitation.
Excluded Individual	Any employee of RGDC listed in the ‘Excluded Individual List’ located in the Data Room which may be amended by notice in writing from time to time.
Expression of Interest or EOI	An expression of interest that is lodged by a Proponent in response to this EOI Invitation in accordance with the requirements of this EOI Invitation.
FATA Act	<i>The Foreign Acquisitions and Takeovers Act 1975 (Cth)</i>
Key Terms	The key terms set out in Section 8 of this EOI Invitation.
Marginal	See meaning given in Section 9.10(e) of this EOI Invitation.
Master Plan	The Parkes Special Activation Precinct Master Plan referred to in Section 5.
Milestone Date	The milestone dates set out in the Project Delivery Agreement.
Mitigation Action	<p>Any mitigation measures as may be directed by RGDC, in its discretion, which may include:</p> <ul style="list-style-type: none"> • requiring the Proponent or a specified person to execute a separation barrier arrangement deed (in the form required by RGDC) in favour of RGDC • prohibiting a Proponent from using any specific person or company in preparation of its EOI • requesting that a Proponent refrain from any further interaction with any specific person or company until the EOI Process comes to an end or the Proponent has been notified that it is unsuccessful • excluding the Proponent from the EOI Process or • any other actions that RGDC deems to be appropriate.
Non-Conforming EOI	See meaning given in Section 9.5 of this EOI Invitation.

Term	Description
Option Fee	The call option fee to be paid by the Successful Proponent to RGDC under a put and call option deed for the sale of the Site.
Probity Advisor	Beth Nilan, O'Connor Marsden & Associates Level 18, 1 Margaret Street Sydney NSW 2000 Email: bnilan@ocm.net.au Ph: (+61) 0425 809 856
Project	The development opportunity referred to in this EOI invitation involving the development of the Site to achieve the Project Objectives.
Project Control Group	The project control group to be established in accordance with the terms of the Project Delivery Agreement.
Project Delivery Agreement	The contract entitled "Project Delivery Agreement" to be entered into between RGDC and a Proponent in respect of the delivery of the Project.
Project Objectives	The objectives for the Project outlined in Section 3.2.
Project Vision	The vision for the Project outlined in Section 3.1.
Proponent	An organisation, entity or consortia who obtains the EOI Invitation and/or submits an EOI in accordance with the requirements of this EOI Invitation.
Proponent Deed Poll	The proponent deed poll set out in the Returnable Schedules.
Proponent's Project Proposal	A proposal submitted in response to the EOI.
Questions	A question, enquiry, query or request for information submitted by a Proponent.
Q&A Process	The 'Questions and Answers' process established by RGDC in relation to this EOI Invitation.
Returnable Schedules	The returnable schedules 1 - 7 attached to this EOI Invitation.
RGDC	Regional Growth NSW Development Corporation (ABN 48 270 349 177)
RGDC's Solicitor	Hall & Wilcox Lawyers.
Shortlisted Proponent	An organisation, entity or consortia who is shortlisted by RGDC to commence negotiations of the Transaction Documents.
Site	The land broadly described in Section 2 of this EOI Invitation and which is subject to further subdivision and boundary adjustment as a result of the Project Delivery Agreement.
Substantial Commencement	A point in the development of a Project defined for the purpose of condition precedent to exercise of a call option, e.g. Slab completed.

Term	Description
Successful Proponent	A private sector developer and/or consortia selected, in accordance with this EOI Invitation, by RGDC to deliver the Project and enter into the Transaction Documents.
Sunset Date	The sunset date for a particular Milestone Date as specified in the Project Delivery Agreement.
Transaction Documents	May include: <ul style="list-style-type: none">• Project Delivery Agreement• Construction licence• Builders side deed• Financiers side deed• Independent certifiers deed• Precinct management agreement• Project branding & promotional agreement• Put and call option deed• Template contract for sale of land• Buy Back Option Deed• Real Property Act charge in relation to RGDC's rights under its Buy Back Option Deed• Parent Company Guarantee• Positive covenant

Parkes Special Activation Precinct

