

17.3 PLANNING PROPOSAL TO REZONE LAND: LOT 2 DP1064474 (3577 HENRY PARKES WAY, BOGAN GATE) PRE-EXHIBITION**IP&R Linkage:** Pillar: Environment**Goal:** Our built environment is functional, sustainable and meets the needs of our growing community.**Strategy:** Manage our built environment in line with the Local Environmental Plan (LEP) and relevant legislation.**Author:** Grahame Fry, Senior Development Planner**Authoriser:** Brendan Hayes, Director Planning and Community Services**Annexures:** Nil

RECOMMENDATION

That:

1. Council refers a proponent-led Planning Proposal to amend Parkes LEP 2012 Schedule 1 Additional Permitted Uses, applying to Lot 2 DP1064474 (3577 Henry Parkes Way, Bogan Gate - Attachment A) to the NSW Department of Planning and Environment, requesting a Gateway Determination to enable public exhibition of the Planning Proposal.
2. Council requests that the Secretary of the NSW Department of Planning and Environment issue written authorisation to Council to exercise delegation of the plan making functions under Section 3.36(2) of the *Environmental Planning and Assessment Act 1979* in respect of the Planning Proposal.
3. Pending issue of, and endorsement by the Gateway Determination, Council place the Planning Proposal on public exhibition and undertake government agency consultation, consistent with the terms of the Gateway Determination.
4. Inform the proponent and landowners of the subject land, and their consultant, of Council's resolutions.

BACKGROUND

The purpose of this report is to seek Council's endorsement to initiate a proponent-led Planning Proposal to amend *Parkes Local Environmental Plan 2012* by amending Parkes LEP 2012 Schedule 1 Additional Permitted Uses, applying to Lot 2 DP1064474 (3577 Henry Parkes Way, Bogan Gate). The amendment will allow greater certainty and clarity for heavy industry requirements for the site and provide greater transparency to the community with regards to the current and future land uses on the site.

The land is currently being utilised by three activities considered to be heavy industries, being Johnex Pty Ltd (explosives manufacturing and storage); Howards and Sons (fireworks storage) and SMS for Ammonium Nitrate Emulsion (ANE). These businesses are significant employers in the Bogan Gate district and provide significant services to mining, quarrying and civil engineering sectors in NSW. SMS (ANE) is seeking to expand the volume of its output, which triggered the need for a Planning Proposal to permit the increased activity as a **heavy industry** as defined by Parkes LEP 2012.

The Planning Proposal is included as Attachment A to this report.

ISSUES AND COMMENTARY

The subject land (Lot 2 DP1064474, @227 hectares) is located south-east of Bogan Gate village, and is accessed on the southern side of Henry Parkes Way. The site is approximately 35 kilometres west of Parkes, on the south-eastern edge of Parkes township. The Orange-Broken Hill Railway is located parallel to the northern boundary of the subject site. An aerial photograph of the subject land is shown in Figure 1. The subject land is shown by a red outline.

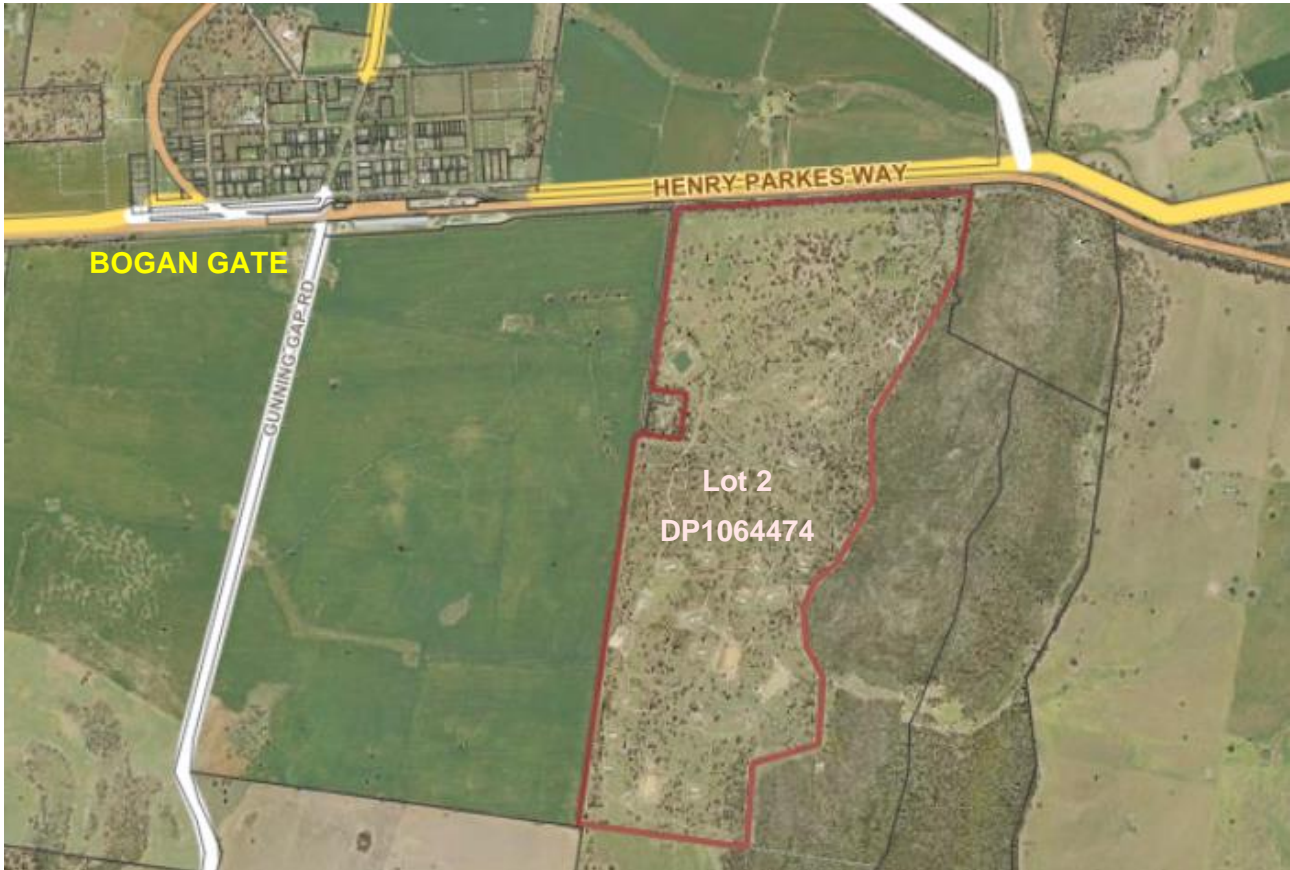


Figure 1: The subject land (SixMaps, 2024)

The site was first used as an explosive storage and testing facility by the Australian Military during WW2, and was acquired by the Commonwealth for defence purposes in 1960. From 1960 to 2004 the land was used and an explosives reserve, designed to store and process between 12,000 and 22,000 tons of explosives. Commonwealth ownership of the land ceased in 2004. At that time, improvements on the land included communal army barracks, free-standing dwellings, depot, storage sheds, mess hall and structures ancillary to the military use. Explosives storage and manufacturing has been undertaken on the land since 2004.

The SMS (ANE) facility is currently operating in accordance with Development Consent DA2020/0073, determined on 18 November 2022. The facility has a valid Manufacture Explosives Licence, issued by SafeWork NSW on 19 January 2023. An occupation certificate for the facility was issued in December 2022, consistent with the Conditions of Consent for DA2020/0073.

The Planning Proposal seeks to rationalise the location of heavy industry activities on the Bogan Gate Explosives Reserve (BGER) by an addition to Parkes LEP 2012 Schedule 1 Additional Permitted Uses. The Planning Proposal is consistent with all relevant statutory requirements and local policies to enable Council to request a Gateway Determination (see the "Legislative and Policy Context" section of this report).

In August 2023, SMS (ANL) held discussions with Council staff regarding a proposed increase in production for up to 20,000 tonnes per annum. Although the activity has been in operation for many years and is considered to have the benefit of existing use provisions, the additions and

alterations required on the facility are significant upgrades which require an addition be made to Parkes LEP 2012 Schedule 1 - Additional Permitted Uses.

The Planning Proposal seeks to amend the Parkes LEP 2012 by inserting Item 3 in Schedule 1:

- (3) Development for the purposes of **heavy industries** is permitted on Lot 2 DP1064474, 3577 Henry Parkes Way, Bogan Gate with development consent.

The written text and maps of Parkes LEP 2012 and the provisions of Parkes Shire Development Control Plan 2021 will remain unchanged, should the Planning Proposal be progressed to amend Parkes LEP 2012.

LEGISLATIVE AND POLICY CONTEXT

The Planning Proposal has been prepared in accordance with the provisions of the *NSW Environmental Planning and Assessment Act 1979* and the *NSW Department of Planning document Local Environmental Plan Making Guideline* (August 2023). Other relevant legislative and policy documents are listed below:

Statutory Documents:

Parkes Local Environmental Plan 2012

Relevant State Environmental Planning Policies (SEPPs)

Section 9.1 Ministerial Directions

Local Planning Policies:

Parkes Shire - Local Strategic Planning Statement (LSPS) 2020

The Planning Proposal (Attachment 1) has demonstrated compliance and/or consistency with the statutory documents and policies listed above.

FINANCIAL IMPLICATIONS

There are no financial implications to Council by progressing this Planning Proposal, which has been prepared and funded by the proponent. The purpose of the proposed LEP element is to rationalise the location of heavy industry activities on the Bogan Gate Explosives Reserve (BGER). There will be no cost to Council in terms of infrastructure provision or asset maintenance. Any future structures or infrastructure generated by proposed development activity will be the responsibility of the applicant.

RISK IMPLICATIONS

The Planning Proposal (Attachment A) has addressed any environmental constraints which are relevant to the subject land and demonstrate that these constraints can be managed effectively, therefore minimising any associated risks concerning progression of this Planning Proposal. This is considered sufficient to allow Council to confidently support initiation of this Planning Proposal to the next stage of the LEP making process (ie requesting the issue of a Gateway Determination).

COMMUNITY CONSULTATION

Should Council resolve to initiate the Planning Proposal and a Gateway Determination is subsequently issued by the NSW Department of Planning and Environment endorsing public exhibition, the Planning Proposal will be exhibited in accordance with the terms and directions of the Gateway Determination and the relevant provisions of the *Environmental Planning and Assessment Act 1979*. Consultation with government agencies and other stakeholder may also be required if specified by the Gateway Determination.

Consultation will also be undertaken in accordance with *Parkes Shire Community Participation Plan 2022*.