



IRF24/2087

## Gateway determination report – PP-2024-1667

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Proposed additional permitted use at 3577 Henry  
Parkes Way, Bogan Gate

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and emerging.

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Attachment A – Planning Proposal (Currajong Planning, Property and Project Management, July 2024)
Attachment A1 – Council Report 13 August 2024

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Parkes</b>
<b>PPA</b>	Parkes Shire Council
<b>NAME</b>	Proposed additional permitted use at 3577 Henry Parkes Way, Bogan Gate
<b>NUMBER</b>	PP-2024-1667
<b>LEP TO BE AMENDED</b>	Parkes Local Environmental Plan 2012
<b>ADDRESS</b>	3577 Henry Parkes Way, Bogan Gate
<b>DESCRIPTION</b>	Lot 2 DP 1064474
<b>RECEIVED</b>	26/08/2024
<b>FILE NO.</b>	IRF24/2087
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The objective of the planning proposal is to align the existing heavy industry use of the site with the permitted land uses outlined in the LEP.

The objective of the planning proposal is clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Parkes LEP 2012 by inserting a site-specific provision in Item 3 of Schedule 1 Additional Permitted Uses, allowing 'heavy industry' at 3577 Henry Parkes Way, Bogan Gate.

**heavy industry** means a building or place used to carry out an industrial activity that requires separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes—

- (a) hazardous industry, or
- (b) offensive industry.

It may also involve the use of a hazardous storage establishment or offensive storage establishment.

**hazardous industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), pose a significant risk in the locality—

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**offensive industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The site is located at 3577 Henry Parkes Way, Bogan Gate (Lot 2 DP 1064474), approximately 35km west of Parkes, see Figures 1 and 2. The town of Bogan Gate is located approximately a kilometre north-west of the site and the nearest dwelling is located 250m north of the site. Agricultural uses surround the site, with the exception of heavy bushland bordering the site to the east.

The total area of the site is approximately 227 hectares and occupied by the Bogan Gate Explosives Reserve which has been utilised since the 1930s for explosives manufacturing and storage operations. The site contains terrestrial biodiversity and is bushfire prone on the eastern perimeter of the site.



Figure 1 Subject site (source: Council Report, August 2024)



**Figure 2 Site context (source: Planning proposal, July 2024)**

## 1.5 Background

The site is currently operating in accordance with a Development Consent issued in 2022. The facility has a valid Manufacture Explosives Licence, issued by SafeWork NSW in 2023. The planning proposal includes detail regarding the proponent's intent to increase the capacity of the site for processing and storage.

In January 2023, the Department responded to a request for a Planning Secretary's Environmental Assessment Requirements for the preparation of an Environmental Impact Statement. It was confirmed that the proposal was both designated and integrated, requiring approval under the *Protection of the Environment Operations Act 1997*. Documentation of this process is included at attachment A, including consultation undertaken to date.

Written advice from Maddison Marcus (November 2022) demonstrates the use of the site for explosives manufacturing and storage is a lawful existing use under Section 109(1) of the *Environmental Planning and Assessment Act 1979*. This advice was submitted to Council as part of a pre-Development Application enquiry in August 2023, which details proposed alterations and additions to increase the production capacity of the site.

On 18 August 2024 at a meeting with Council it was determined that a planning proposal should be prepared seeking to permit 'heavy industry' at the site under the Parkes LEP 2012. The Department contacted Parkes Shire Council on 17 September 2024, as part of the assessment process, seeking clarification of the following matters:

1. Additional permitted uses

This assessment considered the appropriateness of including 'heavy industrial storage establishment' as an additional permitted use, to permit the storage related land uses described in the planning proposal.

Council confirmed that the inclusion of 'heavy industrial storage establishment' is not necessary to achieve the intent of the proposal, as storage of material may be considered as an ancillary land use. Council provided that 'heavy industrial storage establishment' would also permit 'liquid fuel depot' on the site which is not in the scope of the proposal.

## 2. Zoning of the site

Further information was sought from Council to detail the rationale for including an additional permitted use on the land, rather than rezoning the site.

Council's justification is outlined in section 2. The information provided by Council on 19 September 2024 is adequate to justify the proposed approach.

## 2 Need for the planning proposal

The planning proposal is not the result of any strategic study or report. Heavy industrial activities are established uses at the site, as outlined in **Attachment A**. The site is zoned RU1 Primary Production and currently under the Parkes LEP 2012, 'heavy industry' is a prohibited land use in this zone.

The planning proposal outlines that existing land use rights can continue to permit the manufacturing of explosives on the site. However, expansion of the use is limited under Division 4.11 of the *Environmental Planning and Assessment Act 1979*.

The planning proposal also states that rezoning the site to E4 General Industrial was considered in consultation with Parkes Shire Council, though the approach would not provide an appropriate pathway to formalise existing uses.

On 19 September 2024 Parkes Shire Council responded to a request from the Department for more information regarding the preference to apply of an additional permitted use provision rather than rezoning the site. Council provided the following justifications:

1. An industrial zone is not supported in Council's land use strategies and Local Strategic Planning Statement.
2. An industrial zone would permit a range of land uses that would need to be supported by adequate services, which are not available in Bogan Gate.
3. Council does not support the potential for intensification of development on this site as a multi-lot subdivision. This would require additional servicing, infrastructure, environmental and hazard constraints.

The justification outlined by Council is clear and acceptable.

## 3 Strategic assessment

### 3.1 Regional Plan and Local Plan

The Central West and Orana Regional Plan 2041 and the Parkes Shire Local Strategic Planning Statement (LSPS) 2020 apply to the proposal.

- The planning proposal aligns with Objective 18 of the Central West and Orana Regional Plan that aims to 'leverage existing industries and employment areas and support new and innovative economic enterprises'.

- The planning proposal does not specifically relate to any directions or planning priorities outlined in the LSPS, however, it is in keeping with the overarching value ‘growing the economy’.

The site is a significant source of employment for Bogan Gate and the surrounding areas. The planning proposal will support the ongoing heavy industrial use of the site and expansion of the business, in keeping with the Regional Plan and LSPS.

## 3.2 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below:

**Table 3 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plan	Consistent	The planning proposal is consistent with this Direction, as discussed in Section 3.1.
1.4 Site Specific Provisions	Inconsistency justified	<p>It is proposed to retain the existing RU1 Primary Industry zone and amend Schedule 1 to permit ‘heavy industry’ at the site.</p> <p>The Direction recommends allowing the relevant land use on the site without any further development standards or requirements. The proposal is inconsistent with the Direction as it seeks an APU instead of rezoning the land. But the inconsistency is justified as of minor significance.</p>
3.1 Biodiversity and Conservation Zone	Consistent	<p>The site contains terrestrial biodiversity along the western boundary of the site and adjoins a nature reserve to the east.</p> <p>The Preliminary Biodiversity Assessment and Scoping Report states Gunning Ridge, to the east of the site is the largest remnant of native vegetation in the locality. The report concludes the development concept detailed in the report is unlikely to have a significant impact on threatened species.</p> <p>The planning proposal does not reduce the conservation standards that currently apply to the site. The planning proposal is consistent with the Direction.</p>
4.3 Planning for Bushfire Protection	Further justification required	<p>Whilst the proposal is consistent with aspects of this Direction, consultation is required with NSW Rural Fire Service as the subject land includes bushfire prone land.</p> <p>A condition of Gateway determination has been included to this effect. Upon completion of the Gateway determination condition the planning</p>



		proposal will be consistent with the Direction, subject to no further issues being identified during consultation with NSW Rural Fire Service.
4.4 Remediation of contaminated land	Consistent	<p>This Direction is applicable to the site, in keeping with Table 1 of the contaminated land planning guideline, given the site is utilised as an explosives industry.</p> <p>The planning proposal states that a Preliminary Contamination Investigation was undertaken by Envirowest, dated 4 February 2021 (<b>Attachment A</b>). There was no evidence of contamination found.</p>
9.1 Rural Zones	Consistent	<p>This Direction is applicable as the site is zoned RU1 Primary Production.</p> <p>The proposal does not seek to amend the zone, therefore the planning proposal is consistent with this Direction.</p>
9.2 Rural Lands	Consistent	This Direction is applicable as the site is zoned RU1 Primary Production. The proposal is consistent with the Direction.

### 3.3 State environmental planning policies (SEPPs)

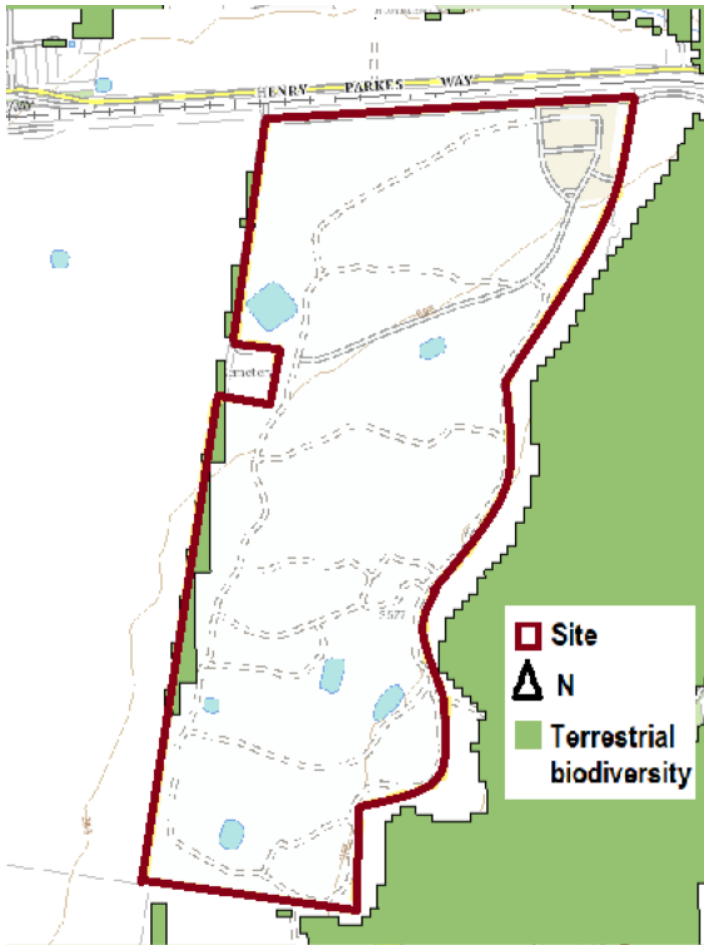
The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 4 Assessment of planning proposal against relevant SEPPs**

SEPPs	Reasons for Consistency or Inconsistency
Biodiversity and Conservation 2021	<p>The SEPP is applicable as the site is zoned RU1 Primary Production and located in the list of local government areas specified in Schedule 2. The Local Government Area is also identified in the Vegetation in Non-Rural Areas - Allowable Clearing Map.</p> <p>The planning proposal states a small section of the western perimeter of the site is mapped as biodiversity under the Terrestrial Biodiversity Map in the Parkes LEP 2012. Assessment of a future development application, where applicable, will consider to requirements outlined in Chapters 2, 3 and 4. The planning proposal is consistent with the SEPP.</p>

## 4 Site-specific assessment

The planning proposal seeks to facilitate the ongoing use of the site and is not expected to negatively impact the community. The proposal will result in greater certainty for the ongoing operation and expansion of the site. Council recognises the businesses operating at the site are a significant source of employment for Bogan Gate and surrounding areas.

Impact	Assessment
<p>Biodiversity</p>	<p>The site contains terrestrial biodiversity along the western boundary of the site and adjoins a nature reserve to the east, Figure 3.</p>  <p><b>Figure 3 Terrestrial Biodiversity (source: Spatial Viewer, September 2024)</b></p> <p>A Preliminary Biodiversity Assessment Scoping Report was prepared by Currajong Planning Property and Project Management in February 2023 (<b>Attachment A</b>) in association with proposed alterations and additions at the site.</p> <p>The report concludes that the development proposal outlined is unlikely to have a significant impact on threatened species or have an impact on 'nationally listed biodiversity matters'. Entry into a Biodiversity Offset Scheme is not triggered by the proposal as less than 1,500m<sup>2</sup> of regrowth native species is proposed to be cleared.</p> <p>As the proposal seeks to permit 'hazardous industry' and 'offensive industry', it is recommended the Gateway Determination is conditioned requiring a referral to the Department of Climate Change, Energy, the Environment and Water (DCCEEW).</p>
<p>Heritage</p>	<p>The site does not contain any heritage items. The planning proposal states that the site in its entirety is considered to have historical significance, but no building or structure possesses significant heritage values.</p>

Impact	Assessment
	<p>The site adjoins Bogan Gate Cemetery to the west. While this site is not listed as a heritage item it has potential local heritage significance. The planning proposal concludes that the continued use of the site is not incompatible with the heritage significance of the cemetery.</p> <p>There are no identified Aboriginal sites within 200m of the subject site.</p>
Waterways and groundwater	<p>The site does not contain vulnerable groundwater resources, permanent water courses, high value riparian/wetland areas and is not flood affected. The likelihood of the proposed use being flooded or impacting water quality is low.</p>
Noise Impact	<p>A Noise and Vibration Impact Assessment was prepared by Acoustik in August 2023 for the related development application at the site. The report found the noise levels generated at the site and from vehicle traffic do not exceed any noise trigger levels and the total traffic noise along Henry Parkes Way will not increase.</p> <p>The social impact assessment contained within the planning proposal, determined the planning proposal is unlikely to generate a negative acoustic impact.</p> <p>As the proposal seeks to permit 'hazardous industry' and 'offensive industry' and given the proximity of the site to the locality of Bogan Gate, consultation with the Environmental Protection Authority is recommended as a condition of Gateway.</p>
Visual Impact	<p>The social impact assessment contained within the planning proposal does not accurately describe the potential visual impacts. This assessment concludes the planning proposal is unlikely to generate a negative visual impact and considered that detailed assessment can be adequately undertaken as part of a development application.</p>
Contamination	<p>The Preliminary Contamination Investigation found no evidence of contamination at the site. This assessment included site walkover, desktop study and limited soil sampling.</p> <p>The investigation states the levels of all metals and explosives screen of potential contaminants assessed in the soil sampling were below the commercial land use thresholds.</p>
Infrastructure	<p>Existing services and infrastructure are available at the site including bitumen sealed roads, reticulated water supply, electricity, telecommunications and on-site wastewater treatment.</p> <p>It is proposed to upgrade the intersection of Memorial Lane and Henry Parkes Way to provide auxiliary left turn lanes for trucks.</p>
Transport	<p>A Traffic Impact Assessment was prepared by Solar Mining Services in August 2023 associated with a development application. The assessment took into consideration the hours of operation and staff numbers to determine vehicle movements.</p> <p>The traffic assessment determined that an upgrade to the intersection of Memorial Lane and Henry Parkes Way to provide auxiliary left turn lanes for trucks is required due to the volume of through and turning traffic.</p>

Impact	Assessment
	The Gateway Determination will include a condition requiring Transport for NSW to be consulted as part of the exhibition process as the site adjoins the Henry Parkes Way which is a State road.

## 5 Consultation

### 5.1 Community

The planning proposal outlines a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms a condition of the Gateway determination.

### 5.2 Agencies

The proposal outlines consultation that has been undertaken in the preparation of a development application for alterations and additions on the site and does not specifically raise which agencies should be consulted as part of the planning proposal.

It is recommended that the following agencies be consulted on the planning proposal and given 30 working days to comment.

- NSW Rural Fire Service
- Department of Climate Change, Energy, the Environment and Water
- Transport for NSW
- Environmental Protection Authority

## 6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposals by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 24 June 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

As the planning proposal addresses matters of local significance and Council supports the progression of the planning proposal, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 1.4 Site Specific Provisions is minor and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection will be resolved prior to public exhibition.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation, consultation is required with the Rural Fire Service in relation to section 9.1 Direction 4.3 Planning for Bushfire Protection and any comments addressed in the planning proposal.
2. Consultation is required with the following public authority:
  - Transport for NSW
  - Environmental Protection Authority
  - Department of Climate Change, Energy, the Environment and Water
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 24 June 2025 be included on the Gateway.
5. The timeframe for the LEP to be completed is on or before 24 June 2025



23 September 2024

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27/9/2024

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