



IRF24/498

## Gateway determination report – PP-2023-2528

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Rezone and amend minimum lot size provisions at  
Bogan Gate Road, Forbes

April 24

Published by NSW Department of Planning, Housing and Infrastructure

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

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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 future.

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

Relevant reports and plans
PP-2023-2528 Bogan Gate Road Planning Proposal
PP-2023-2528 Council report and resolution
Forbes Local Strategic Planning Statement
Forbes Housing Strategy

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Forbes</b>
<b>PPA</b>	<b>Forbes Shire Council</b>
<b>NAME</b>	<b>Bogan Gate Road</b>
<b>NUMBER</b>	<b>PP-2023-2528</b>
<b>LEP TO BE AMENDED</b>	<b>Forbes Local Environmental Plan 2013</b>
<b>ADDRESS</b>	<b>Bogan Gate Road, Forbes</b>
<b>DESCRIPTION</b>	<b>Lots 796 and 1046-1055, DP 750158</b>
<b>RECEIVED</b>	<b>8/03/2024</b>
<b>FILE NO.</b>	<b>IRF24/498</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal seeks to enable residential development on vacant land adjacent to the Forbes Cemetery with the provision of public open space aligned with an existing watercourse. The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

It is noted there is inconsistency with the number of allotments/dwellings indicated. The planning proposal indicates 55, council's report states 69, and the portal says 70. For the purpose of this report, the portal figure is referred to. Regardless, the maps clearly identify the site.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Forbes LEP 2013 per the changes below. The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

**Table 3 Current and proposed controls**

<b>Control</b>	<b>Current</b>	<b>Proposed</b>
Zone	The subject land contains a mix of R1 General Residential, C3 Environmental Management, and RE1 Public Recreation zones.	<p>The subject land is proposed to include a majority of R1 zoned land and a portion of RE1 zoned land aligned with the existing watercourse.</p> <p>It is proposed to remove the current C3 zone from the subject land.</p>

Minimum lot size	R1 = 550m <sup>2</sup> C3 = 2 ha RE1 = no MLS	R1 = 550m <sup>2</sup> RE1 = remain no MLS Removal of C3 area and corresponding 2 ha MLS
Number of dwellings	Unknown	70

## 1.4 Site description and surrounding area

The subject land is approximately 7.7 hectares in area and contains a dam, remnant trees and has previously been used for agricultural purposes (Figure 1). It is noted that the subject land was subjected to previous anthrax contamination as it contains a historical animal burial pit. Further discussion on this is in Section 4.1 of this report.

The subject land is situated in the north-west of Forbes bounded by The Bogan Way, York Street, Attlee Street and Churchill Street. The Forbes lawn cemetery is west of the land, and existing low density residential development is to the south and east. The watercourse that traverses through the land begins from the north and continues to the south of the subject land (Figure 2)



**Figure 1 Subject Site (source: nearmap)**





**Figure 2 Site context (source: planning proposal)**

## 1.5 Mapping

The planning proposal includes proposed changes to zoning (digital) and lot size (LSZ\_005AB) maps, which are suitable for community consultation.

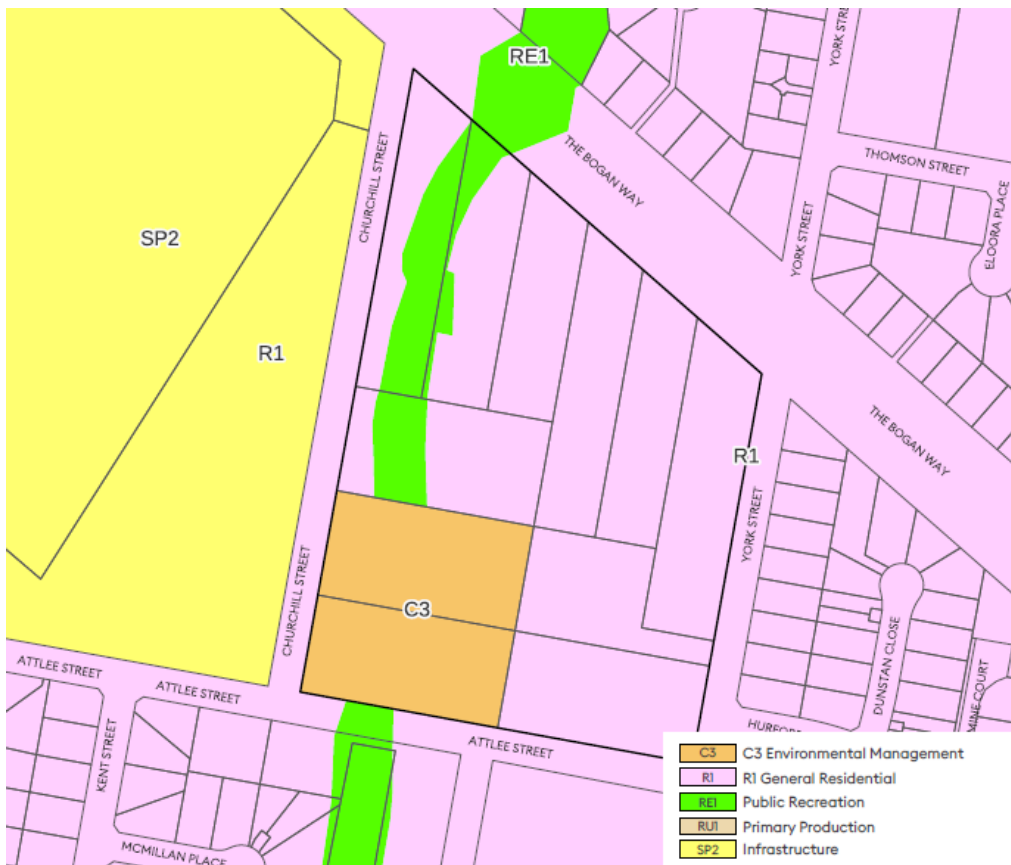


Figure 3 Current zoning map (source: planning proposal)

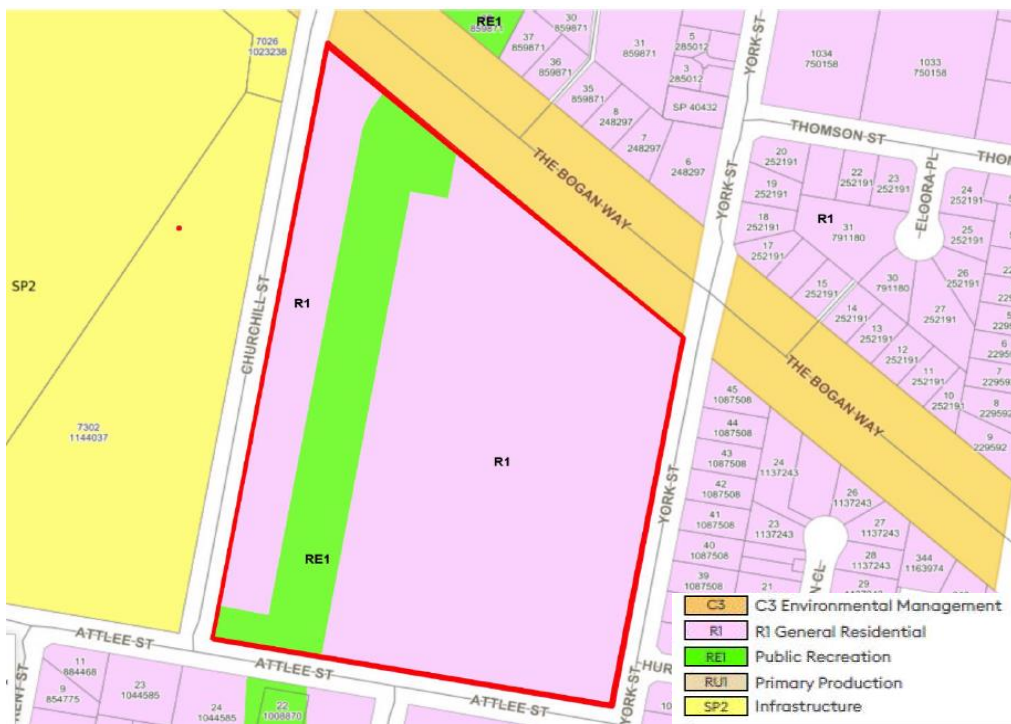


Figure 4 Proposed zoning map (source: planning proposal)



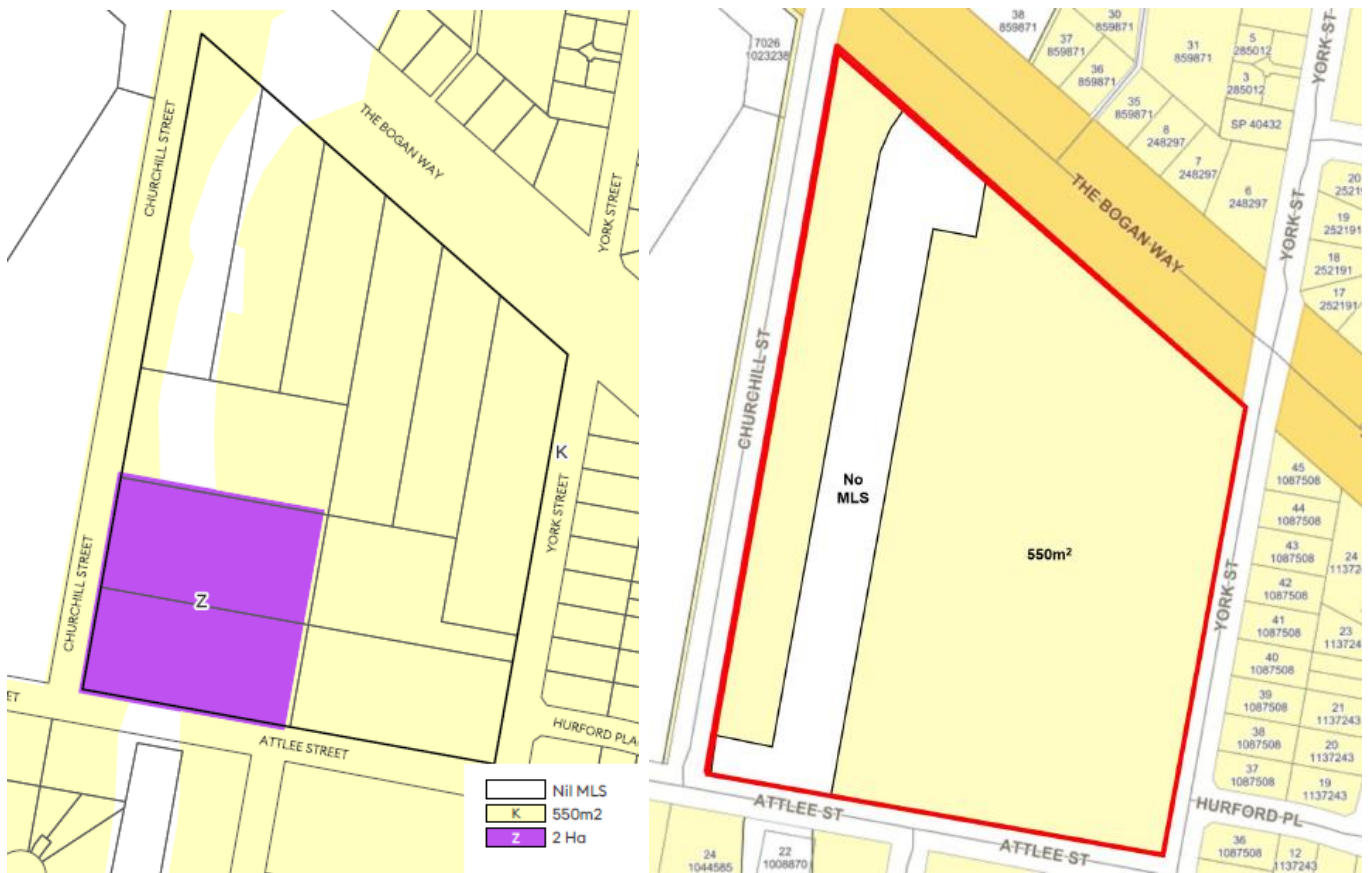


Figure 5 Current (left) and proposed (right) lot size map (source: planning proposal)

## 2 Need for the planning proposal

The subject land is identified in the Forbes Local Strategic Planning Statement (LSPS) as a residential investigation area however it is not subsequently identified in the Forbes Housing Strategy as a growth site. The site however is currently majority zoned for residential purposes and is considered to be in a suitable location given its access to the road network, utility services, proximity to community facilities, and the town centre.

The planning proposal is the most effective means for achieving the objectives of the amendment in facilitating the increased development yield for the subject land.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Central West and Orana Regional Plan 2041.



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Objective 12 Sustain a network of healthy and prosperous centres	The proposal is consistent with this objective as it is consistent with council's local strategic planning to reinforce the beneficial housing and employment relationships between the regional cities and strategic centres and their surrounding centres.
Objective 13 Provide well located housing options to meet demand  Objective 14 Plan for diverse, affordable resilient and inclusive housing	Whilst the land is not specified in the Forbes Housing Strategy it is currently zoned residential and in close proximity to existing residential areas with connection to council infrastructure. The proposal is consistent with these objectives.

## 3.2 Local


The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives as outlined in Section 2 of this report.

## 3.3 Section 9.1 Ministerial Directions

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

**Table 5 9.1 Ministerial Direction assessment**

Directions	Consistent/ Inconsistent	Reasons
1.1 Implementation of Regional Plans	Consistent	As discussed in Section 3.1 of this report, the proposal is consistent with the objectives of the relevant regional plan.
3.1 Conservation Zones	Consistency unknown, consultation required	<p>The proposal is inconsistent with this direction as it seeks to remove the C3 Environmental Management zone from the subject land. The proposal considers this zone redundant as it also seeks to realign the RE1 zoning to encompass the watercourse.</p> <p>It is also noted that the identified remnant trees are situated in the currently zoned R1 portion of the site.</p> <p>Consultation is recommended with DCCEEW to resolve this inconsistency. A condition of gateway has been included to this affect.</p> <p>It is noted that the direction does allow for minor inconsistency and this may be applicable due to the size of the land affected, 1ha within a 7ha site.</p>
3.2 Heritage Conservation	Consistent	No heritage items are located on the site.
4.1 Flooding	Consistency unknown, consultation required	As outlined in Section 3.1 of this report, consultation with DCCEEW is recommended to better understand consistency.

4.4 Remediation of Contaminated Land	Consistent	<p>It is noted the animal burial pit current exists within the C3 zoning extent that covers lots 1053 &amp; 1054 DP 750158.</p>  <p>Council has considered and agreed to the Site Microbial Investigation (Anthrax) provided that recommends the site can be remediated before the land is developed. Further consideration will be undertaken at development application stage.</p> <p>No further work is required at this stage.</p>
5.1 Integrated Land Use and Transport	Consistent	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, employment, village or tourist purposes.</p> <p>Further consideration of transport related impacts will be undertaken at development application stage where concurrence may be required by Transport for NSW. No further work is required at this stage.</p>
5.2 Reserving land for public purposes	Consistent	<p>The proposal is consistent. Clause (1) of the direction requires the relevant public authority and the Planning Secretary to approve the creation of land for public purposes. Council has indicated it supports the proposal. It is recommended the Secretary approve the proposed Council acquisition of the proposed RE1 and C3 zoned land.</p>

## 6.1 Residential Zones

Consistent

The objectives of this direction are to encourage a variety and choice of housing types to provide for existing and future housing needs. The proposal is consistent with this as it comprises the rezoning of the subject land for residential development and the majority of the subject land is currently zoned R1 General Residential.

## 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with relevant SEPPs and other matters will be considered at the development application stage.

### SEPP (Resilience and Hazards)

As discussed in Section 3.3 a Site Microbial Investigation (Anthrax) has also been undertaken and identifies that the subject land can be remediated for the proposed uses. Further consideration of this report and any additional investigation will be undertaken during development assessment stage.

## 4 Site-specific assessment

### 4.1 Environmental

As discussed in Section 3.3 of this report, the proposal is accompanied by a Site Microbial Investigation (Anthrax) due to the presence of an animal burial pit on the subject land. Further consideration of this will occur at development application stage.

The subject land is impacted by low levels of stormwater flooding in major events. The majority of the areas impacted by flooding have been designed as recreational areas to mitigate impacts. Council has noted that any development that may be subject to flooding will need to comply with Council's flood controls.

Consultation with DCCEEW is recommended with respect to flooding and the removal of the E3 zone.

### 4.2 Social and economic

The proposal is expected to have positive social and economic effects on the surrounding area through the creation of housing to help meet Forbes' demand for diverse housing options and associated jobs during construction.

### 4.3 Infrastructure

The subject land is majority already residentially zoned area and future development will have access to existing service network. Further consideration will be undertaken at development application stage.

## 5 Consultation

### 5.1 Community

The planning proposal indicates a community consultation period of 20 working days. The exhibition period proposed is considered appropriate, and forms a conditions of the Gateway determination.



## 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

As identified in this report, DCCEEWS recommended to be consulted on the planning proposal and given 30 working days to comment.

## 6 Timeframe

Council proposes a 10 month time frame to complete the LEP.

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

The Department recommends an LEP completion date of 24 April 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

Council has advised that it would like to exercise its functions as a local plan-making authority. 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:

- Note that the consistency with section 9.1 Directions 3.1 Conservation zones and 4.1 Flooding are unresolved and will require justification.
- Approve the creation of land for public purposes as required by Section 9.1 Direction 5.2 Reserving Land for Public Purposes.

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. Consultation is required with the following public authorities:
  - Department of Climate Change, Energy, Environment and Water
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.

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 18 February 2025 be included on the Gateway.



23/4/2024

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\_\_\_\_\_ 24/4/24

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