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Bega Valley Local Environmental Plan 2013

Planning Proposal:

Boundary adjustments and Split zones

September 2015



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Part 1 – Objectives or Intended Outcomes

The objectives of this Planning Proposal are to:

1. Enable boundary adjustments where the resulting lots are smaller than the minimum lot size and give landowners greater opportunity to achieve the objectives of the zone.
2. Provide for the subdivision of land with a split zone that promotes suitable land uses and development.

Part 2 – Explanation of the Provisions

This planning proposal will amend BVLEP 2013 in the following manner:

- **Insert the following new provisions;**

4.2E Exceptions to minimum subdivision lot size for boundary adjustments

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to all land within the Bega Valley Local Government Area.
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the consent authority is satisfied that the subdivision:
 - a) will not result in an increase in the number of lots, and
 - b) will not result in an increase in the number of dwellings that may be erected on any of the lots, and
 - c) will not result in lots that are inconsistent with the uses for which the existing allotments were originally created.
- (4) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following:
 - a) whether or not the subdivision will maintain or improve the environmental values and agricultural viability of the land,
 - b) potential impact on the natural and physical constraints affecting the land, taking into account the long-term maintenance, management and protection of any lots,
 - c) compatibility with existing or potential land uses and measures that are deemed necessary to avoid or minimise any potential impact.
- (5) This clause does not apply in relation to a subdivision under the *Community Land Development Act 1989*, the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

4.2F Exceptions to minimum subdivision lot sizes for resulting lots

- (1) The objectives of this clause are as follows:
 - (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,
 - (b) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.
- (2) This clause applies to each lot (an "**original lot**") that may contain land within any zone.
- (3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the "**resulting lots**") if:
 - (a) one of the resulting lots will contain all of the land within a rural or environmental zone, and:
 - (i) an existing dwelling, or
 - (ii) Land within any other zone that has an area that is not less than the minimum size shown on the *Lot Size Map* in relation to that land, and
 - (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the *Lot Size Map* in relation to that land

Part 3 – Justification

Boundary adjustments

Boundary adjustments are a minor form of development involving relatively small changes to lot boundaries that do not create any additional lots. Boundary adjustments result in positive planning outcomes by creating more logical lot boundaries that are better aligned with the inherent constraints or ownership of land.

Previously, most boundary adjustments were classed as exempt development under the Exempt and Complying Development Codes State Environmental Planning Policy (Codes SEPP) and did not require development approval by Council. However, recent changes to the Codes SEPP have made the application of the exempt provisions for boundary adjustments very restrictive.

BVLEP 2013 does not currently contain provisions that enable Council to approve boundary adjustments where the resulting lots are smaller than the specified minimum lot size. It is proposed to amend BVLEP 2013 to include a clause which will enable the consideration of development applications for boundary adjustments.

Split zones

Some of the larger parcels of land in the Shire contain multiple zones with differing subdivision potential, depending on the characteristics of the land and minimum lot size requirements.

Under the current provisions of BVLEP 2013, Council is unable to approve the subdivision of land unless each lot meets the minimum lot size requirements for that zone. Since the coming into force of BVLEP 2013 an anomaly has become evident where split zoned land (that is, one lot with two or more zones) is unable to be developed as one of the 'resultant lots' would be below the minimum lot size requirement.

A typical example of this is a lot that is partially zoned rural and partially zoned residential where the rural zoned land has an area that is less than the minimum lot size of 120ha. Under the current provisions of BVLEP 2013 the residential component of the land is unable to be developed as the rural lot would be less than the minimum lot size. As a result a number of planned residential subdivisions have not been able to proceed.

To rectify this issue, it is proposed to amend BVLEP 2013 include a clause which will enable the consideration of development applications for the creation of lots on land with split zones.

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. BVLEP 2013 was based on the NSW Government's Standard Instrument and came into effect in August 2013. Since that date, two issues involving the inability to approve boundary adjustments and the creation of lots resulting from land with split zones have affected a number of councils in NSW. These issues have been recognised by the NSW Department of Planning and Environment through the approval of amendments to a number of other councils' LEPs. Accordingly, Council has drafted two clauses for inclusion in BVLEP 2013 based on the wording and formatting of clauses that have been approved by the NSW Department of Planning and Environment in other LEPs.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

Yes. Council could amend the minimum lot size maps to provide for boundary adjustments and subdivision within split zones on certain land within the Shire. However this would not provide enough flexibility to allow for the range of future boundary adjustments or subdivisions that might be proposed nor would it satisfy the objectives of the BVLEP 2013 or result in better planning outcomes.

Section B – Relationship to Strategic Planning Framework

Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South Coast Regional Strategy

The primary purpose of the South Coast Regional Strategy (SCRS) is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

This proposal is consistent with the objectives and actions of the SCRS. In particular, it is in accordance with the actions relating to housing and settlement and rural landscapes and rural communities being:

- Councils will plan for a range of housing types of appropriate densities, location and suitability, capable of adapting and responding to the aging population;
- The location of non-compatible uses in core productive areas will be limited to allow agricultural land to be used for farming; and
- Local environmental plans will include minimum subdivisions standards for rural and environmental protection zones

Q4. Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community. Two of the key aims of the CSP are:

- to support a place where everyone regardless of age or circumstance can enjoy a safe, involved and affordable community life; and
- to ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity.

In terms of outcomes, this Planning Proposal is consistent with these two aims of the CSP by enabling development that:

- supports a range of housing choices that are affordable, sustainable and suited to the needs of the community; and
- provides for the efficient management of land by minimising and managing impacts on the farming operations and natural environment.

Q5. Is the Planning Proposal consistent with applicable State Environment Planning Policies?

This Planning Proposal is consistent with the applicable State Environmental Planning Policies (SEPPs).

The SEPPs that are applicable to this Planning Proposal are detailed in this Section. For a complete checklist of SEPPs refer to Attachment 2.

SEPP (Exempt and Complying Development Codes) 2008

This Policy aims to provide streamlined assessment processes for development that complies with specified development standards.

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the provisions contained within the

SEPP No. 14 Coastal Wetlands

The aim of this policy is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the remediation of Coastal Wetlands provisions. Any future development application within SEPP 14 Coastal Wetlands would be assessed in accordance with these provisions.

SEPP No. 44 Koala Habitat Protection

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:

(a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and

- (b) by encouraging the identification of areas of core koala habitat, and*
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.*

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the remediation of Koala Habitat provisions. Any future development application within Koala Habitat would be assessed in accordance with these provisions.

SEPP No. 55 Remediation of land

The remediation of land applies to the State with the aim of facilitating the remediation of contaminated land.

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the remediation of land provisions. Any future development application within contaminated land would be assessed in accordance with these provisions.

SEPP No. 71 Coastal Protection

SEPP 71 controls development in the coastal zone. SEPP 71 aims to ensure that development in the NSW coastal zone is appropriate and suitably located, that there is a consistent and strategic approach to coastal planning and management, and that there is a clear development assessment framework for the coastal zone.

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions. Any future development application within the coastal zone would be assessed in accordance with these provisions.

SEPP (Rural Lands) 2008

SEPP (Rural Lands) 2008 facilitates the orderly and economic use and development of rural lands for rural and related purposes. Clause 10(3) of SEPP (Rural Lands) 2008 prescribes a number of matters for consideration in determining development applications for rural subdivisions or rural dwellings. The Clause applies to land in a rural zone, a rural residential zone or an environment protection zone.

This Planning Proposal is consistent with the principles of the SEPP and will directly assist in the facilitation of the orderly and economic use of rural lands for rural and related purposes.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions?

This Section addresses consistency with applicable Section 117 Directions. Attachment 3 contains a complete list of all 117 Ministerial Directions that are applicable in the Bega Valley Shire.

1.1 Business and Industrial Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed Business or Industrial Zone. The objective of this Direction is to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.

This Planning Proposal is not seeking to rezone any land within business and industrial zones. Therefore, this Planning Proposal is consistent with this Direction as it will not impact on the existing use or future development of employment land.

1.2 Rural Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this Direction is to protect the agricultural production value of rural land.

This Planning Proposal is inconsistent with this Direction as it may increase the density of development on land that is currently used for agricultural production by enabling the subdivision of land with a split zone involving land zoned RU1 Primary Production or RU2 Rural landscape. However, the provisions of this planning proposal that are inconsistent with this Direction are of minor significance and justifiable on the basis that they provide for the subdivision of land on a very limited number of sites and that any resulting subdivision must be in accordance with the objectives of the existing zones.

The provisions of this planning proposal that relate to boundary adjustments are consistent with this Direction as they will provide for the better management of rural land and do not create any additional development opportunities or the potential for land use conflict between residential and rural land uses.

1.5 Rural Lands

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.

The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This Planning Proposal is consistent with this Direction because it conforms to the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008 and would not compromise the production value or development of rural land for rural purposes. The proposed clauses include the following criteria;

- Whether or not the subdivision will maintain or improve the environmental values and agricultural viability of the land.
- Potential impact on the natural and potential constraints affecting the land, taking into account the long-term maintenance, management and protection of any lots.
- Compatibility with existing or potential land uses and measures that are deemed necessary to avoid or minimise and potential impact.

2.1 Environment Protection Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal. The objective is to protect and conserve environmentally sensitive areas.

This Planning Proposal is inconsistent with this Direction as it may increase the density of development on land that is currently zoned E3 Environmental Management or E4 Environmental Living. However, the inconsistency is of minor significance and justifiable on the basis that the planning proposal provides for the subdivision of land in accordance with the objectives of the existing zones and will not impact on the provisions that currently apply to protect and conserve environmentally sensitive areas.

2.2 Coastal Protection

This Direction applies when a planning authority prepares a Planning Proposal that applies to land in the Coastal Zone. The objective is to implement the principles in the NSW Coastal Policy.

This Planning Proposal is inconsistent with this Direction as it may increase the density of development on land that is within the Coastal Zone. However, this inconsistency is of minor significance and justifiable on the basis that the provisions of the planning proposal will not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy.

4.1 Acid Sulphate Soils

This Direction applies when a relevant planning authority prepares a Planning Proposal that will apply to land having a probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps.

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has the probability of containing Acid Sulphate Soils.

This Planning Proposal is inconsistent with this Direction as it may apply to land that is identified on the Acid Sulphate Soils Planning Maps. However, this inconsistency is of minor significance and justifiable on the basis that the provisions of the planning proposal will not contradict or hinder the application of the Acid Sulphate Soils provisions contained in BVLEP 2013 which require the impacts of any development on Acid Sulphate Soils to be determined at the time of the development application.

4.3 Flood Prone Land

This Direction applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This Planning Proposal is consistent with this Direction as it does not propose to rezone any flood prone land. With the objective of implementing the principles of the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, BVLEP 2013 contains a clause that specifically deals with flood planning issues.

4.4 Planning for Bushfire Protection

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land. The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.

The properties that are the subject of this Planning Proposal may contain bushfire vegetation within category 1 and/or 2, therefore consultation with the NSW Rural Fire Service under Section 56 of the *Environmental Planning and Assessment Act 1979* will form part of the Planning Proposal process. This Planning Proposal does not contradict or hinder the application of the provisions contained within Planning for Bushfire Protection 2006.

5.1 Implementation of Regional Strategies

Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.

This Planning Proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South Coast Regional Strategy (SCRS).

6.1 Approval and Referral Requirements

Planning Proposals must minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority without approval from the relevant Minister or public authority; and the Director General of Department of Planning and not identify development as designated development unless justified.

This Planning Proposal is consistent with this Direction as it does not introduce concurrence, consultation or referral requirements or identify development as designated development.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no declared critical habitat in the Bega Valley Shire. It is not expected that this Planning Proposal will result in any adverse effect on threatened species, populations or ecological communities or their habitats. Any potential impact on these habitats and communities would be assessed as part of the development application.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is not expected that this Planning Proposal will result in any other likely environmental effects.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will have positive social and economic effects by providing greater flexibility in the subdivision of rural land and creating opportunities for more efficient use of land.

Section D – State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

As the Planning Proposal does not provide for an increase in the number of lots or dwelling houses, it is considered that there is likely to be little or no increase in the demand for public infrastructure from that which currently exists.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with State and Commonwealth public authorities has not yet been undertaken. The level of consultation will be determined by the NSW Department of Planning and Infrastructure when it makes its Gateway Determination.

Government agencies identified for consultation with regard to this Planning Proposal are:

- NSW Department of Primary Industries
- NSW Rural Fire Service

Part 4 – Mapping

This Planning Proposal does not involve amendments to the BVLEP 2013 maps.

Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. If this Planning Proposal is supported, it is likely that the Proposal will be exhibited as a 'low' impact proposal for a period of not less than 14 days in accordance with Section 5.5.2 of *A Guide to Preparing LEPs*. A 'low' impact proposal is defined as '*a planning proposal that, in the opinion of the person making the Gateway determination is:*

- *Consistent with the pattern of surrounding land use zones and/or land uses;*
- *Consistent with the strategic planning framework;*
- *Presents no issues with regard to infrastructure servicing;*
- *Not a principle LEP; and*
- *Does not re-classify public land'.*

Public exhibition of the Planning Proposal will include notification on the Bega Valley Shire Council website, newspapers that circulate widely in the area (Merimbula News Weekly, Eden Magnet and Bega District News) and by email to development industry professionals within the Shire.

Information relating to the Planning Proposal will also be on display at the following Bega Valley Shire Council customer service centres:

Place	Address
Bega	Zingel Place, Bega NSW 2551
Merimbula	Market St, Merimbula NSW 2548
Eden	Cnr Imlay and Mitchell St, Eden NSW 2550
Bermagui	Bunga St, Bermagui NSW 2546

Part 6 – Timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to *Bega Valley Local Environmental Plan 2013* will be completed by February 2017.

Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council's General Manager or Director of Planning and Environmental Services.

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit Planning Proposal to the Department	September 2015
STAGE 2 – Receive Gateway Determination	October 2015
STAGE 3 – Preparation of documentation for Public Exhibition	November 2015
STAGE 4 – Public Exhibition of the Planning Proposal	December 2015
STAGE 5 – Review/consideration of submissions received	January 2016
STAGE 6 – Council Report	March 2016
STAGE 7 – Meetings	June 2016
STAGE 8 – Forward Planning Proposal to Department of Planning and Infrastructure with request amendment is made	September 2016
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	January 2017
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	February 2017

Attachments

Attachment 1: Council report and resolutions

Council Report: Planning and Environment Committee 12 August 2015

No 8.2 Proposed Amendments to Local Environmental Plan 2013 boundary adjustments and subdivision of land with split zones

The purpose of this report is to recommend two amendments to BVLEP 2013 to enable Council to consider development applications for boundary adjustments and the subdivision of land with split zones.

Background

The Bega Valley Local Environmental Plan 2013 (BVLEP 2013) was based on the NSW Government's Standard Instrument and came into effect in August 2013. Since that date, two issues involving the inability to approve boundary adjustments and the creation of lots resulting from land with split zones have affected a number of councils in NSW.

These issues have been recognised by the NSW Department of Planning and Environment through the approval of amendments to a number of other councils' LEPs. Accordingly, Council staff has drafted two clauses for inclusion in BVLEP 2013 based on the wording and formatting of clauses that have been approved by the NSW Department of Planning and Environment in other LEPs. The aim of these new clauses is to enable Council to consider development applications for boundary adjustments and the creation of lots resulting from land with split zones (that is, one lot with two or more zones).

The following is a discussion of the two issues and the draft clauses proposed for inclusion in BVLEP 2013.

Discussion

Boundary adjustments

Boundary adjustments are a minor form of development involving relatively small changes to existing lot boundaries that do not create any additional lots. Boundary adjustments result in positive planning outcomes by creating more logical lot boundaries that are better aligned with the inherent constraints or ownership of land.

Previously, most boundary adjustments were classed as exempt development under the Exempt and Complying Development Codes State Environmental Planning Policy (Codes SEPP) and did not require development approval by Council. However, recent changes to the Codes SEPP have made the application of the exempt provisions for boundary adjustments very restrictive.

BVLEP 2013 does not currently contain provisions that enable Council to approve boundary adjustments where the resulting lots are smaller than the specified minimum lot size. It is proposed to amend BVLEP 2013 to enable the consideration of development applications for boundary adjustments by including the following clause:

4.2E Exceptions to minimum subdivision lot size for boundary adjustments

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to all land within the Bega Valley Local Government Area.
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the consent authority is satisfied that the subdivision:
 - a) will not result in an increase in the number of lots, and
 - b) will not result in an increase in the number of dwellings that may be erected on any of the lots, and
 - c) will not result in lots that are inconsistent with the uses for which the existing allotments were originally created.
- (4) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following:
 - a) whether or not the subdivision will maintain or improve the environmental values and agricultural viability of the land,
 - b) potential impact on the natural and physical constraints affecting the land, taking into account the long-term maintenance, management and protection of any lots,
 - c) compatibility with existing or potential land uses and measures that are deemed necessary to avoid or minimise any potential impact.
- (5) This clause does not apply in relation to a subdivision under the [Community Land Development Act 1989](#), the [Strata Schemes \(Freehold Development\) Act 1973](#) or the [Strata Schemes \(Leasehold Development\) Act 1986](#).

Split zones and resulting lots

Some of the larger parcels of land in the Shire contain multiple zones with differing subdivision potential, depending on the characteristics of the land and minimum lot size requirements.

Under the current provisions of BVLEP 2013, Council is unable to approve the subdivision of land unless each lot meets the minimum lot size requirements for that zone.

Since the coming into force of BVLEP 2013 an anomaly has become evident where split zoned land is unable to be developed as one of the 'resultant lots' would be below the minimum lot size requirement.

A typical example of this is a lot that is partially zoned rural and partially zoned residential where the rural zoned land has an area that is less than the minimum lot size of 120ha. Under the current provisions of BVLEP 2013 the residential component of the land is unable to be developed as the resultant rural lot would be less than the minimum area requirement. As a result a number of planned residential subdivisions have not been able to proceed.

To rectify this issue, the following clause is proposed for inclusion in BVLEP 2013:

4.2F Exceptions to minimum subdivision lot sizes for resulting lots

- (1) The objectives of this clause are as follows:

- (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,
 - (b) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.
- (2) This clause applies to each lot (an **"original lot"**) that may contain land within any zone.
- (3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the **"resulting lots"**) if:
 - (a) one of the resulting lots will contain all of the land within a rural or environmental zone, and:
 - (i) an existing dwelling, or
 - (ii) Land within any other zone that has an area that is not less than the minimum size shown on the *Lot Size Map* in relation to that land, and
 - (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the *Lot Size Map* in relation to that land.

Examples of subdivision of lots with split zonings

Figure 1: Scenario 1 – Existing dwelling on lot with split zoning

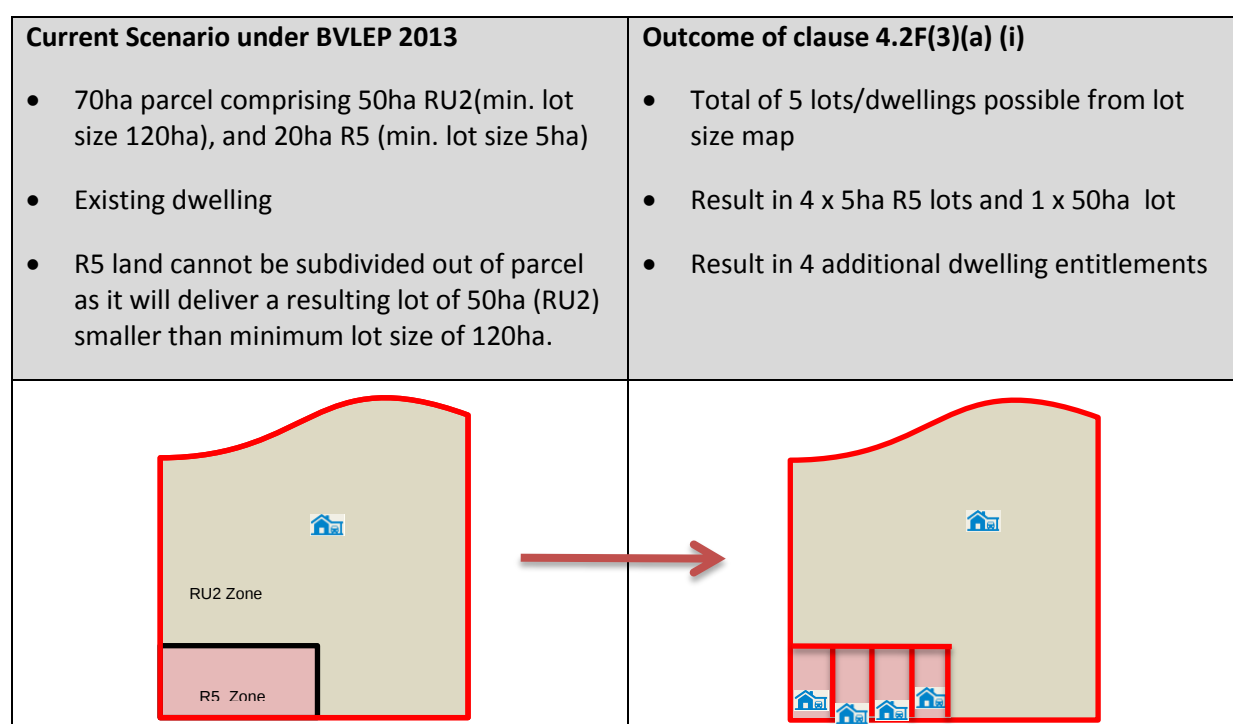
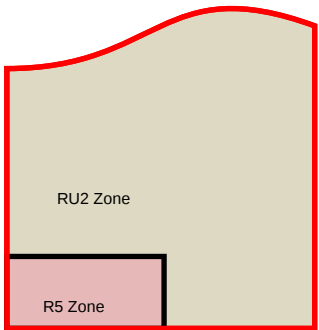
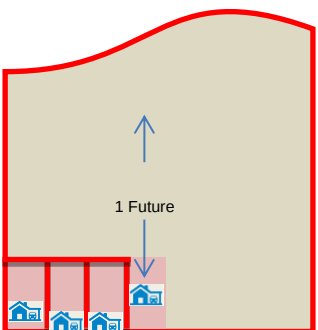


Figure 2: Scenario 2 – Vacant Lot with split zoning

Current Scenario under BVLEP 2013	Outcome of clause 4.2F(3)(a) (ii)
• 70ha parcel comprising 50ha RU2 (min. lot size 120ha), and 20ha R5 (min. lot size 5ha) • No existing dwelling • R5 land cannot be subdivided out of parcel as it will deliver a resulting lot of 50ha (RU2) smaller than minimum lot size of 120ha.	• Total of 4 lots/dwellings possible from lot size map • To enable subdivision of R5 land, a section of R5 land must be incorporated with RU2 land. • Result in 3 x 5ha R5 lots and 1 x 55ha split zoned lot • Result in 4 additional dwelling entitlements
	

Community consultation

It is proposed to undertake consultation of the recommended amendments in accordance with the NSW Department of Planning and Environment's Gateway Determination, which is likely to include a public exhibition period of at least 14 days. Consultation will involve notification in local newspapers and posting the details of the proposed amendments on Council's website.

Conclusion

Currently the ability to undertake boundary adjustments or subdivide land with multiple zones is restricted by BVLEP 2013. To rectify this, Council staff has developed clauses for inclusion in BVLEP 2013 based on wording and formatting which is consistent with other LEPs across the State and supported by the NSW Department of Planning and Environment.

The proposed amendments are compatible with the aims of BVLEP 2013 and would not to alter the subdivision potential of land or existing dwelling entitlements, or have a negative impact on agricultural production, environmental values or surrounding land uses.

Recommendation

1. That Council staff prepare a planning proposal to amend Bega Valley Local Environmental Plan 2013 to include the draft clauses detailed in the body of this report to enable Council to consider development applications for boundary adjustments and subdivision of land with split zonings.
2. That the planning proposal be forwarded to the Department of Planning and Environment's Gateway Panel for determination.

Council Minutes: Planning and Environment Committee 12 August 2015

No 8.2 Proposed Amendments to Local Environmental Plan 2013 boundary adjustments and subdivision of land with split zones

RESOLVED

1. That Council staff prepare a planning proposal to amend Bega Valley Local Environmental Plan 2013 to include the draft clauses detailed in the body of this report to enable Council to consider development applications for boundary adjustments and subdivision of land with split zonings.
2. That the planning proposal be forwarded to the Department of Planning and Environment's Gateway Panel for determination.

Attachment 2: State Environmental Planning Policies

State Environmental Planning Policy		Compliance
SEPP No. 1	Development Standard	N/A
SEPP No. 4	Development without Consent and Miscellaneous Exempt and Complying Development	N/A
SEPP No. 6	Number of Storeys in a Building	N/A
SEPP No. 14	Coastal Wetlands	Consistent
SEPP No. 15	Rural Land Sharing Communities	N/A
SEPP No. 19	Bushland in Urban Areas	N/A
SEPP No. 21	Caravan Parks	N/A
SEPP No. 22	Shops and Commercial Premises	N/A
SEPP No. 26	Littoral Rainforests	N/A
SEPP No. 29	Western Sydney Recreational Area	N/A
SEPP No. 30	Intensive Agriculture	N/A
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No. 33	Hazardous and Offensive Development	N/A
SEPP No. 36	Manufactured Home Estates	N/A
SEPP No. 38	Olympic Games and Related Projects	N/A
SEPP No. 39	Spit Island Bird Habitat	N/A
SEPP No. 41	Casino/Entertainment Complex	N/A
SEPP No. 44	Koala Habitat Protection	Consistent
SEPP No. 47	Moore Park Showground	N/A
SEPP No. 50	Canal Estate Development	N/A
SEPP No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No. 53	Metropolitan Residential Development	N/A
SEPP No. 55	Remediation of Land	Consistent
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	N/A
SEPP No. 59	Central Western Sydney Regional and Open Space and Residential	N/A
SEPP No. 60	Exempt and Complying Development	N/A
SEPP No. 62	Sustainable Aquaculture	N/A
SEPP No. 64	Advertising and Signage	N/A
SEPP No. 65	Design Quality of Residential Flat Development	N/A
SEPP No. 70	Affordable Housing (Revised Schemes)	N/A
SEPP No. 71	Coastal Protection	Consistent
SEPP No. 74	Newcastle Port and Employment Lands	N/A
SEPP	Housing for Seniors or People with a Disability 2004	N/A
SEPP	Building Sustainability Index: BASIX 2004	N/A
SEPP	Major Development 2005	N/A
SEPP	Development on Kurnell Peninsula 2005	N/A
SEPP	Sydney Region Growth Centres 2006	N/A
SEPP	Mining, Petroleum Production and Extractive Industries 2007	N/A
SEPP	Infrastructure 2007	N/A
SEPP	Temporary Structures 2007	N/A
SEPP	Kosciuszko National Park – Alpine Resorts 2007	N/A
SEPP	Rural Lands 2008	Consistent
SEPP	Affordable Rental Housing 2009	N/A
SEPP	Western Sydney Employment Area 2009	N/A
SEPP	Exempt and Complying Development Codes 2008	Consistent
SEPP	Western Sydney Parklands 2009	N/A

Attachment 3: Section 117 Ministerial Directions

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent
1.2 Rural Zones	Consistent
1.3 Mining, Petroleum and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	Consistent
2. Environment and Heritage	
2.1 Environment Protection Zone	Consistent
2.2 Coastal Protection	Consistent
2.3 Heritage Conservation	N/A
2.4 Recreation Vehicle Areas	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	N/A
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Consistent
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	Consistent
4.4 Planning for Bushfire Protection	Consistent
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.5 Second Sydney Airport: Badgerys Creek	N/A
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A