

BEGA VALLEY SHIRE COUNCIL

Bega Valley Local Environmental Plan 2013

Draft Planning Proposal: Minor Amendments 3

September 2015

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Part 1 – Objectives or Intended Outcomes

The implementation and application of Bega Valley Local Environmental Plan 2013 (BVLEP 2013) has inadvertently resulted in a number of minor zone and lot size map anomalies and some inconsistencies within two of the land use tables which require rectification.

The objectives of this Planning Proposal are to permit minor amendments to BVLEP 2013 and associated maps to resolve these anomalies and to prohibit certain uses occurring in some residential zones to reflect existing character of the Shire's urban areas.

Part 2 – Explanation of the Provisions

To achieve the objectives outlined in Part 1, this Planning Proposal seeks to amend BVLEP 2013 in the following manner:

1. Various lots Wonboyn village
 - Amend map sheet LSZ_022A by removing U 1000sqm and applying V 2000sqm to various lots on North St, Wonboyn Rd and Acacia Ave, Wonboyn
2. Various lots Glen Mia Estate, Bega
 - Amend map sheet LSZ_011C by removing K 550sqm and applying W 4000sqm to various lots on Glen Mia Dr, Bridle Pl, Dennison Cl and Koma Cct, Glen Mia Estate, Bega
3. Lot 1 DP 377455 High St, Bega
 - Amend map sheet LZN_011B by removing RE1 Public Recreation and applying R2 Low Density Residential to Lot 1 DP 377455 High St, Bega
 - Amend map sheet LSZ_011B by applying K 550sqm to Lot 1 DP 377455 High St, Bega
 - Amend map sheet FSR_011B by applying D 0.5:1 to Lot 1 DP 377455 High St, Bega
4. Lot 304 DP 821500 Bay Drive, Mogareeka
 - Amend map sheet LZN_019B by removing E1 national parks and Nature Reserves and applying E4 Environmental Living to Lot 304 DP 821500 Bay Drive, Mogareeka
 - Amend map sheet LSZ_019B by applying V 2000sqm to Lot 304 DP 821500 Bay Drive, Mogareeka
5. BVLEP 2013 Land Use Table for Zone R2 Low Density Residential
 - Remove 'Health Consulting Rooms' from Item 3 Permitted with consent
6. BVLEP 2013 Land Use Table for Zone R3 Medium Density Residential
 - Remove 'Office Premises' and 'Retail Premises' and insert 'Commercial Premises' from Item 4 Prohibited

Part 3 – Justification

1. Wonboyn Village: Lot Size

Wonboyn is a small coastal village located approximately 30 kilometres to the southeast of Eden which is not serviced with reticulated sewer (see Figure 1).



Figure 1: Wonboyn Village - aerial photograph (subject land outlined in blue)

Clause 4.1A of BVLEP 2013 specifies that development consent for a dwelling house may not be granted on a site area less than 2,000sqm if it is not serviced by a sewerage system.

The BVLEP 2013 Lot Size Map for the RU5 Village zoned portion of Wonboyn currently contains areas with 1000, 2000 and 4,000sqm minimum lot sizes (see Figure 2). The 1,000sqm lot size is contrary to the provisions of clause 4.1A which requires a 2,000sqm minimum lot size.

The 2,000sqm lot size for unsewered residential land also applied under the previous BVLEP 2002.

It is proposed that the part of Wonboyn village that currently has a 1,000sqm minimum lot size (see Figure 3) be amended to a minimum lot size of 2,000sqm to be consistent with clause 4.1A and Council's adopted minimum lot size for all unsewered residential land.

No changes are proposed to the land zone, height of buildings or floor space ratio maps for Wonboyn.

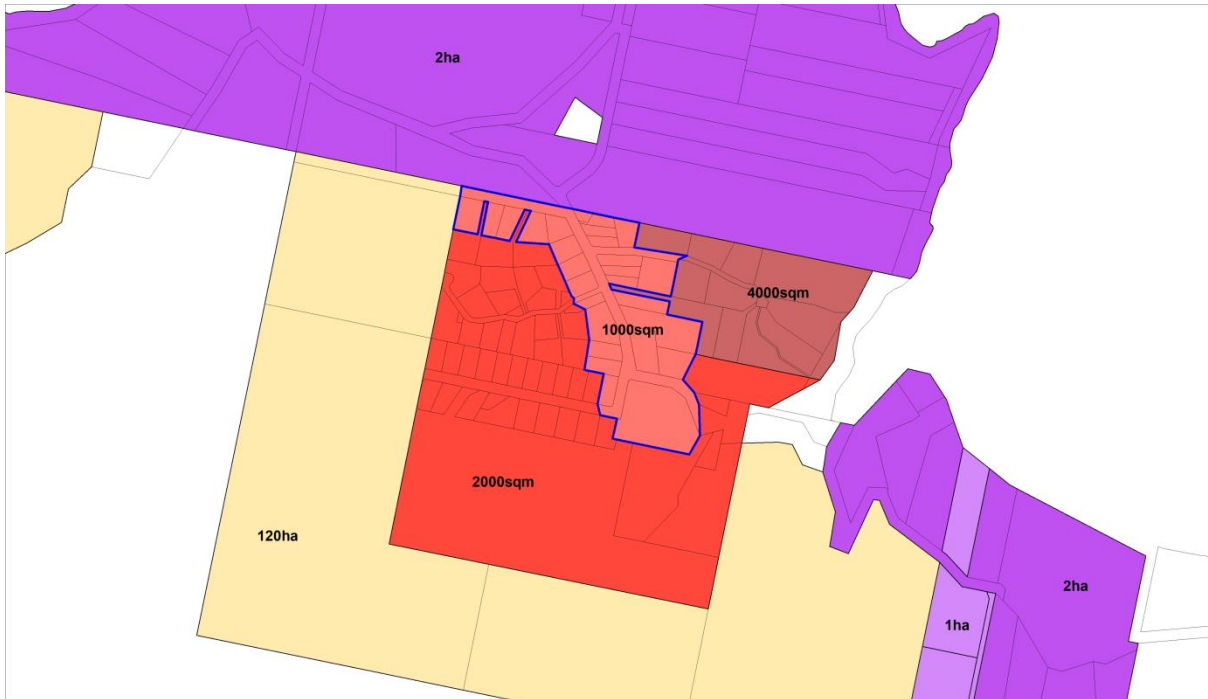


Figure 2: Wonboyn village - current minimum lot size (subject land outlined in blue)

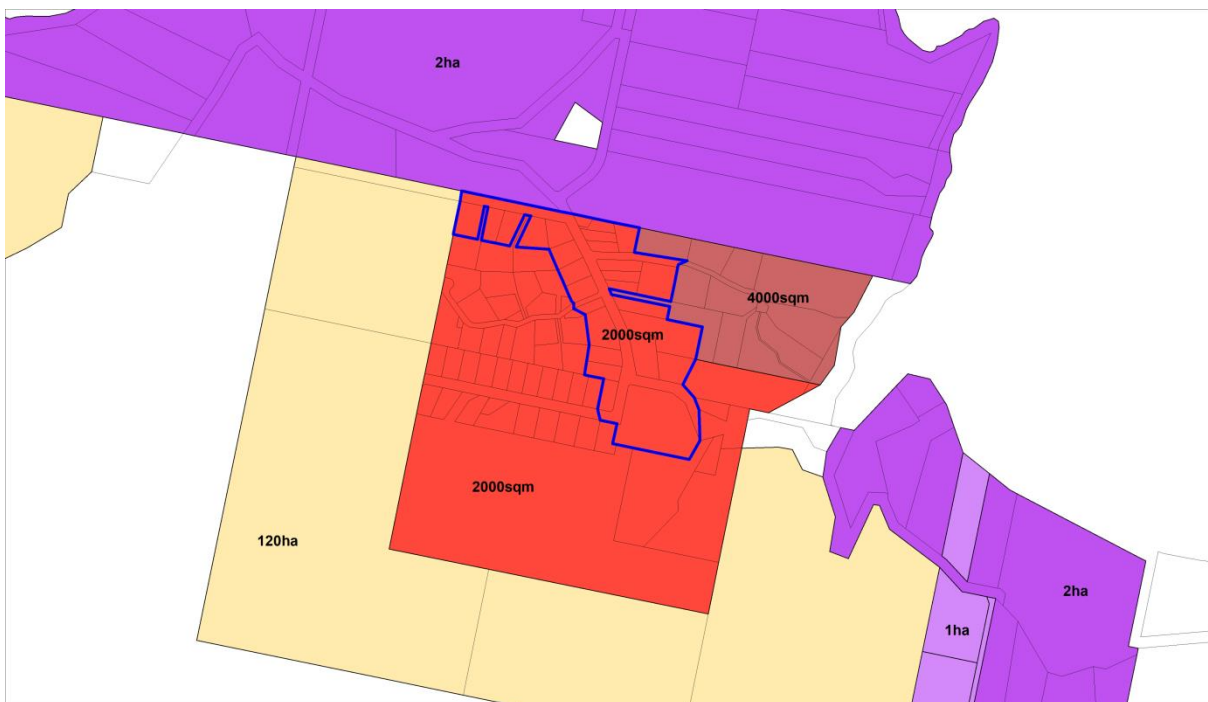


Figure 3: Wonboyn village - proposed minimum lot size (subject land outlined in blue)

2. Glen Mia Estate, Bega: Lot Size

The Glen Mia Estate on the south-eastern boundary of the Bega urban area covers an area of approximately 38 hectares (see Figure 4).



Figure 4: Glen Mia Estate - aerial photograph (Glen Mia Estate outlined in blue)

In October 2003 consent was granted by Council for a 138 lot subdivision with residential lot sizes ranging from approximately 850sqm to 6,500sqm. At the time, the proposed subdivision was the subject of extensive environmental reporting and discussion, including with the then Department of Infrastructure, Planning and Natural Resources. The approved lot yield and configuration was a direct result of this reporting and discussion and directly reflected the lands capability to support residential development.

The estate has subsequently been developed in accordance with the consent. When BVLEP 2013 was adopted, the land was zoned R2 Low Density Residential and the 550sqm minimum lot size was applied in accordance with Council's mapping protocol for R2 zoned land (see Figure 5). The history of the subdivision process which resulted in the lot yield and layout was not reflected in the lot sizing.

The current minimum lot size of 550sqm would allow the larger lots to be subdivided which would significantly change the density of the subdivision and amenity of existing residents.

It is proposed that the minimum lot size for that portion of the Glen Mia Estate with lot sizes in excess of 1,000sqm is amended from 550sqm to 4,000sqm to reflect the intention of the original consent and give a clear indication of the subdivision development potential of the land (see Figure 6 for details).

This amended lot size would not permit the further subdivision of the larger lots which would maintain the amenity of the existing residents and the approved lot yield and layout.

No changes are proposed to the land zone, height of buildings or floor space ratio maps for Glen Mia.

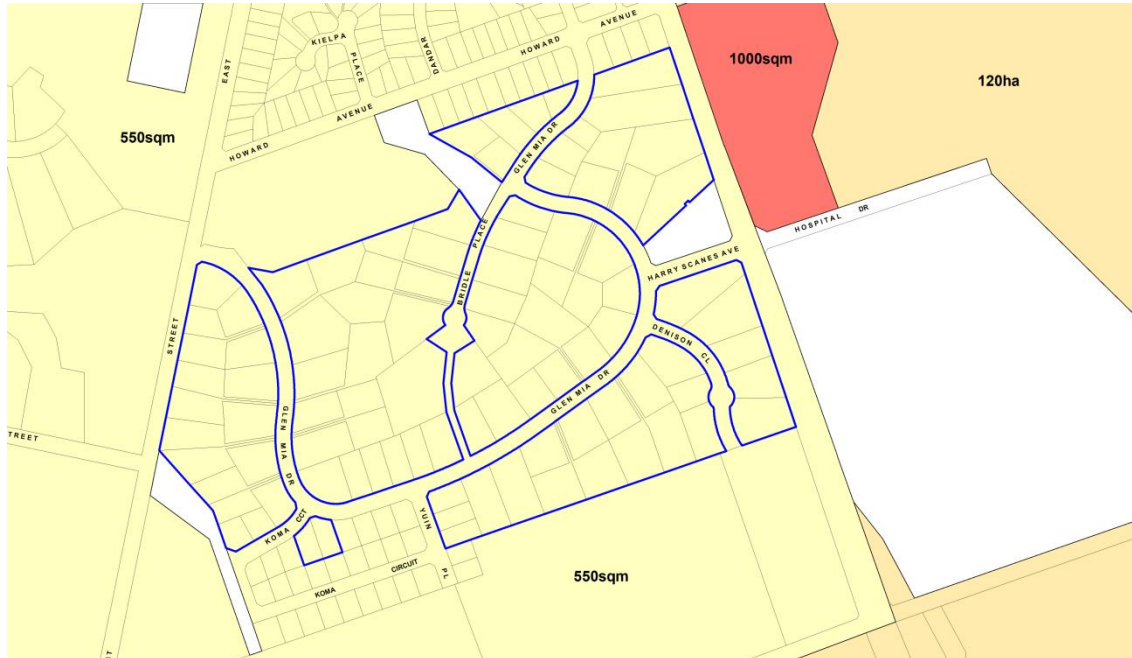


Figure 5: Glen Mia Estate - current minimum lot size (subject land outlined in blue)

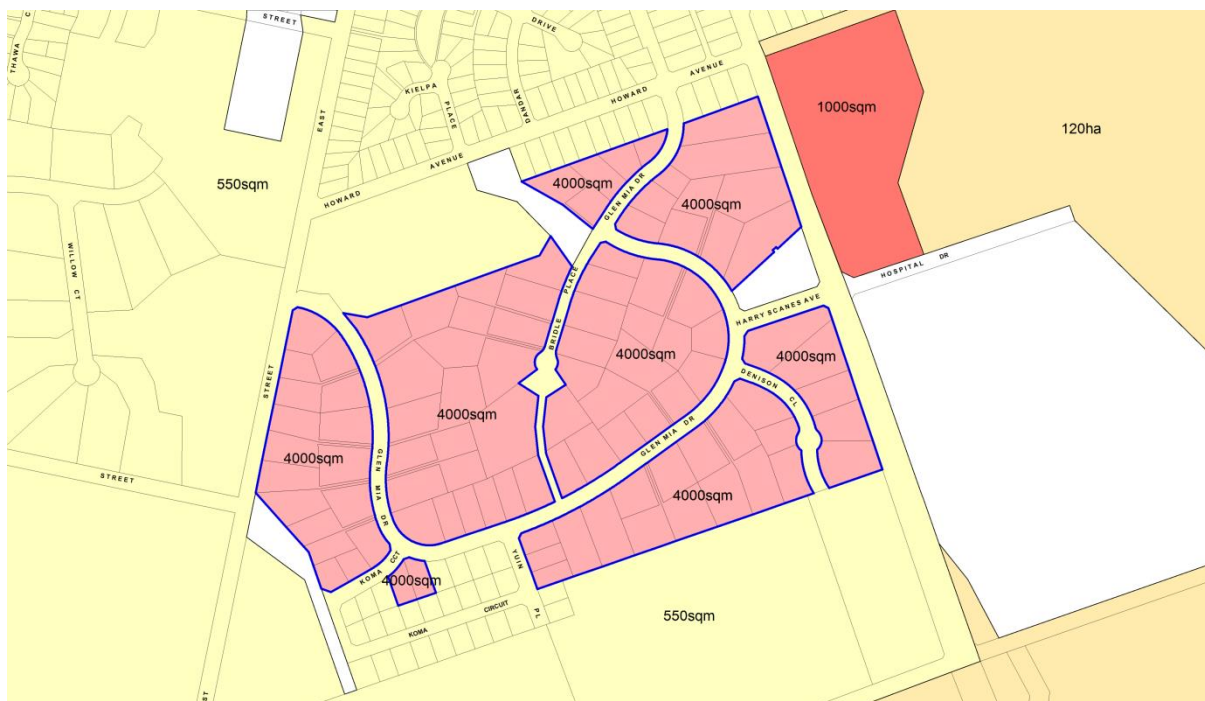


Figure 6: Glen Mia Estate - proposed minimum lot size (subject land outlined in blue)

3. Lot 1 DP 377455 High St, Bega: Zone

Lot 1 DP 377455 is located in High Street, Bega and currently contains a dwelling (see Figure 7).



Figure 7: Lot 1 DP 377455 High St, Bega - aerial photograph (subject land outlined in blue)

Lot 1 DP 377455 is privately owned but was erroneously zoned RE1 Public Recreation in BVLEP 2013. It is proposed that the land be rezoned from RE1 Public Recreation to R2 Low Density Residential and that a 550sqm minimum lot size and 0.5:1 floor space ratio is applied in keeping with the surrounding land to accurately reflect the tenure and use of the land (see Figures 8, 9 and 10).

No changes are proposed to the height of buildings map applying to Lot 1 DP 377455 which is 10m in keeping with the surrounding area.



Figure 8: Lot 1 DP 377455 High St, Bega - proposed zoning (subject land outlined in blue)

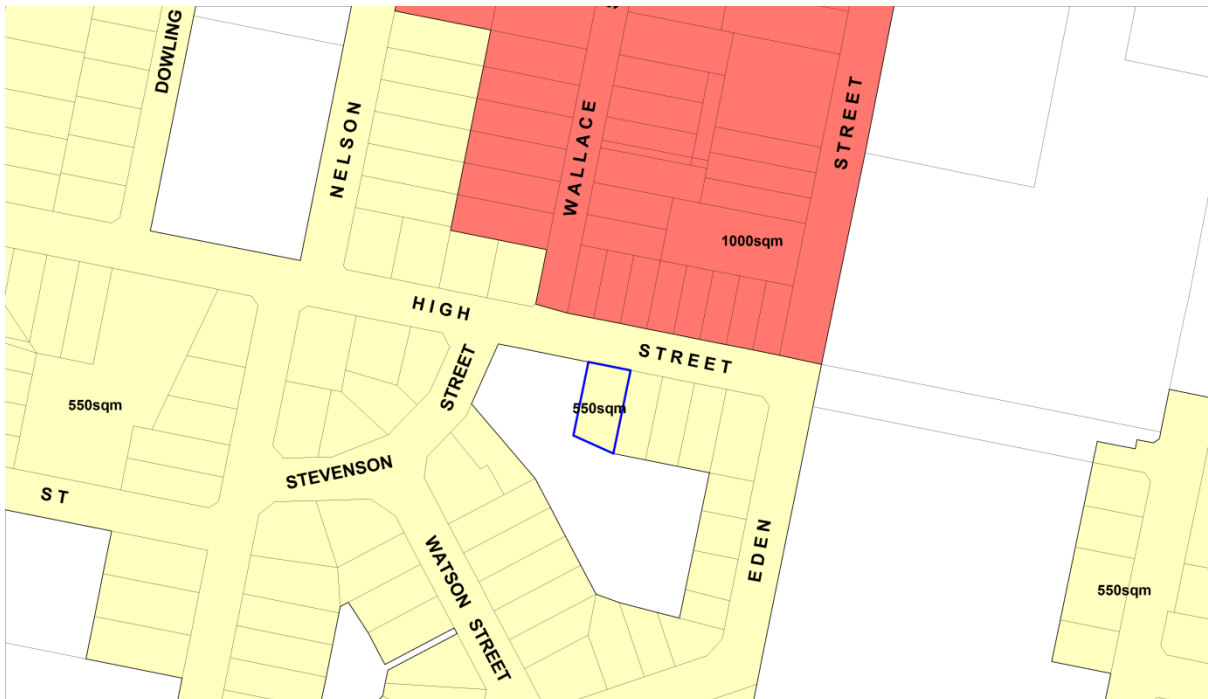


Figure 9: Lot 1 DP 377455 High St, Bega - proposed lot size (subject land outlined in blue)



Figure 9: Lot 1 DP 377455 High St, Bega - proposed floor space ratio (subject land outlined in blue)

4. Lot 304 DP 821500 Bay Dr, Mogareeka: Zone

Lot 304 DP 821500 is a privately owned lot in Bay Drive, Mogareeka. The lot is approximately 930sqm and is currently partially developed for a dwelling which also covers the two adjoining lots to the south (see Figure 11).



Figure 11: Lot 304 DP 821500 Bay Dr, Mogareeka - aerial photograph (subject land outlined in red)

Under BVLEP 2013 Lot 304 DP 821500 has been incorrectly zoned E1 National Park. Figure 11a below shows the location of the subject land to the Mimosa Rocks National Park which is indicated in green.



Figure 11a: Lot 304 DP 821500 Bay Dr, Mogareeka - aerial photograph zoomed in (subject land outlined in red, Mimosa Rocks National Park shaded green)

It is proposed that the zoning of the lot be amended from E1 National Park with no minimum lot size to E4 Environmental Living with a 2,000sqm lot size in keeping with the surrounding land to accurately reflect the tenure and use of the land (see Figures 12 and 13).

No changes are proposed to the height of buildings map applying to Lot 304 DP 821500 which is 10m in keeping with the surrounding area.

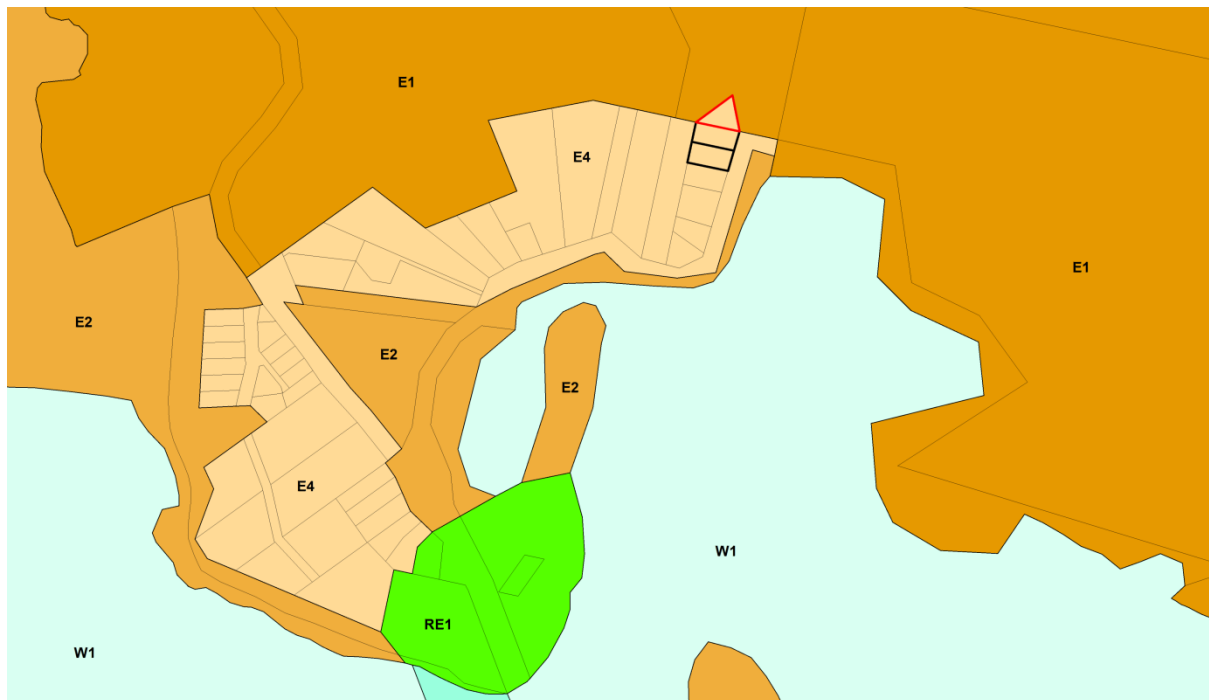


Figure 12: Lot 304 DP 821500 Bay Dr, Mogareeka - proposed zoning (subject land outlined in red)

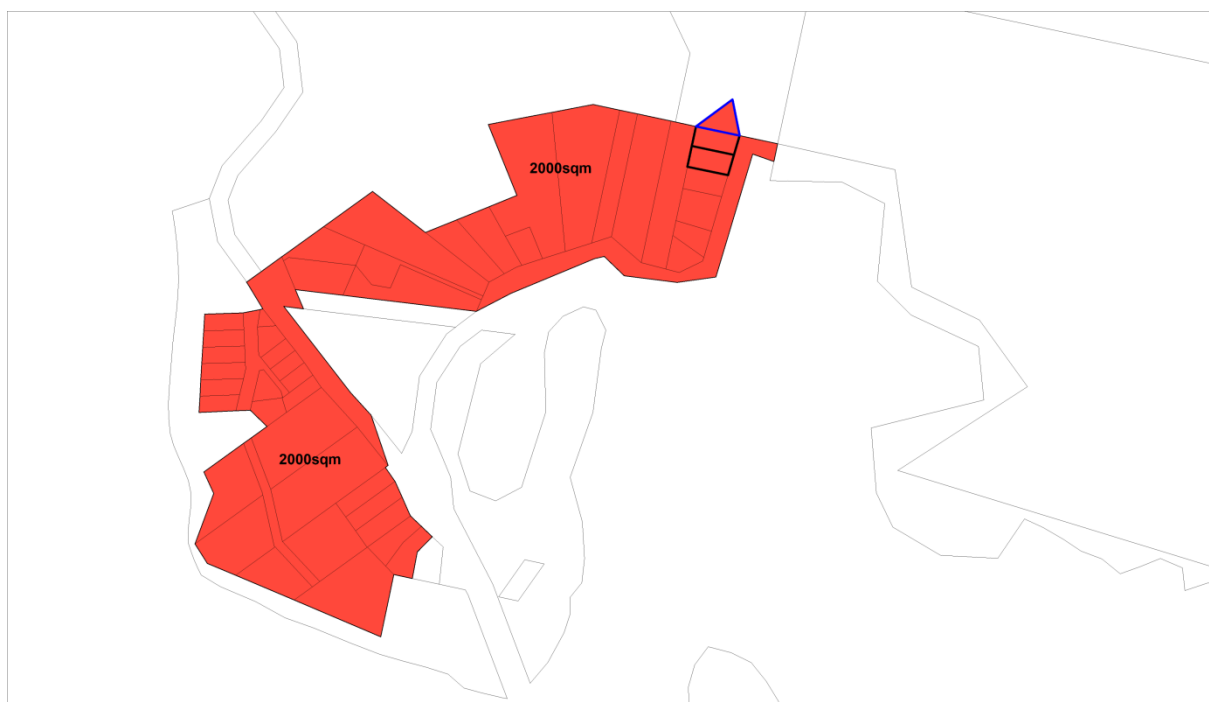


Figure 13: Lot 304 DP 821500 Bay Dr, Mogareeka - proposed lot size (subject land outlined in blue)

5. R2 Low Density Residential zone: land use table

The land use table for the R2 Low Density Residential zone currently permits consideration of development for the purpose of Health Consulting Rooms with Council consent. Health Consulting Rooms is defined as *“premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time”*. The use was permitted in the equivalent zone under BVLEP 2002 and was automatically “rolled over” in the BVLEP 2013.

In the broader context across the Shire, it is considered the use is not consistent with the character of the Bega Valley’s low density urban areas and could cause land use conflicts, particularly increases in traffic generation. As such, it is proposed that the use is removed from the land use table for the R2 Low Density Residential zone.

The implementation of BVLEP 2013 included the adoption of the new B4 Mixed Use zone. This zone permits both residential and commercial development (including Health Consulting Rooms) and has been applied broadly around the town centres of Bega and Merimbula and is currently proposed for a large area surrounding the town centre of Eden. The application and extent of the B4 zone, as well as the permissibility of Health Consulting Rooms in the R3 Medium Density Residential, B1 Neighbourhood Centre and B2 Local Centre zones, will ensure there is ample supply of ongoing opportunities for these types of development in more appropriate areas of the Shire.

For example, as part of the BVLEP 2013 process, Council zoned a large section of land as R3 Medium Density Residential at the corner of Taronga Crescent and Tathra Road, which is in close proximity to the new Regional Hospital, and permits Health Consulting Rooms.

Home Businesses and Home Occupations are permitted uses within the R2 zone and provide some flexibility to work from home, albeit at a smaller scale than that permitted by the definition of a Health Consulting Room.

It is proposed that Health Consulting Rooms is removed from the land use table for the R2 Low Density Residential zone.

6. R3 Medium Density Residential zone: land use table

The land use table for the R3 Medium Density Residential zone permits consideration of development for the purpose of Businesses Premises with Council consent. The use was not intentionally included in the zone, but was inadvertently omitted from the list of uses prohibited in the zone and is therefore permitted with consent. According to the BVLEP 2013 Dictionary, Business Premises includes (but is not limited to) funeral homes, banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like.

Council considers this use is not appropriate in the R3 Medium Density Residential zone as it can involve development of a scale and nature that is not in keeping with the character of the Shire's R3 Medium Density Residential zones. This approach is also contrary to Council's desire to consolidate commercial uses within and around the Shire's CBDs to encourage vibrant and viable town centres.

It is proposed that Businesses Premises be removed from the land use table as permitted with consent for the R3 Medium Density Residential zone and is inserted into the prohibited land uses for the zone.

Business Premises are a type of Commercial Premises in the Standard Instrument Dictionary. The other uses that come under the group term of Commercial Premises are Office Premises and Retail Premises. As Office Premises and Retail Premises are currently listed as prohibited under the Land Use Table for the R3 zone under BVLEP 2013, in accordance with the NSW Department of Planning and Environment's LEP Practice Note PN 06-003, Office Premises and Retail Premises are proposed to be deleted from the prohibited land uses list and replaced with the group term Commercial Premises.

Section A – Need for the Planning Proposal

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

No. The implementation and application of BVLEP 2013 has inadvertently resulted in four minor zone and lot size map errors and two anomalies within the land use tables which require rectification. The Planning Proposal is required to enable amendments to BVLEP 2013 and associated maps to resolve these minor errors and to prohibit certain inappropriate uses occurring in some residential zones in order to reflect the existing and desired future character of the Shire's urban areas.

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

Yes. It is considered that this Planning Proposal is the only available means of achieving the above stated objectives and intended 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 provisions in this planning proposal correct minor anomalies and are not inconsistent with the objectives and actions of the South Coast Regional Strategy.

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 identifies the long term aspirations of the Bega Valley Shire's community. This planning proposal supports the key directions of the Community Strategic Plan with regard to 'A Sustainable Place by 2030 in the Bega Valley' by ensuring:

- The character and amenity of our towns and villages is protected and enhanced.
- There is proactive planning with the community for the protection of our built and natural environment.

Q5. Is the Planning Proposal consistent with applicable State Environmental 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 No. 55 Remediation of Land

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

This planning proposal is consistent with SEPP 55. Council's records indicate that none of the land is contaminated, In addition, the subject land has been assessed to ascertain the likelihood of contamination and it is concluded that it is highly unlikely that the subject land is contaminated from past uses or existing uses on the land or other uses in the vicinity. The planning proposal does not contain provisions that will alter the existing uses of the subject land therefore the planning proposal is highly unlikely to result in land contamination or be affected by contamination from non-residential uses in the vicinity of the subject land.

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.

Lot 304 DP 821500 Mogareeka and the subject lands at Wonboyn village are located within the Coastal Zone. This planning proposal is consistent with this SEPP as it will not contradict or hinder the application of the coastal planning provisions contained within SEPP 71. Additionally, this planning proposal does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek.

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

This Planning Proposal is consistent with the applicable Section 117 Ministerial Directions. The Section 117 Ministerial Directions that are applicable to this Planning Proposal are detailed in this section. For a complete checklist of Section 117 Ministerial Directions refer to Attachment 2.

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 consistent with this Direction as it applies the E4 Environmental Living zone to Lot 304 DP 821500 Mogareeka to protect the environmental qualities of the site.

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 seeking to apply appropriate zones to Lot 304 DP 821500 Mogareeka and the subject lands at Wonboyn village are located within the Coastal Zone.

This planning proposal is consistent with this Direction as it does not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or the NSW Coastline Development Manual 1993.

With the objective of implementing the principles of the NSW Coastal Policy, this planning proposal will ensure the application of BVLEP 2013 to the subject land which includes the Standard Instrument Clauses 5.5 and 5.7 relating to development within the Coastal Zone and below mean high water mark, as well as local Clause 6.4 Coastal Risk Planning.

3.1 Residential Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted.

The objectives of this Direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services and minimise the impact of residential development on the environment and resource lands.

Lot 1 DP 377445 Bega is proposed to be zoned R2 Low Density Residential in this planning proposal. Glen Mia is currently zoned R2 Low Density Residential and Wonboyn Village is currently zoned RU5 Village. The proposed zoning, floor space ratio and lot sizes applying to

these sites as contained in this planning proposal are consistent with this Direction as they will support a range of housing choices and not reduce the permissible density of land.

The proposed amendments to the land use tables are not inconsistent with this Direction as they will affect residential development ensuring the preservation of the existing and desired future character of the Shire's urban areas.

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.

Lot 304 DP 821500 Mogareeka and the subject lands at Wonboyn village are identified as containing 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 is consistent with the objectives of this Direction as it does not encourage the establishment of incompatible land uses and appropriate development of the land can occur through 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.

As detailed at Section Q3, this Planning Proposal is consistent with the vision, land use strategy, policies, outcomes and actions defined by the South Coast Regional Strategy.

6.3 Site Specific Provisions

This Direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. The objective is to discourage unnecessarily restrictive site specific planning controls.

This Planning Proposal does not seek to include additional uses beyond what is permitted within the land use table, therefore it is consistent with this Direction.

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. With regard to threatened species, populations or ecological communities, the planning proposal does not contain provisions that will alter the existing uses of the subject land therefore the planning proposal is highly unlikely to result in any adverse impact on to threatened species, populations or ecological communities.

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 unlikely that there will be any other likely environmental effects resulting from the planning proposal because it aims to regularise the existing zones and lot sizes of the subject lands and will not result in any significant additional development.

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

It is unlikely that there will be any social or economic effects resulting from the planning proposal because it aims to regularise the existing zones and lot sizes of the subject lands and will not result in significant additional development.

Section D – State and Commonwealth Interests

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

No additional demand for infrastructure will result from this planning proposal.

Q.11 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 Planning and Infrastructure
- NSW Rural Fire Service

Part 4 – Mapping

This Planning Proposal will result in changes to the following properties on the following BVLEP 2013 maps:

LSZ_022A

Amend LSZ_022A by:

- removing U 1000sqm and applying V 2000sqm to various lots on North St, Wonboyn Rd and Acacia Ave, Wonboyn

LSZ_011C

Amend map sheet LSZ_011C by:

- removing K 550sqm and applying W 4000sqm to various lots on Glen Mia Dr, Bridle Pl, Dennison Cl and Koma Cct, Glen Mia Estate, Bega

LZN_011B

Amend map sheet LZN_011B by:

- removing RE1 Public Recreation and applying R2 Low Density Residential to Lot 1 DP 377455 High St, Bega

LZN_011B

Amend map sheet LSZ_011B by:

- applying K 550sqm to Lot 1 DP 377455 High St, Bega

FSR_011B

Amend map sheet FSR_011B by:

- applying D 0.5:1 to Lot 1 DP 377455 High St, Bega

LZN_019B

Amend map sheet LZN_019B by:

- removing E1 national parks and Nature Reserves and applying E4 Environmental Living to Lot 304 DP 821500 Bay Drive, Mogareeka

LSZ_019B

Amend map sheet LSZ_019B by:

- applying V 2000sqm to Lot 304 DP 821500 Bay Drive, Mogareeka

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*
- *Does not re-classify public land*

Public exhibition of the planning proposal will include notification of on the Bega Valley Shire Council website, notification in the newspapers that circulate widely in the area (Merimbula News Weekly, Eden Magnet and Bega District News) and in writing to affected landowners.

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

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

Attachments

Attachment 1: Council report and resolution

Council Report: Planning and Environment Committee No. 8.6 - 12 August 2015 8.6 Minor Amendments to Local Environmental Plan 2013

Since the commencement of the Bega Valley Local Environmental Plan 2013 a number of minor matters have arisen that require amendment. This report outlines those matters and recommends the process for rectification.

Group Manager Planning and Environment

Background

The Bega Valley Local Environmental Plan 2013 (BVLEP 2013) came into effect in August 2013. Since that date, several minor issues and errors have come to light. Council has previously addressed seven of these matters through the processing of two amendments to the BVLEP 2013, dealing with miscellaneous minor matters. This report recommends Council consider the preparation of a third “minor matters” amendment to BVLEP 2013, to rectify four minor mapping errors and changes to two land use tables as detailed below.

Details of Sites and Recommended Actions

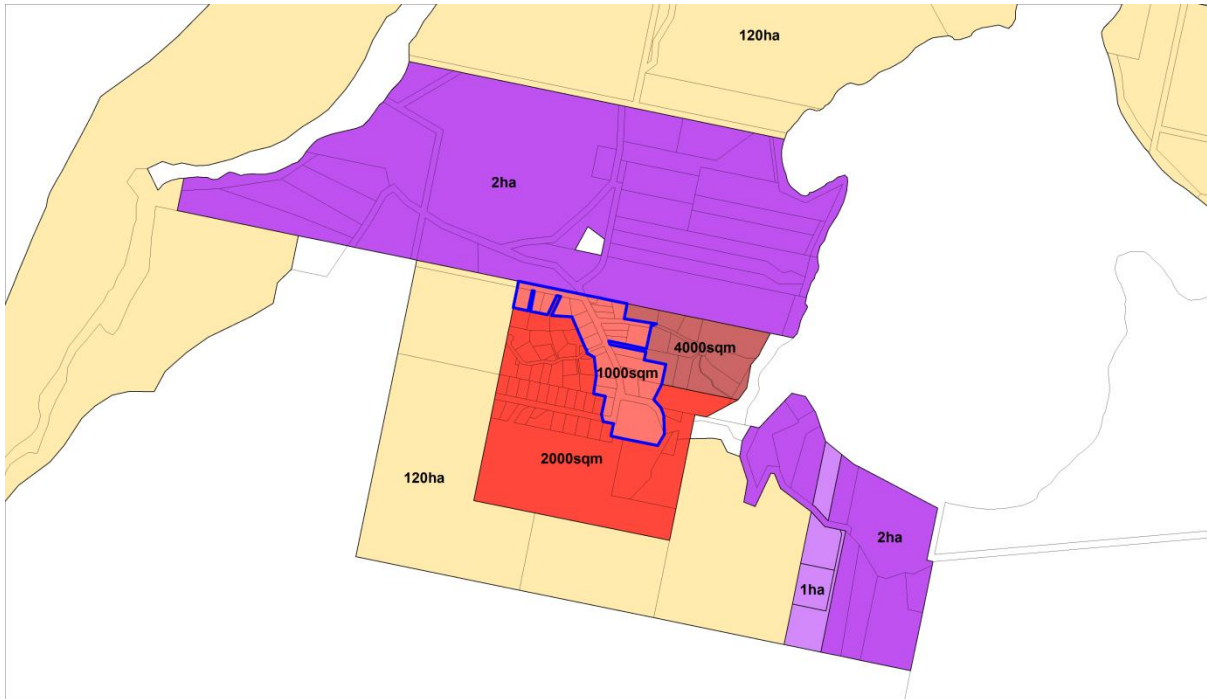
Wonboyn: Lot size

Wonboyn is a small coastal village located approximately 30 kilometres to the southeast of Eden which is not serviced with reticulated sewer. Clause 4.1A of BVLEP 2013 specifies that development consent for a dwelling house may not be granted on a site area less than 2,000sqm if it is not serviced by a reticulated sewerage system.

The BVLEP 2013 Lot Size Map for the RU5 Village zoned portion of Wonboyn currently contains areas with 1000, 2000 and 4,000sqm minimum lot sizes (see Map 1). The 1,000sqm lot size is contrary to the provisions of clause 4.1A which requires a 2,000sqm minimum lot size.

It should be noted that a 2,000sqm lot size for unsewered residential land applied under the previous BVLEP 2002.

- It is recommended the part of Wonboyn village that currently has a 1,000sqm minimum lot size (outlined in blue in Map 1) be amended to a minimum lot size of 2,000sqm consistent with clause 4.1A and Council's adopted minimum lot size for all unsewered residential land.



Map 1: Subject land Wonboyn village minimum lot size map amendment (affected land outlined in blue)

Glen Mia: Lot size

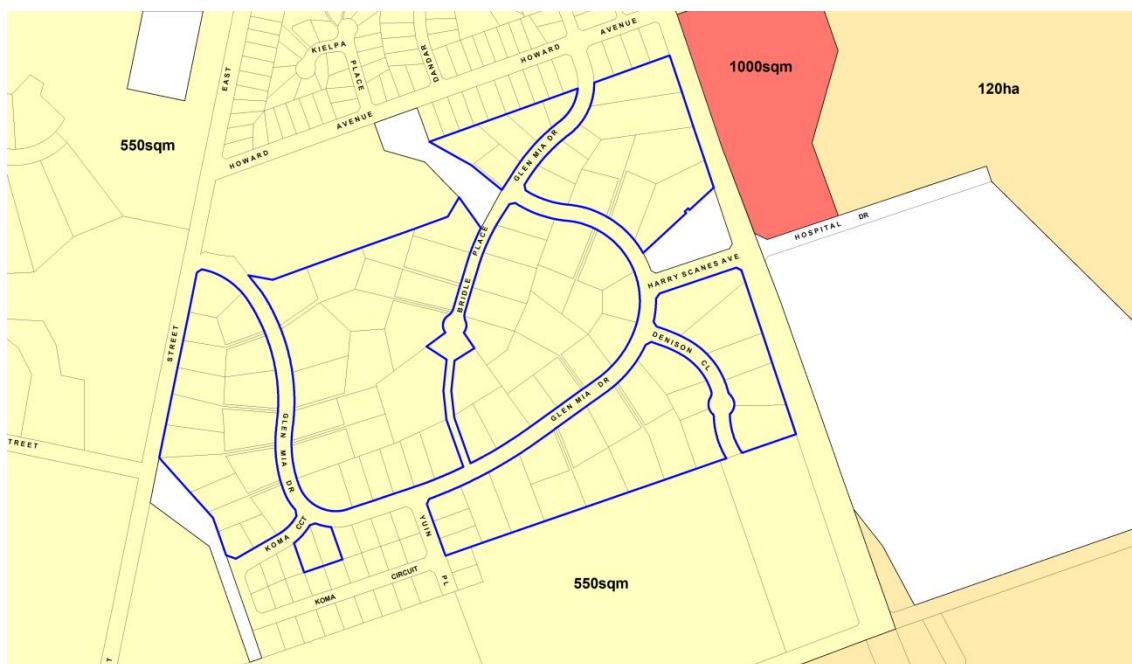
The Glen Mia Estate on the south-eastern boundary of the Bega urban area covers an area of approximately 38 hectares. In October 2003 consent was granted by Council for a 138 lot subdivision with residential lot sizes ranging from approximately 850sqm to 6,500sq. At the time, the proposed subdivision was the subject of extensive environmental reporting and discussion, including with the then Department of Infrastructure, Planning and Natural Resources. The approved lot yield and configuration was a result of this reporting and discussion and directly reflected the land's capability to support residential development.

The estate has subsequently been developed in accordance with the consent. When BVLEP 2013 was adopted, the land was zoned R2 Low Density Residential and the 550sqm minimum lot size was applied in accordance with Council's mapping protocol for R2 zoned land. The history of the subdivision process which resulted in the lot yield and layout was not reflected in the lot sizing.

The current minimum lot size of 550sqm would allow the larger lots to be subdivided which would significantly change the density of the subdivision and amenity of existing residents.

Staff are of the opinion that the lot sizing should be amended, for those lots over 1,000sqm, from 550sqm to 4,000sqm. This amended lot size would not permit the further subdivision of the larger lots and so maintain the amenity of the existing residents and the approved lot yield and layout.

- It is recommended the minimum lot size for that portion of the Glen Mia Estate with lot sizes in excess of 1,000sqm (outlined in blue in Map 2) is amended from 550sqm to 4,000sqm to reflect the intention of the original consent and give a clear indication of the subdivision development potential of the land.

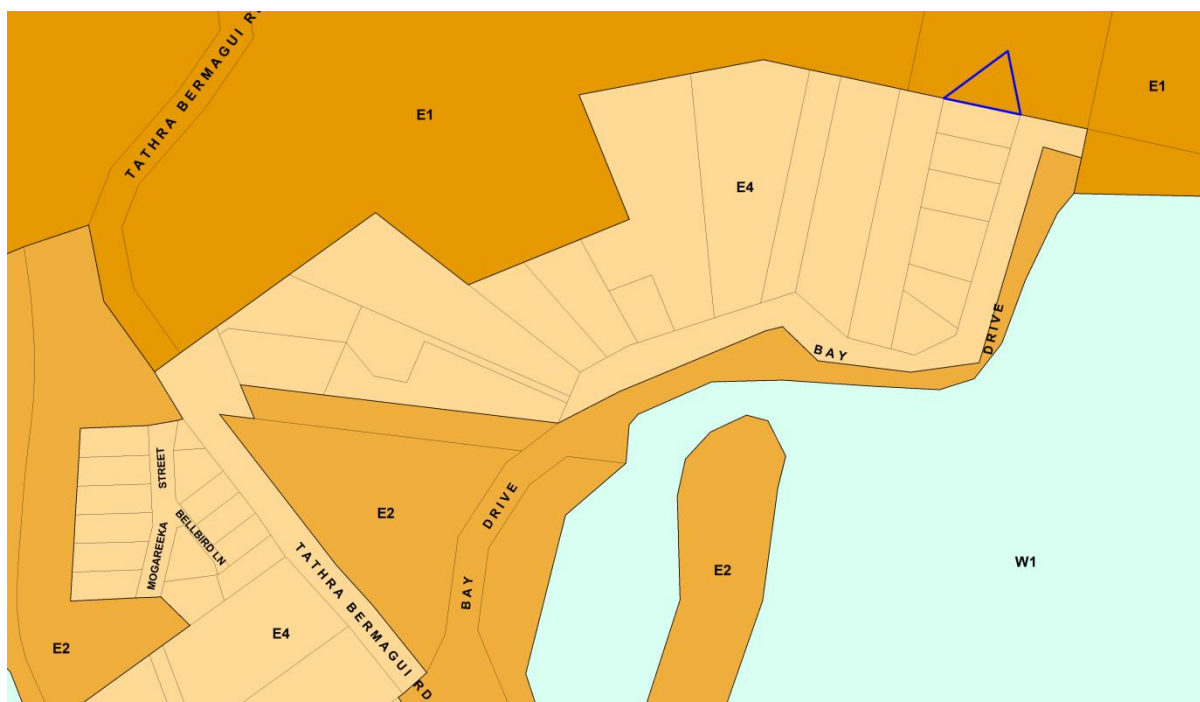


Map 3: Subject land High St, Bega zone and minimum lot size map amendments (affected land outlined in blue)

Mogareeka: E1 National Park zone

Lot 304 DP 821500 is a privately owned lot in Bay Drive, Mogareeka. The lot is currently partially developed for a dwelling which also covers the two adjoining lots to the south. As shown in Map 4, the lot has been incorrectly zoned E1 National Park.

- It is recommended the zoning of Lot 304 DP 821500 is amended from E1 National Park with no minimum lot size to E4 Environmental Living with a 2,000sqm lot size in keeping with the surrounding land and to accurately reflect the tenure and use of the land.



Map 4: Subject land Bay Drive, Mogareeka zone and lot size amendments (affected land outlined in blue)

R2 Low Density Residential zone: land use table

The land use table for the R2 Low Density Residential zone currently permits consideration of development for the purpose of Health Consulting Rooms with Council consent. Health Consulting Rooms is defined as “premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time”. The use was permitted in the equivalent zone under BVLEP 2002 and was automatically “rolled over” in the BVLEP 2013.

Council recently received a development application (DA) for a health consulting room in a R2 zone. In the initial assessment of the application, staff has formed a broader view that Health Consulting Rooms may not be an appropriate use in the R2 Low Density Residential zone. Notwithstanding, the DA must be treated on merit having regard to the particular circumstances of the site and BVLEP 2013 as it currently stands.

In the broader context across the Shire, it is considered the use may not be consistent with the character of the Bega Valley’s low density urban areas and could cause land use conflicts, particularly increases in traffic generation. As such, it is recommended the use is removed from the land use table for the R2 Low Density Residential zone.

The implementation of BVLEP 2013 included the adoption of the new B4 Mixed Use zone. This zone permits both residential and commercial development (including Health Consulting Rooms) and has been applied broadly around the town centres of Bega and Merimbula and is currently proposed for a large area surrounding the town centre of Eden. The application and extent of the B4 zone, as well as the permissibility of Health Consulting Rooms in the R3 Medium Density Residential, B1 Neighbourhood Centre and B2 Local Centre zones, will ensure there is ample supply of ongoing opportunities for these types of development in more appropriate areas of the Shire.

For example, as part of the BVLEP 2013 process, Council zoned a large section of land as R3 Medium Density Residential at the corner of Taronga Crescent and Tathra Road, which is in close proximity to the new Regional Hospital, and permits Health Consulting Rooms.

Home Businesses and Home Occupations are permitted uses within the R2 zone and provide some flexibility to work from home, albeit at a smaller scale than that permitted by the definition of a Health Consulting Room.

- It is recommended that Health Consulting Rooms is removed from the land use table for the R2 Low Density Residential zone.

R3 Medium Density Residential zone: land use table

The land use table for the R3 Medium Density Residential zone permits consideration of development for the purpose of Businesses Premises with Council consent. The use was not intentionally included in the zone, but was inadvertently omitted from the list of uses prohibited in the zone and is therefore permitted with consent. According to the BVLEP 2013 Dictionary, Business Premises includes (but is not limited to) funeral homes, banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like.

Council staff considers this use is not appropriate in the R3 Medium Density Residential zone as it can involve development of a scale and nature that is not in keeping with the character of the Shire's R3 Medium Density Residential zones. This approach is also contrary to Council's desire to consolidate commercial uses within and around the Shire's CBDs to encourage vibrant and viable town centres.

- It is recommended that Businesses Premises is removed from the land use table for the R3 Medium Density Residential zone.

Conclusion

The implementation and application of BVLEP 2013 has inadvertently resulted in four minor zone and lot size map errors and two anomalies within the land use tables which require rectification.

It is recommended Council staff prepare a Planning Proposal to enable amendments to BVLEP 2013 and associated maps to resolve minor errors and to prohibit certain inappropriate uses occurring in some residential zones in order to reflect the existing and desired future character of the Shire's urban areas.

Recommendation

1. That Council staff prepare a Planning Proposal to amend Bega Valley Local Environmental Plan 2013 and associated maps in accordance with the recommendations contained in the body of this report.
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 No. 8.6 - 12 August 2015
8.6 Minor Amendments to Local Environmental Plan 2013

1. That Council staff prepare a Planning Proposal to amend Bega Valley Local Environmental Plan 2013 and associated maps in accordance with the recommendations contained in the body of this report.
2. That the Planning Proposal be forwarded to the Department of Planning and Environment's Gateway Panel for determination.

Attachment 2: List of 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	N/A
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	N/A
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	N/A
SEPP	Affordable Rental Housing 2009	N/A
SEPP	Western Sydney Employment Area 2009	N/A
SEPP	Exempt and Complying Development Codes 2008	N/A
SEPP	Western Sydney Parklands 2009	N/A

Attachment 3: List of applicable Section 117 Ministerial Directions

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	N/A
1.3 Mining, Petroleum and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	N/A
2. Environment and Heritage	
2.1 Environment Protection Zone	N/A
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 Sulphate Soils	N/A
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	N/A
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	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	Consistent
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A