

# Appendix A:

## Draft Amendments to Bega Valley Development Control Plan 2013

Amendments to LEP 2013 detailed in the planning proposal are proposed to be supported with amendments to [Bega Valley Development Control Plan 2013](#) (DCP 2013) to protect character, ensure good design outcomes and to provide guidance for the integration of small lots into new subdivisions.

More specifically,

- for new subdivisions it is proposed to: require the plan to provide for a range of lot sizes; require the creation of large development lots; set target dwelling densities as a guide for each zone; and reduce the minimum lot width standard,
- for new residential flat buildings, shop top housing and multi dwelling housing it is proposed to: reduce the private and communal open space requirements to align with the NSW Apartment Design Guide to incentivise the development of smaller one and two bedroom units,
- for new single dwelling houses and dual occupancies, it is proposed to align setback controls more closely with complying development controls by: reducing the front setback and allowing balconies and decks etc. to be within the front setback area; increasing the rear setback and increasing side setbacks for two and three storey development in the R2 and R3 zones. It is anticipated that these changes will encourage greater take-up of complying development.
- for all new development in the RU5 Village zone, it is proposed to increase side setbacks to protect character.

Amendments to several sections of DCP02013 are proposed:

3.2.1.2 Streetscape

3.2.1.4 Context and Articulation

3.2.2.2 Open Space

3.2.2.4 Facilities

3.2.2.7 Setbacks

3.2.3.2 Landscaping

3.3 Specific Requirements – Mixed Use Development, 3.3.2 Amenity

5.10 Subdivision Standards

5.10.2 Specific requirements - development type

Move the requirements in section 3.2.2.5 Accessibility to LEP 2013

The following amendments are proposed, as detailed in red font:

## 1. Amend Section 3.2.1.2 Streetscape

### **3.2.1.2 Streetscape**

#### *Objective:*

- Establish a design consistent with the surrounding streetscape.

#### *Requirement:*

- The development must be well proportioned when viewed from neighbouring properties and the street.
- Dwellings on lots smaller than 550m<sup>2</sup> must be no more than two storeys in height.
- Multi dwelling housing in the R2 and RU5 zone will present a low-density detached character when viewed from the street. Dwellings adjacent the primary street frontage will be oriented to the street.

*Note: The specific requirements for building height are detailed under Clause 4.3 of the LEP.*

## 2. Amend Section 3.2.1.4 Context and Articulation

### **3.2.1.4 Context and Articulation**

#### *Objectives:*

- To ensure development is not visually overwhelming within the streetscape and allows for relief between buildings.
- To provide street edges which reinforce the desired future street character with a clear transition between public and private space. Development must be oriented towards the street.
- To facilitate active and casual surveillance between the street and the development.

#### *Requirements:*

- Each dwelling will have a sense of address with a clearly defined entry. Fencing and front walls must be compatible with the character of the locality and the interface with public spaces will be adequately considered.
- The maximum unbroken length of any external wall will not exceed 10m. Walls proposed to be longer than 10m in the same material and colour must be broken with an indentation of at least 1 metre in depth for a distance of 2.5m.
- Front fences must have a maximum height of 1.2m if solid or 1.8m if the fence has openings which make it at least 50% transparent. Solid fences to a height of 1.8m may be

- permitted to a street frontage where noise from high traffic or other amenity impacts may justify a greater height.
- A fence and any associated retaining wall located behind the setback area from a primary road or any side or rear boundary fence must not be more than 1.8m above existing ground level.
  - Carports and garage doors must be recessed behind the main face of the building and occupy not more than 40% of the front elevation (taking into consideration the whole façade, inclusive of any upper storey). For narrow lots where double garage doors are proposed to exceed 40% of the building width, design solutions may include a projecting first floor balcony or other articulation features that assist in mitigating the visual impact. It may be necessary to incorporate permeable surface treatments other than concrete or hard paving in order to achieve required minimum landscape area.

*Explanation:*

Any development needs to be articulated with reference to the street and take into consideration its relationship to neighbouring properties. Figures 3.4 and 3.5 provide examples of appropriate context and articulation for a typical urban allotment.

*Note:* Council will consider garages or carports forward of the primary building façade or of greater than 40% of front elevation on sloping sites where land slope prohibits a garage being provided within the main structure or other practical location. The applicant is required to demonstrate to Council that the visual impact is minimised by providing a façade treatment that is considered to be of high architectural merit.

## 3. Amend Section 3.2.2.2 Open Space

### 3.2.2.2 Open Space

*Objective:*

- Ensure that private open space is provided for all development that is an appropriate size to meet the expected user requirements and activities.

*Requirements:*

- Private open space will be enhanced by landscaping, screening, walls and fences to minimise overlooking and must be accessible from the main habitable rooms of the development.
- It may only be located within the front setback if it can be demonstrated that no other site option exists. In this instance the private open space must be landscaped and screened to provide privacy.
- ~~Each dwelling at ground level must provide a minimum area of 50m<sup>2</sup> with a minimum dimension of no less than 2.5m.~~
- Each dwelling at ground level must provide a minimum area of private open space with a minimum dimension of no less than 3m, as follows:

Development Type	Number of bedrooms	Minimum Private Open Space
Dwelling house, dual occupancies, secondary dwelling, attached dwellings, semi-detached dwellings	-	50m <sup>2</sup>
Multi dwelling housing	Studio/1 bedroom	25m <sup>2</sup>
	2 bedrooms	36m <sup>2</sup>
	3+ bedrooms	50m <sup>2</sup>
Residential Flat Building	Studio/1 bedroom	15m <sup>2</sup>
	2 bedrooms	15m <sup>2</sup>
	3+ bedrooms	25m <sup>2</sup>

- For developments with 2 or more dwellings entirely above ground level:
  - each occupancy entirely above ground level must contain a balcony with a minimum area ~~of 15m<sup>2</sup> and dimension of no less than 2.5m~~ and depth as follows:

Dwelling Type	Minimum Area	Minimum Depth	Communal Open Space
Studio	4m <sup>2</sup>	1m	10m <sup>2</sup>
1 bedroom	8m <sup>2</sup>	2m	10m <sup>2</sup>
2 bedrooms	10m <sup>2</sup>	2.4m	15m <sup>2</sup>
3+ bedrooms	12m <sup>2</sup>	2.4m	25m <sup>2</sup>

- ~~They~~ Each occupancy must also contribute towards an area of communal open space as detailed in the table. ~~at a rate of 20m<sup>2</sup> per occupancy~~. This communal open space will have a minimum dimension of ~~2.5m~~ 3m and must be provided at ground level.

*Note:* Where the provision for private open space is limited at ground level on steeply sloping sites, provision must be made for additional private open space above ground level, in the form of decks, balconies or the like.

## 4. Amend Section 3.2.2.4 Facilities

### 3.2.2.4 Facilities

*Objective:*

- To provide adequate facilities to meet user requirements.

*Requirements:*

- In addition to storage in kitchens and bedrooms, the following storage with a minimum dimension of 500mm is provided:
  - 1 bed: 6m<sup>2</sup>

- 2 bed: 8m<sup>2</sup>
- 3+ bed: 10m<sup>2</sup>

At least 50% of the required storage is located inside the dwelling. External storage must be secure, weatherproof, screened from view of the street, and clearly allocated to specific dwellings if in a common area. ~~5m<sup>2</sup> of storage space will be provided for each dwelling.~~

- An adequate waste and recycling area will be provided for each development that is easily accessible and visually screened from the street.
- Open air and secure clothes drying facilities will be provided for each dwelling. They will have good solar access and be visually screened from the street and recreation areas.
- Letterboxes will be provided on-site and must not detract from the development.

## 5. Move the requirements detailed in Section 3.2.2.5 Accessibility to LEP 2013.

### 3.2.2.5 Accessibility

*Repealed.*

*Objective:*

- ~~Ensure that the layout of the development is accessible for the range of future occupants.~~

*Requirements:*

- ~~Residential flat buildings and Multi dwelling housing developments containing five or more dwellings must provide a minimum of one adaptable dwelling for every five dwellings or part thereof designed in accordance with the Australian Standard (AS) 4299 — Adaptable Housing. The adaptable dwelling/s will be detailed on the plan. One accessible parking space will be provided for the adaptable dwelling/s with a safe and accessible path of travel from the parking space to the dwelling/s. Refer to Section 5.3 for further information.~~

## 6. Amend Section 3.2.2.7 Setbacks:

### 3.2.2.7 Setbacks

*Objective:*

- To specify the minimum setback for buildings, carports and garages to provide adequate space for landscaping, open space, visual and acoustic privacy and parking.

*Requirements:*

- The minimum setback for buildings/structures (including carports and garages) from public roads and front, rear and side property boundaries are outlined in Table 3.2.

- An additional setback may be required where Council is aware of relevant matters such as possible road widening or frontage to a main road.
- New development must complement the existing setback pattern in the street, be it uniform or varied.
- Existing setback distances must be maintained where view lines could be affected.
- Where neighbouring developments are not consistent in their front and side setback line, the development in the vicinity of the development must be used as the benchmark.
- A variation from the minimum side **and rear** boundary setback **of 900mm** may be considered for minor building elements such as garages **and outbuildings** based on:
  - The quality of the design
  - Impact on adjoining properties
  - Building Code of Australia requirements.
- **The following building elements may encroach into the front setback forward of the building line by up to 1.5m for up to 50% of the width of the front building elevation, provided they don't impact on view lines:**
  - **An entry feature or portico**
  - **A balcony, deck, pergola or verandah**
  - **A window box treatment**
  - **A bay window or similar feature**
  - **An awning or other feature over a window**
  - **A sun shading feature**
  - **An eave.**

**Note:** In assessing development applications Council will consider how the development addresses the following matters:

- whether the development is designed to have minimal impact on neighbouring properties in terms of building dominance (bulk and scale), sunlight access, privacy, views and streetscape
- the position of adjacent buildings and their residential character
- the location of existing vegetation
- the effect the proposed setback has on sightlines and visibility for pedestrians and vehicles
- the size, shape and/or orientation of the lot
- the elevation of the proposed building or buildings which will face the street and the proposed landscaping which is visible from the street
- the proposed location of any private open space, courtyard or landscaped areas
- compliance with the Building Code of Australia.

Dwelling Type	Zone Lot Size	Minimum setback				
		Public roads or front boundary	Corner lots, secondary frontage	Rear boundary	Side boundaries	
Residential accommodation Dwellings	350-550m <sup>2</sup>	Average of 2 nearest dwellings within 40m on	2m	4m 8m where building	Single storey	900mm

- all types (excepting Residential Flat Buildings and Multi Dwelling Housing in zones other than R2 and RU5)		same side of the road (but no greater than 6m), or 4.5m		higher than 4.5m	Double storey	1.8m
					Triple storey	2.5m
	550-900m <sup>2</sup>	5m or the average distance between the two nearest dwellings	3m	4m 8m where building higher than 4.5m	RU5 zone	2m
	900m <sup>2</sup> +	6 m or the average distance between the two nearest dwellings	3m	5m 12m where building higher than 4.5m		
		Battle-axe lots: 3m setback from the rear boundary of the lot in front				
R2 Low Density Residential				1-storey	900-mm	900-mm
R3 Medium Density Residential				2-storey	900-mm	900-mm
RU5 Village						
*development on corner sites				On corner sites, the secondary frontage must have a minimum setback of 3 m		
Residential Flat Buildings and Multi Dwelling Housing in zones other than R2 and RU5	Any size	6m	3m	4 m or in context with neighbouring development	2.5 m	<del>3-storey and all multi-dwelling housing and residential flat buildings</del>

**Table 3.2: Minimum development setbacks ~~from public roads~~**

## 7. Amend Section 3.2.3.2 Landscaping

### 3.2.3.2 Landscaping

Objective:

- Ensure that the landscaping of the site contributes to: the overall appearance of the development; ~~mitigating the impacts of urban heat and extreme hot weather events through provision of summer shade~~; and contributes to the existing streetscape.

Requirements:

- ~~A minimum of 35% of the total site will be landscaped area.~~ Landscaping must be designed to enhance the natural features of the site and compliment the development.
- A minimum of two deep soil zones will be nominated on the plan. Provision of a suitable small-medium sized tree that will provide shade in summer in each deep soil zone, or co-location of deep soil zones with existing significant vegetation, is encouraged to contribute to reducing urban heat impacts, energy use and costs associated with mechanical cooling.
- Existing vegetation and landscape elements, such as significant trees, rock formations and watercourses must be considered and integrated with the landscape design where possible.
- Landscape design will assist in microclimate management through the location and selection of **deciduous** trees to permit winter sunlight access to living areas and summer shade to north **and west** facing exposed dwelling walls and windows.
- The landscape plan will incorporate native plant species and ensure that any existing vegetation, particularly significant flora species or habitat trees are retained where practical.
- The reuse and recycling of vegetation is encouraged and may be incorporated into the soil and water management of the land.

*Note: Consideration will be given to the mature height of plant species within the Obstacle Limitation Surface as defined by Clause 6.8 of the LEP.*

*Guidelines on site appropriate landscaping and preparation of landscaping plans are available in Council's Landscaping publication.*



## 8. Amend Chapter 3.3 Specific Requirements – Mixed Use Development, Section 3.3.2 Amenity

### 3.3 Specific Requirements - Mixed Use Development

This Section refers to mixed use development and shop top housing.

Mixed use development integrates uses either horizontally, with different uses adjacent to each other, or more commonly in residential flat buildings, vertically with different uses stacked within the same building. Mixed use developments create more active, lively and secure streets and urban areas, which encourage pedestrian movement, service the needs of the residents and increase the area's employment base.

It is important to endeavour to facilitate dwelling mix to provide for the demands of an increasing population and objectives of higher density living close to and in town centres. While Council will be guided by the requirements for residential development in this Section, more flexibility is available for residential living in commercial areas where the town centre objectives can be achieved in quality mixed use building, of architectural merit.

*Objectives:*

- Ensure the integration of appropriate housing with retail and commercial uses.
- Maintain residential amenity and preserve compatibility between uses.
- Increase living densities in and near town centres and encourage a range of dwelling sizes from small one bedroom dwellings to 3-4 bedroom dwellings.

#### 3.3.2 Amenity

*Requirements:*

- The residential component will be designed with reference to the existing and/ or proposed commercial uses in terms of:
  - Hours of operation
  - Noise
  - Privacy
  - Solar Access and light spill
  - Pedestrian and vehicular traffic
  - Service deliveries
- The design and location of all mechanical plant and equipment (such as air conditioning units, mechanical ventilation, duct work and exhausts) will be considered early in the design process. The commercial use will not have a detrimental impact on the residential use in terms of noise or odour.
- Address acoustic requirements for each use by:
  - separating residential uses, where possible, from ground floor leisure or retail uses by utilising an intermediate quiet-use barrier, such as offices
  - design for acoustic privacy from the beginning of the development to ensure that future services, such as air conditioning, do not cause acoustic problems later.

- Ensure loading bays, waste and recycling collection areas, noise and odour generating aspects of buildings are located away from sensitive receivers (such as residential and some forms of commercial and retail activities).
- ~~The private~~ Private open space shall be provided per the ratios detailed in 3.2.2.2 Open Space according to whether the dwelling is at ground level or entirely above ground level. ~~required for a studio/ one bedroom dwelling is 10m<sup>2</sup>. At least 25m<sup>2</sup> is to be provided for units with two bedrooms or more.~~ This private open space can be divided into a number of areas including balconies, decks and terraces.

## 9. Move the requirements detailed in Section 3.2.2.5 Accessibility to LEP 2013.

### 3.3.4 Accessibility

*Repealed*

*Requirements:*

- ~~Shop top housing and mixed use developments containing five or more dwellings must provide a minimum of one adaptable dwelling for every five dwellings or part thereof designed in accordance with the Australian Standard (AS) 4299 – Adaptable Housing. The adaptable dwelling/s will be detailed on the plan.~~
- ~~One accessible parking space will be provided for the adaptable dwelling/s with a safe and accessible path of travel from the parking space to the dwelling/s.~~

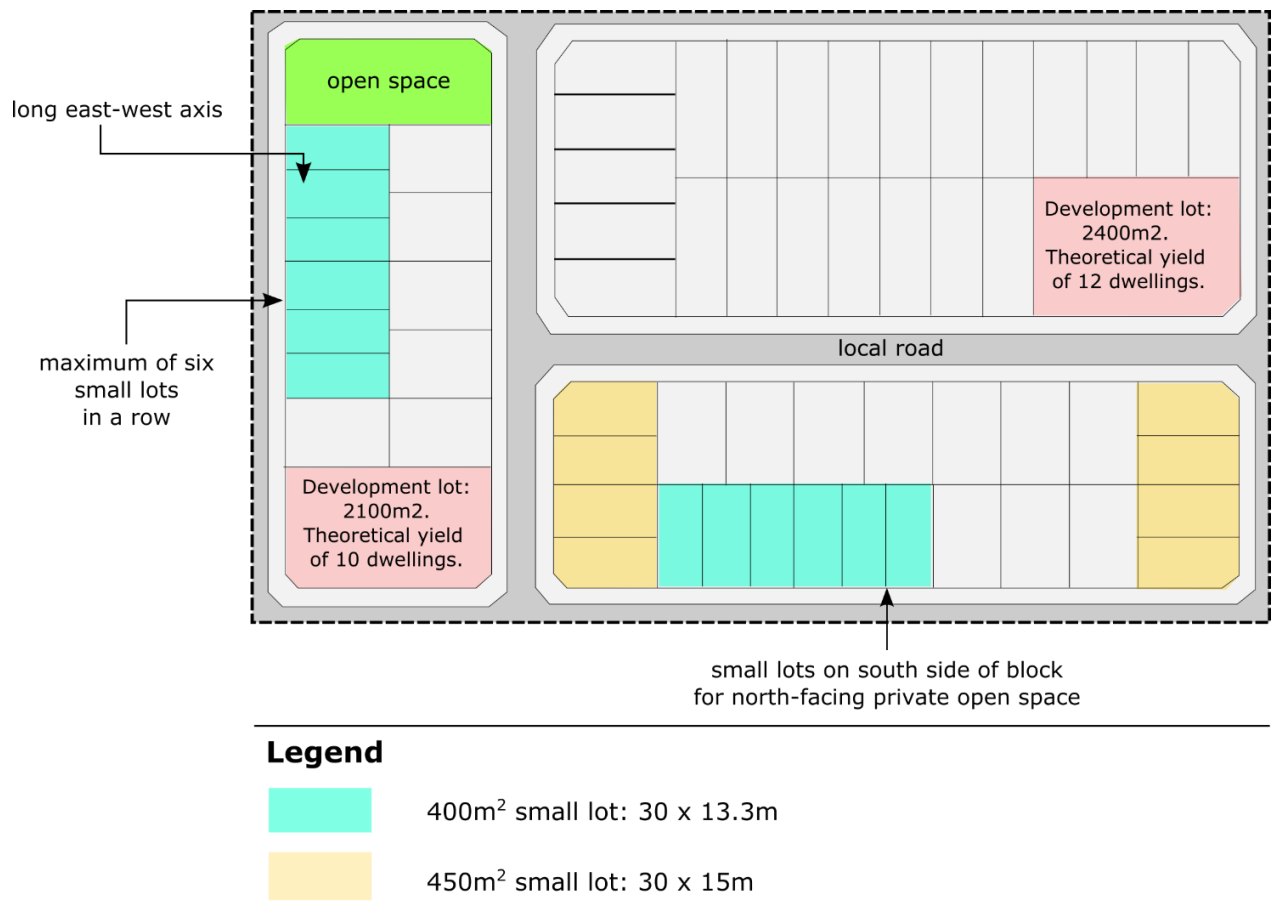
## 10. Amend Chapter 5.10 Subdivision Standards

### 5.10 Subdivision Standards

#### 5.10.1.9 Neighbourhood design – integrating small lots

- Small lots (smaller than the mapped minimum lot size) shall be located on north-south streets with the long axis running east-west to ensure optimum solar access.
- When it is necessary for small lots to be located with the long axis running north-south they shall be located on the south side of the block to ensure the private open space receives good solar access to the north.
- Small lots on south-facing land must nominate a building footprint that demonstrates adequate solar access for the lot and adjoining lots.
- Small lots can be front loaded or rear loaded (from a laneway).

- Small lots shall be interspersed through larger lots to reduce the impact of driveways on streetscape. The maximum number of narrow lots (lot width less than 15m) in a cluster is six (in the same street) with a minimum 50m gap before the next cluster of small lots.
- Driveways for adjacent small lots shall be paired to enable greater landscaping opportunity and reduce the impact of kerb cuts on parking and streetscape.
- Small lots shall be located close to areas of high amenity such as open space, shops or public transport.
- Services and easements are better located on larger lots.



**Figure 5.6:** Example – integrating small lots

# 11. Amend Section 5.10.2 Specific requirements - development type

## 5.10.2 Specific requirements - development type

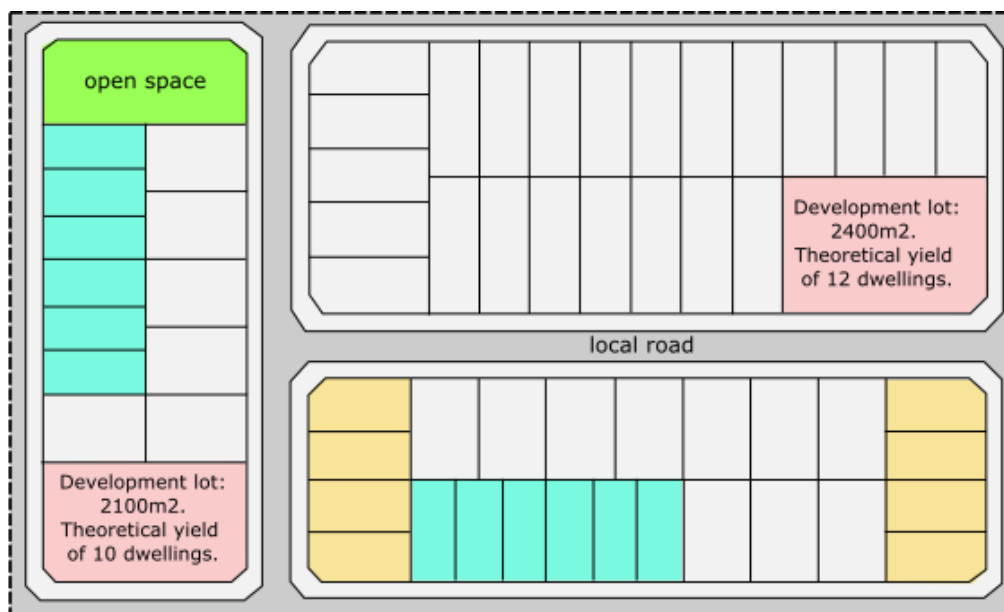
### 5.10.2.2 Residential, village and subdivisions

This Section applies to land in zones R2 Low Density Residential, R3 Medium Density Residential and RU5 Village zones.

- Subdivision must be designed to contain new structures and major infrastructure and any asset protection within cleared land.
- Subdivision design must incorporate a range of lot sizes that reflect the diversity of residential land uses that are able to be undertaken in the zone.
- Where multi dwelling housing and/or residential flat buildings are permitted in the zone, larger development lots of no less than 2,000m<sup>2</sup> will be created to cater for these land uses, with a theoretical yield of 1 dwelling per 200m<sup>2</sup>.
- Development yields will respond to the site constraints, however, as a guide the densities detailed in Table 5.7 are desirable.

Zone	Target Density (dwellings per hectare)
R2 Low Density Residential	15
R3 Medium Density Residential	35
RU5 Village	10

**Table 5.7: Dwelling density targets by zone**



Plan colour	Lot dimensions	Lot type	Yield	Percent	
	30 x 13.3m	small lot (399m2)	12	19.7%	small lots make up 32.8% of total lot yield
	30 x 15m	small lot (450m2)	8	13.1%	
	variable	development lot	2	3.2%	
	30 x 20m	standard	16	26.2%	
	40 x 15-16m	standard	23	37.7%	

Study Boundary	Lot Yield	Dwelling Yield (anticipated)	Density
5.4ha	61 lots	83 dwellings	15.3 dwellings/ha

**Figure 5.8: Example – calculating site density**

- In any subdivision of a multiple dwelling development, each lot or strata dwelling lot must have suitable legal and practical access, separate water, sewerage, drainage, electricity and telecommunications services and car parking spaces.
- Battle axe lots must be designed to allow suitable separation between dwellings to provide reasonable residential amenity, privacy and solar access.
- Battle axe allotments are not generally desirable in R3 and SP3 zones as they are not suited to multi dwelling housing, residential flat development and tourist style development. Battle axe lots in these zones will only be accepted where the access corridor is suitable to become a road in a later subdivision (i.e. suitable width and gradient) or the subdivision forms part of the staging of such development over the whole site.
- Table 5-6 5.9 sets out minimum lot dimensions to locate infrastructure services so that the future development potential of the allotment is not unduly restricted.

- Each proposed lot in the R2, R3 and RU5 zones where possible should have sufficient dimensions and area to contain a building envelope with the long axis aligned within 20 degrees of east-west, while maintaining normal minimum building setbacks from all boundaries.

*Note:* The purpose of this requirement is to ensure that houses can be aligned to achieve good solar access.

Allotment type		R2	R3	R2 and RU5 without Sewerage	RU5 zoned villages with Sewerage
Corner allotments	Minimum boundary width	<del>20m</del> 15m	25m	-	-
Battle axe allotments	Minimum width at building site (and effluent disposal area if applicable)	20m	-	30m	20m
Other allotments	Minimum width at building line (and effluent disposal area if applicable)	15m	-	30m	15m <del>20m (2 lot infill subdivisions only)</del> 30m (new estates/ multi lot subdivisions)
	Minimum depth	25m	-	-	25m
Small lots (lots between 350-550m <sup>2</sup> )	Minimum width at building line	12.6m	-	-	-
	Minimum depth	25m	-	-	-

**Table 5.9:** Minimum allotment dimensions in R2, R3 and RU5 zones