

ATTACHMENT E
MINIMUM LOT SIZE -
RESIDENTIAL AND RURAL LAND
Draft Hilltops Local
Environmental Plan

22 October 2020



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Purpose

To summarise:

- How the term 'Minimum Lot Size' is used within Land Use Planning processes in NSW and in particular its use in local government Local Environmental Plans (LEP's).
- The options available to Hilltops Council in relation to the use of 'Minimum Lot Size' within different environments (e.g., urban residential, rural residential and rural areas of Hilltops).

Introduction

Minimum Lot Size (MLS) is a planning control used within NSW through the Standard Instrument LEP.

The Standard Instrument LEP was established by the NSW Government to provide greater consistency and certainty in relation to planning controls and requirements across the State. All councils within NSW are required to comply with the Standard Instrument LEP, including the use of MLS.

While the Standard Instrument LEP sets the standard, it does accommodate some local variation in standards. This includes allowing the Minimum Lot Size requirements to vary in line with local circumstances and objectives.

Often, these variations align with the Zone Objectives established with the relevant LEP. However, this is not always the case.

Minimum Lot Size clauses within the Standard Instrument LEP apply to any subdivision relating to two types of development. These are the subdivision of:

- a lot for a dwelling (found in Clause 4.1) and
- agricultural purposes on rural zoned lands (found in Clause 4.2).

The distinction of subdivision for a dwelling and subdivision for agricultural purpose are explained below.

Clause 4.1 – Subdivision for a dwelling accommodates variations to the MLS to reflect the planned objectives for a particular location, as usually represented in the Zone Objectives or Local Strategic Planning Statement. Therefore, Clause 4.1 can include a range of Minimum Lot Sizes covering rural, rural residential and urban residential areas.

In the case of the Hilltops LSPS, the objectives for these areas vary considerably and therefore, the scale and scope of development (including Minimum Lot Size) also vary. For example:

In Town Residential Land, the aim is to it creates the standard subdivision pattern and density for fully serviced residential development.

In Semi-Rural land, the aim is to provide appropriate scale of unserviced rural residential development whilst not causing potential land use conflict with surrounding agricultural uses;

In Villages, the aim is to provide appropriate scale of based on access and availability of services determining residential development in a village setting whilst not causing potential land use conflict with surrounding agricultural uses;

and

In Rural Land the aim is to protect the long-term sustainability of agriculture by preventing fragmentation of productive agricultural land. As well as minimize the potential for land use conflict where new residential housing encroaches on rural land and resource areas.

Clause 4.2 – Subdivision for agricultural purposes on rural zoned lands allows lots in rural zones to be subdivided for the purpose of primary production. This includes the ability to create a lot of a size that is less than the minimum size for a dwelling as long as no dwelling is proposed.

Clause 4.2 provides flexibility to allow rural land owners a greater chance to use rural zoned lands for primary production purposes.

The distinction is that the creation of a lot under a rural subdivision that is less than the minimum lot size cannot contain a dwelling or allow a dwelling to be built on that lot.

In addition to achieving compliance with Clause 4.1 and Clause 4.2, a development application, for a dwelling and every rural subdivision, requires:

- a merit assessment (under [Section 4.15 of the Environmental Planning and Assessment Act 1979](#)) and
- consideration of the wider environmental, social and economic impacts of that development (under [Section 4.15 of the Environmental Planning and Assessment Act 1979](#))

The application may also be subject to consideration by full Council, requiring their endorsement if the proposal is to proceed.

Current Application of Minimum Lot Size in Hilltops

Currently within Hilltops the following Minimum Lot Sizes apply:

	Young LEP 2010	Harden LEP 2011	Boorowa LEP 2012
Zone	Lot size	Lot size	Lot size
RU1 Primary Production	170ha	40ha	40ha
RU4 Primary Production Small Lots	5000 m2- 24 ha	2 ha- 15 ha	NA
RU5 Villages	No MLS	No MLS	2000 m2
R1 General Residential	No MLS	No MLS	700 m2
R2 Low Density Residential	NA	NA	4000 m2
R5 Large Lot Residential	1 ha	6000 m2-3 ha	2 ha
B4 Mixed Use	No MLS	No MLS	NA

(Source: Hilltops Rural and Residential Study 2019)

It is noted that within the Young and Harden LEPs some zones do not contain a minimum lot size control.

The reason for this is due to the timing of when the corresponding LEPs were made and the change in planning policy direction in NSW that occurred between the making of the three LEPs.

By not including a minimum lot size control in an LEP, leaves Council open to having lot sizes dictated by the NSW Government through the use of State Environmental Planning Policies (SEPPs)

For example, currently the Young LEP does not have a minimum lot size control for residential lots. This makes it difficult to achieve the residential densities proposed as well as the effective and efficient planning, use and roll-out of associated services such as water and sewer.

The Young DCP includes an MLS of 650m² with an average of 700m² to provide some guidance. However, as the DCP provides guidance only, and cannot be enforced in the same manner as an LEP the DCP is not applied consistently. As a result, in some instances there has been R1 zoned land that has been developed without reticulated sewer service (e.g. Kingsvale road and Willawong Street).

Harden LEP, similar to Young LEP, does not include MLS for residential development in R1 general residential zone but additionally there is no Harden DCP to provide additional guidance to development.

This approach was appropriate when the Young LEP was made in 2010, when the role of the DCP was significantly different. However, the planning policy landscape has shifted significantly since then. In particular with the broader use of SEPPs by the NSW Government, which override Councils LEPs and can set minimum lot sizes in addition to local planning controls.

Therefore, including a minimum lot size for all zones where a dwelling is permissible is appropriate to give local guidance to development and to not be set by the NSW government.

Objective of Minimum Lot Size Control

Consistent with Standard Instrument LEP controls, Council establishes the objectives for determining the minimum subdivision lot size for a dwelling. Currently within the three LEPs in use in Hilltops the following objectives are provided:

Current LEP	Objectives for Minimum Subdivision Lot Size
Boorowa LEP 2012	(a) to ensure land use and development are undertaken on appropriately sized parcels of land.
Harden LEP 2011	(a) to prevent fragmentation of primary industry land, (b) to recognise the existing settlement pattern as the most appropriate form of land use,

	(c) to ensure lot sizes are appropriate for the use of the land to minimise land use conflicts.
Young LEP 2010	<p>(a) in relation to rural production areas—to prevent fragmentation of viable agricultural land,</p> <p>(b) in relation to small rural holdings—to provide a lot size that enables small scale agricultural, horticultural or viticultural use of land,</p> <p>(c) in relation to peri-urban land—to provide Young Township with logical and consistent subdivision patterns that facilitate future urban growth,</p> <p>(d) in relation to large lot residential land—to provide an alternative lifestyle housing option that satisfies economic, social and environmental needs.</p>

The proposed objectives for the consolidated Hilltops LEP for minimum lot size are derived from the objectives of the three current LEP's and the Hilltops LSPS.

The proposed changes to the objectives cluster and clarify the intention of using the minimum lot size while not losing the intention of the previous LEP objectives. However, updating objectives to be in line with the Hilltops 2040 objectives and adapting approved clauses that have been used around NSW.

The recommended objectives within the consolidated Hilltops LEP for minimum lot size are:

- a) to ensure land use and development are undertaken on appropriately sized parcels of land.*
- b) to ensure sufficient land area to promote high levels of residential amenity,*
- c) to ensure new lots have an adequate water supply and can be provided with an effective means of disposal of domestic waste and adequately serviced,*
- d) to create lots that are compatible with the existing predominant lot pattern or desired future character of the locality and to minimise the likely adverse impact on the amenity of adjoining developments.*
- e) to prevent fragmentation of primary production agricultural land,*
- f) to minimise potential for land use conflict, particularly between residential land uses and other rural land uses*

Types of Residential Development and Subdivision in Standard Instrument LEP

Residential Development

Each land use type and style of development is given a standard definition under the Standard Instrument LEP which are applied across NSW. Residential development is defined as 'Residential Accommodation' and contains various subsets depending on the style and density proposed, as described below:

residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following—

- a) attached dwellings,
- b) boarding houses,
- c) dual occupancies,
- d) dwelling houses,
- e) group homes,
- f) hostels,
- g) multi dwelling housing,
- h) residential flat buildings,
- i) rural workers' dwellings,
- j) secondary dwellings,
- k) semi-detached dwellings,
- l) seniors housing,
- m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

The most common residential uses found with Hilltops, based on use and scale are:

Residential Accommodation Type	Standard Instrument Definition	Common Definition
Dwelling house	dwelling house means a building containing only one dwelling.	A single dwelling on one lot
Dual Occupancy	<p>dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).</p> <p>dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other but does not include a secondary dwelling.</p> <p>dual occupancy (detached) means 2 detached dwellings on one lot of land but does not include a secondary dwelling.</p>	Two dwellings on same lot
Multi Dwelling housing	multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.	A villa or town house development

Residential Flat Building	residential flat building means a building containing 3 or more dwellings but does not include an attached dwelling or multi dwelling housing.	A unit block development
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Other Residential Accommodation uses are defined as follows:

Residential Accommodation Type	Standard Instrument Definition	Common Definition
attached dwellings	attached dwelling means a building containing 3 or more dwellings, where— each dwelling is attached to another dwelling by a common wall, and each of the dwellings is on its own lot of land, and none of the dwellings is located above any part of another dwelling.	Dwellings have a common wall Typically used for villa or town house development
boarding houses	boarding house means a building that— is wholly or partly let in lodgings, and provides lodgers with a principal place of residence for 3 months or more, and may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.	Temporary accommodation with shared facilities
group homes	group home means a permanent group home or a transitional group home. group home (permanent) or permanent group home means a dwelling— that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies. group home (transitional) or transitional group home means a dwelling— that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and that is used to provide temporary accommodation for the relief or rehabilitation of	Accommodation for people with a disability or people who are socially disadvantaged

	people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> applies.	
hostels	hostel means premises that are generally staffed by social workers or support providers and at which— residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.	Temporary residential accommodation is provided in dormitories with shared facilities
rural workers' dwellings	rural worker's dwelling means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.	Dwelling for workers of rural land
secondary dwellings	secondary dwelling means a self-contained dwelling that— is established in conjunction with another dwelling (the principal dwelling), and is on the same lot of land as the principal dwelling, and is located within, or is attached to, or is separate from, the principal dwelling. Note— See clause 5.4 for controls relating to the total floor area of secondary dwellings.	Granny Flat
semi-detached dwellings	semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling. Note— Semi-detached dwellings are a type of residential accommodation —see the definition of that term in this Dictionary.	Typically used for villa or town house development
seniors housing	seniors housing means a building or place that is— a residential care facility, or a hostel within the meaning of clause 12 of <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> , or a group of self-contained dwellings, or a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for—	Nursing homes either self contained or a part of a larger complex

	seniors or people who have a disability, or people who live in the same household with seniors or people who have a disability, or staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital. Note—	
shop top housing	shop top housing means one or more dwellings located above ground floor retail premises or business premises.	Residence above a commercial shop usually on a main street.

The minimum lot size control applies across all types of residential development as defined above. However, the MLS is typically formulated on the basis of a conventional subdivision where each allotment will be used for a single dwelling.

Further guidance in an LEP is appropriate for different types of residential development as defined above such as dual occupancies and multi dwelling houses.

Therefore, an additional clause is proposed within the Hilltops LEP to provide specific minimum lot sizes for different types of residential development.

For example, in most cases dual occupancy, multi dwelling housing and residential flat buildings require the original ('parent') lot to be larger than the Minimum Lot Size Map control.

By providing a specific minimum lot size based on the density and style of residential accommodation gives clarity in relation to the amount of land (site area) required before higher density residential development can occur.

Clause 4.1b, as below, is proposed to be included in Hilltops LEP to give further guidance and address the differing types of minimum lot size for dual occupancies, multi dwelling housing and residential flat buildings in appropriate zones:

Clause 4.1b Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

(1) *The objective of this clause is to achieve planned residential density in certain zones.*

(2) *Development consent may be granted for development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 of the Table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table.*

Column 1

Dual occupancies (connected to a reticulated sewerage system owned and operated by the Council)

Column 2

*Zone R1 General Residential
Zone RU5 Village
Zone R5 Large Lot Residential*

Column 3

750 square metres

<i>Dual occupancies (not connected to a reticulated sewerage system owned and operated by the Council)</i>	Zone R1 General Residential	8000 square metres
	Zone RU5 Village	
	Zone R5 Large Lot Residential	
<i>Multi dwelling housing (connected to a reticulated sewerage system owned and operated by the Council)</i>	Zone R1 General Residential	1000 square metres
	Zone RU5 Village	
	Zone R5 Large Lot Residential	
<i>Multi dwelling housing (not connected to a reticulated sewerage system owned and operated by the Council)</i>	Zone R1 General Residential	8000 square metres
	Zone RU5 Village	
	Zone R5 Large Lot Residential	
<i>Residential flat buildings (connected to a reticulated sewerage system owned and operated by the Council)</i>	Zone R1 General Residential	2000 square metres
	Zone RU5 Village	
	Zone R5 Large Lot Residential	
<i>Residential flat buildings (not connected to a reticulated sewerage system owned and operated by the Council)</i>	Zone R1 General Residential	8000 square metres
	Zone RU5 Village	
	Zone R5 Large Lot Residential	

Freehold, Strata and Community Titles

Within the Standard Instrument, Clause 4.1 'Minimum Subdivision Lot Size' states minimum lot sizes on LEP maps do not apply to community or strata title subdivisions. Therefore, it is recommended that local controls be introduced to ensure these types of subdivisions meet minimum lot size requirements. This includes applying the control within rural zones where inappropriate subdivision and fragmentation can also occur through the inappropriate use of community or strata title subdivisions.

This is dealt with in the current Boorowa and Harden LEPs which contain clause 4.1AA which requires community title subdivisions to create lots that meet the minimum lot size for in either RU1 Primary Production and RU4 Primary Production Small Lots. However, the Young LEP has not adopted the clause.

The three LEPs also contain clauses that requires strata subdivisions to create lots that meet the minimum lot size for certain residential, rural and environmental zones.

It is recommended that a similar clause be included within the consolidated Hilltops LEP to ensure these controls continue and are consistent across the local government area.

Definition	Standard Instrument / NSW Legislation Definition	Common Definition
Freehold / Torrens title	the purchaser owns both the house and the land on which it is built.	Individual Owner
Strata	strata scheme means:	Body corporate

	<ul style="list-style-type: none"> (a) a strata scheme under the <i>Strata Schemes Development Act 2015</i> that includes common property and is part of a community scheme, and (b) the proposals in any related development contract, and (c) the rights conferred, and the obligations imposed, by or under the <i>Strata Schemes Development Act 2015</i>, this Act and the <i>Community Land Management Act 1989</i> in relation to the scheme. 	managing development and common property
Community	<p>community scheme means:</p> <ul style="list-style-type: none"> (a) the manner of subdivision of land by a community plan, and (b) if land in the community plan is subdivided by a precinct plan—the manner of subdivision of the land by the precinct plan, and (c) the manner of subdivision of land in the community plan, or of land in such a precinct plan, by a neighbourhood plan or a strata plan, and (d) the proposals in any related development contract, and (e) the rights conferred, and the obligations imposed, by or under this Act, the <i>Community Land Management Act 1989</i> and the <i>Strata Schemes Development Act 2015</i> in relation to the community association, its community property, the subsidiary schemes and persons having interests in, or occupying, development lots and lots in the subsidiary schemes. 	Individual land owners managing the development and common property

In Town Residential Land

For In Town Residential Land, the aim of a minimum lot size is to create lot arrangements that support their effective use for residential purposes and the orderly and efficient provision of access and associated services such as water, electricity and sewer.

The minimum lot size control has been found to be an effective tool in achieving this objective in partnership with other design and services requirements in and LEP and development control plan.

In response, the minimum lot size requirements for in town residential development align with the following criteria:

- Full connection to infrastructure servicing including:
 - reticulated water and
 - reticulated sewer networks
- Existing and Proposed:
 - level of servicing
 - location, capacity and access-points to local service networks
- Stormwater management
- Serviced road access
- Desired amenity of residential development

As noted above, the lot size density will depend on connectivity to reticulated water and/or sewer services. Therefore, it is recommended that essential services provisions be included within the LEP to ensure that land within the R1, R2 and B4 zones are connected to water and sewer where available. This could be included within the Minimum Lot Size and the Zone Objectives for both zones.

It is proposed that the minimum lot size for in town residential areas corresponds with the following zones and associated objectives for the:

- R1 General Residential Zone
- R2 Low Density Residential Zone
- B4 Mixed Use Zone

Within the current LEPs across Hilltops, only the Boorowa LEP contains a minimum lot size as shown below.

	Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
Zone	Lot size	Lot size	Lot size
R1 General Residential	No MLS	700 m ²	No MLS
R2 Low Density Residential	NA	4000 m ²	NA
B4 Mixed Use	No MLS	NA	No MLS

With a focus in the in town residential land to provide for the orderly release the land for residential purpose, a minimum lot size for a dwelling of 700m², in line with current standards will provide certainty and guidance.

Within the Hilltops LEP, it is proposed to use the Urban Release Areas Clause and essential services provision so that no subdivision occurs unless a Development Control Plan (DCP) and structure plan is in place. This will ensure for new larger subdivisions within Hilltops that development occurs in an organized and an efficient manner.

Additionally, to achieve a residential density there is a need to be connected to reticulated water and sewer networks. If not connected, then a higher minimum lot size is proposed.

Recommendation

The table below outlines minimum lot size for R1, R2 (B4):

Residential Accommodation	Minimum Lot Size
In Town Residential (R1)	<p>700m² minimum lot size for a dwelling</p> <p>Lot Size dependant on connectivity to reticulated water and/or sewer services</p> <p>Add clause noting if connected the following:</p> <ul style="list-style-type: none"> 1 hectare, if the consent authority is satisfied that each lot will be connected to the Council's reticulated water supply system.
In Town Residential (R2)	<p>4000m² where fully serviced to town water and sewer networks.</p> <p>Where not fully serviced: 1 hectare, if the consent authority is satisfied that each lot will be connected to the Council's reticulated water supply system but not sewer network.</p>
Dual Occupancy	<p>750m² or 1000m² for corner lot and battle axe blocks (two lots of 375m²)</p>
Multi-Unit housing	<p>1000m² (three lots of 333m²)</p>
Residential Flat Building	<p>2000m²</p>

Semi-Rural Land

In Semi-Rural land, the aim of the minimum lot size controls is to accommodate individual dwellings and associated uses in a semi-rural environment whilst not causing potential land use conflict with surrounding agricultural uses. This includes ensuring all allotments can accommodate the sustainable management of on-site sewer treatment.

Semi-rural lands provide an additional lifestyle option which has been popular within Hilltops over the last forty years and likely to continue to be for some time.

The semi-rural aesthetics and greater provision of private open space is an attractive proposition and a significant component of the Hilltops housing market. However, large lot residential land also needs to be of sufficient size to avoid potential conflict with adjacent rural production values and natural resources, and effective management of biosecurity risks such as vermin and weed control.

The minimum lot size for semi-rural lands in Hilltops corresponds with the following zones with varied existing minimum lot sizes:

- R5 Large Lot Residential Zone
- RU4 Primary Production Small Lot Zone

	Young LEP	Boorowa LEP	Harden LEP
Zone	Lot size	Lot size	Lot size
RU4 Primary Production Small Lots	5000 m ² - 24 ha	NA	2 ha- 15 ha
R5 Large Lot Residential	1 ha	2 ha	6000 m ² -3 ha

R5 Large Lot Residential Zone purpose is for residential housing in a rural setting, often adjacent to towns where as the RU4 Primary Production Small Lot Zone purpose is for small lot agricultural production.

The objectives of the RU4 Primary Production Small Lots zone prescribed in the LEP are:

- » To enable sustainable primary industry and other compatible land uses.
- » To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- » To minimise conflict between land uses within this zone and land uses within adjoining zones.

The main challenge for Council is to meet community expectations in terms of service delivery in these low-density residential zones, and at the same time protect the productive capacity of rural lands and minimize land fragmentation.

A large proportion of Hilltops' semi-rural land (RU4), particularly around Young was the heart of a major orcharding industry, but this industry has relocated and is declining over time. In parallel, an increasing demand for the use of these lands for semi-rural residential lifestyle blocks has emerged. This has been accommodated by a relatively low minimum lot size compared to other rural production lands, which was established to support intensive agricultural activity. However, now supports their subdivision and use as lifestyle lots.

As mentioned above, the purpose of the RU4 zone is predominantly for intensive plant agriculture, thus the development of this land for residential purpose with minimum lot size provisions should be monitored to evaluate its effective and efficient use and the increasing demand for services.

This is particularly relevant to lands adjacent to Young which currently accommodate hobby farms and residential lifestyle blocks. These were not planned for in relation to capacity and layout of the local road network or implications on stormwater and demand for additional services such as electricity.

It is recommended that any future development and lot sizes in this area need to be managed considering the topography, water catchments, soil types, indigenous values, and nature conservation values.

Criteria that influence or govern minimum lot sizes in Semi-rural lands include:

- Connection to Essential Services Infrastructure
 - reticulated Sewer
 - reticulated Water
 - Road Access
 - Stormwater
- the ability of the site to accommodate on site effluent disposal.
- Context of natural environment
 - topography,
 - water catchments,
 - soil types,
 - nature conservation values.
- Preventing future urban release area expansion
- Context of surrounding primary production agriculture:
 - Buffers to sustain rural production values.
 - Minimise Land Use Conflict
 - Prevent Land fragmentation
 - prevent productive agricultural land;
 - use of sterilized or unproductive land

The key factor for determining minimum lot size for semi-rural lands is the ability to connect to reticulated water or sewer services. Therefore, an inclusion of an "Essential Services" provision within the minimum lot size is recommended as below:

Clause: Essential services in RU4 and R5 Zones

- (1) This clause applies to land in Zone RU4 Primary Production Small Lots and Zone R5 Large Lot Residential.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:*
 - (a) the supply of water,*
 - (b) the supply of electricity,*
 - (c) the disposal and management of sewage,*
 - (d) stormwater drainage or on-site conservation,*
 - (e) suitable road access.*
- (3) This clause does not apply to development for the following purposes:*

- (a) providing, extending, augmenting, maintaining or repairing any public utility infrastructure,
- (b) the subdivision of land that is more than 800 metres from any public sewer main or is intended only to:
 - i. enlarge the area of an existing lot, or
 - ii. rectify any encroachment on an existing lot, or
 - iii. open a new road

If residential development is not connected or partly connected to water or sewer infrastructure, then a higher minimum lot size is proposed.

If not connected, then on site sewer management is required and reliant on rainwater for potable supply and bore water for non-potable use if not connected to reticulated water supply. These trigger Australian, State and Local Standards and policies. The guiding documents for onsite sewer management are:

- Australian Standard AS/NZS 1547 Onsite domestic wastewater management
- Environment & Health Protection Guidelines - On-site Sewage Management for Single Households (1998)
- Councils Onsite Sewerage Management Policy

For a minimum lot size, 2 hectares is proposed for R5 and RU4 zones where the primary use is for residential development within proximity to townships.

2-hectare recommendation is drawn from the ability and sustainable use of onsite sewer management for a property that can be achieved alongside historic rural residential minimum lot size.

Additionally, given the context and environmental consideration such as the topography of land, geology, creeks, streams and overland flows as well as the consideration of biodiversity corridors this lot size provides opportunities to adequately address these considerations.

Also, a lower minimum lot size can be achieved if Council is satisfied that a property is connected to reticulated water and sewer networks.

Outer ring of RU4 Primary Production lands

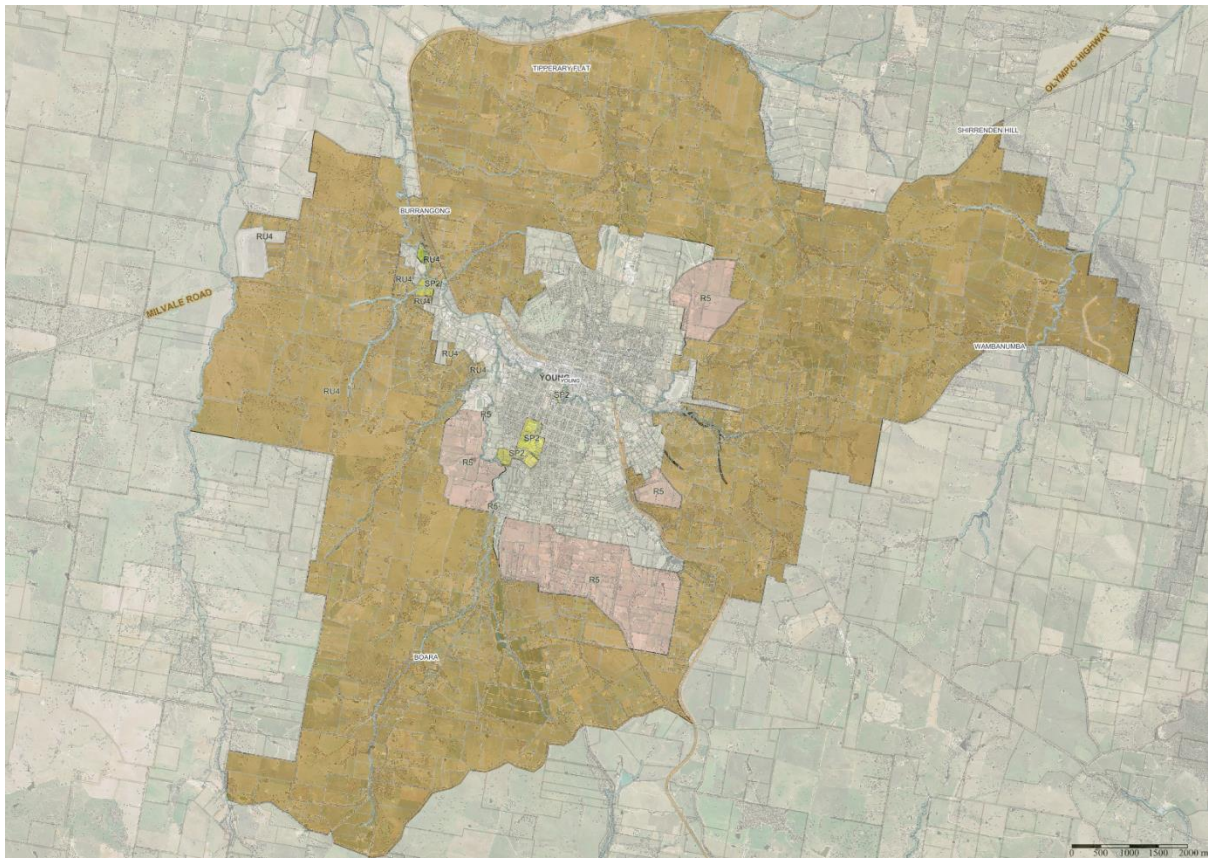
As noted in Hilltops Rural and Residential Lands Study:

Historically, the intention of the land use controls applying around Young (RU4 zone) was that it should be preserved for horticulture use; specifically prunes and cherries. Dwellings were only intended to be allowed in circumstances where they could be demonstrated to be ancillary to the agricultural use of the land.

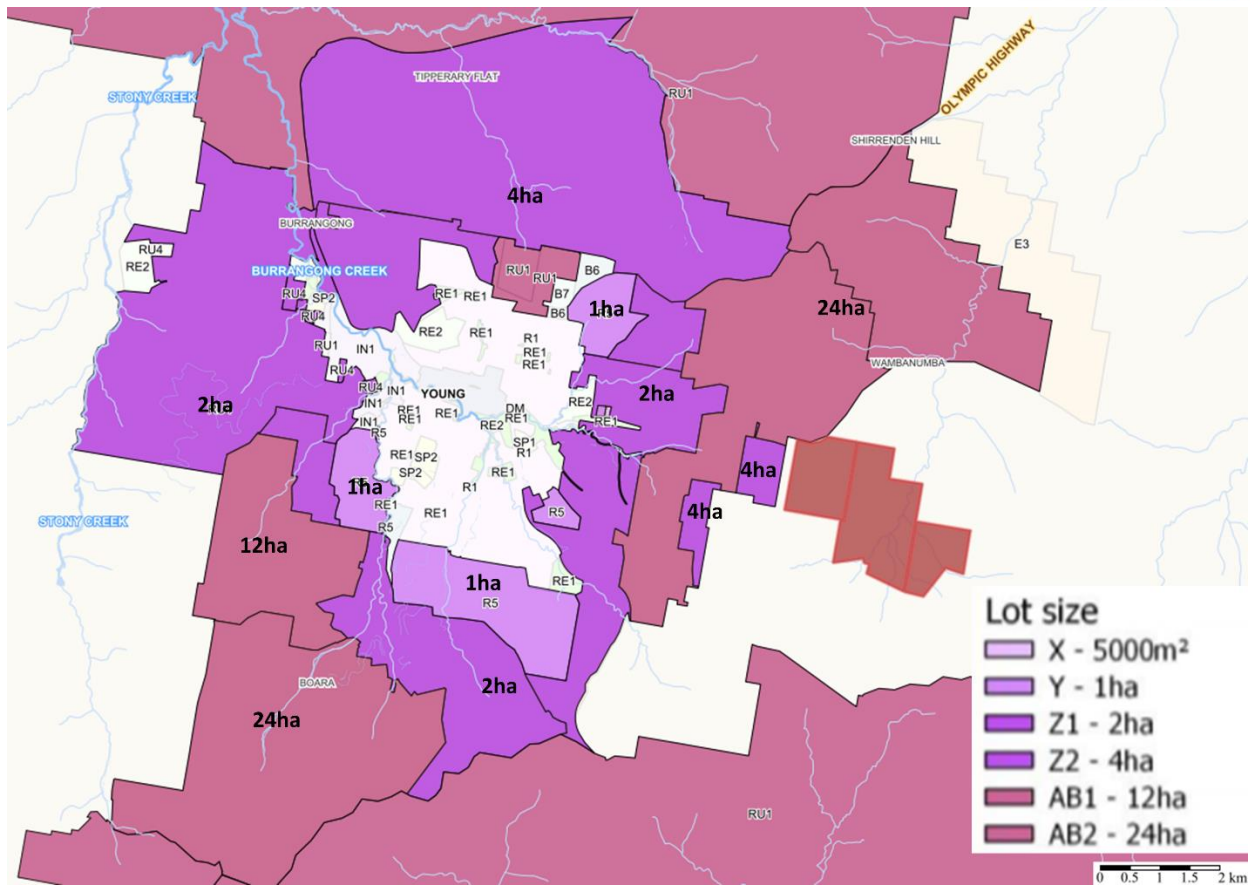
In a legitimate RU4 zone, dwellings should only be permitted in circumstances where they are ancillary to the use of the land for productive agriculture.

The RU4 land around Young is extensive, with 19,997ha area zoned as RU4 Primary Production Small Lots, with a varied minimum lot size from 2ha up to 24 ha has

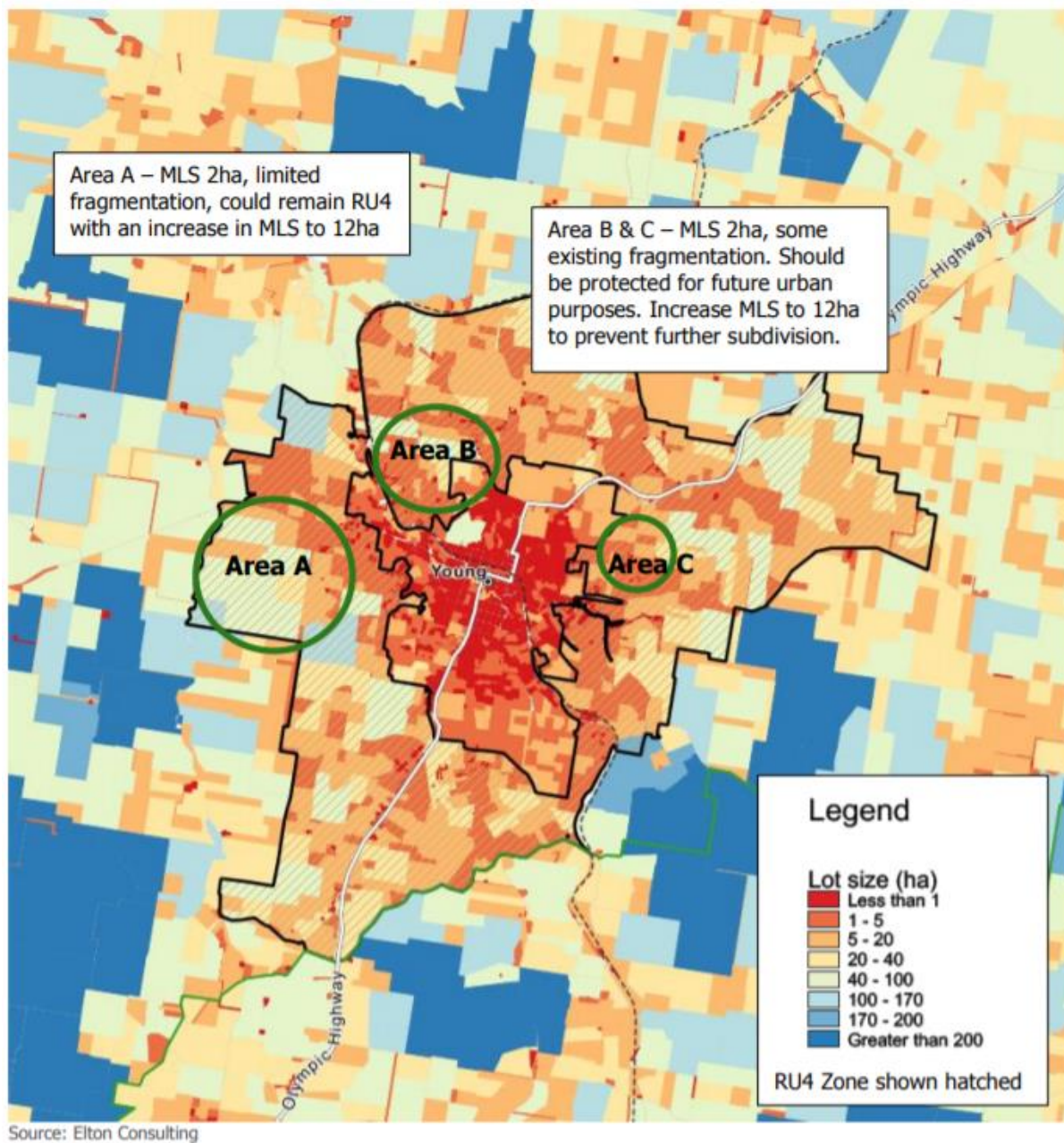
created fragmentation and limited development in an orderly manner as shown in the map below:



Map: RU4 zone shown in brown



Map: Varied Minimum Lot Size in RU4 Zone around Young



Map: Lot Sizes and fragmentation of lots in RU4 Zone

Criteria that influence or govern minimum lot sizes in Semi rural lands include:

- Infrastructure Access particularly roads / Servicing
- the ability of the site to accommodate on site effluent disposal.
- Context of natural environment
 - topography,
 - water catchments,
 - soil types,
 - nature conservation values.
 - Biodiversity and flooding

- Preventing future urban release area expansion
- Context of surrounding primary production agriculture:
 - Buffers to sustain rural production values.
 - Minimise Land Use Conflict
 - Prevent Land fragmentation
 - prevent productive agricultural land;
 - use of sterilized or unproductive land

Therefore a similar recommendation is proposed in line with Hilltops Rural and Residential Lands Study 2019 and previous Sue Haertsch Planning and David Lock Associates study in 2011 that a varied minimum lot size approach be taken:

- *Targeted subdivision to 2 hectares is indicated in locations close to the existing urban edge where the agricultural potential is medium to low. These relatively small rural holdings may in part satisfy the demand for rural living.*
- *» A 12 hectare minimum lot size is proposed within the middle ring areas*
- *» A 24 hectare minimum lot size is proposed for land on the north eastern and south western fringes of the study area. These areas contain land which is predominantly of high agricultural suitability and are not significantly affected by fragmentation.*

Sue Haertsch Planning and David Lock Associates, 2011

However it is noted that, further analysis is required relating to the demand created by semi rural residential lots on infrastructure such as roads and the ability to recoup infrastructure contributions charges for semi rural development to upgrade to suitable level.

Recommendations

New Local Clause: Essential services in RU4 and R5 Zones	<p><i>Essential services in RU4 and R5 Zones</i></p> <p>(1) <i>This clause applies to land in Zone RU4 Primary Production Small Lots and Zone R5 Large Lot Residential.</i></p> <p>(2) <i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:</i></p> <ul style="list-style-type: none"> (a) <i>the supply of water,</i> (b) <i>the supply of electricity,</i> (c) <i>the disposal and management of sewage,</i> (d) <i>stormwater drainage or on-site conservation,</i> (e) <i>suitable road access.</i> <p>(3) <i>This clause does not apply to development for the following purposes:</i></p> <ul style="list-style-type: none"> (a) <i>providing, extending, augmenting, maintaining or repairing any public utility infrastructure,</i> (b) <i>the subdivision of land that is more than 800 metres from any public sewer main or is intended only to:</i> <ul style="list-style-type: none"> i. <i>enlarge the area of an existing lot, or</i> ii. <i>rectify any encroachment on an existing lot, or</i>
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	<i>iii. open a new road</i>
R5 Large Lot Residential	<p>Lot Size dependant on connectivity to reticulated water and/or sewer services</p> <ul style="list-style-type: none"> • 2 hectares minimum if not connected to reticulated water and/or sewer services <p>Add clause noting if connected the following:</p> <ul style="list-style-type: none"> • 1 hectare, if the consent authority is satisfied that each lot will be connected to the Council's reticulated water supply system.
RU4 Primary Production Small Lots - Inner Ring	<p>Lot Size dependant on connectivity to reticulated water and/or sewer services</p> <ul style="list-style-type: none"> • 2 hectares minimum if not connected to reticulated water and/or sewer services <p>Add clause noting if connected the following:</p> <ul style="list-style-type: none"> • 1 hectare, if the consent authority is satisfied that each lot will be connected to the Council's reticulated water supply system.
RU4 Primary Production Small Lots - Outer Ring and Other	<p>Continued Lot Size Variation of: 4 hectares 12 hectares 24 hectares</p> <p>Varied based on: agricultural production context and buffering, infrastructure servicing, road access, environmental factors such as:</p> <ul style="list-style-type: none"> ○ topography, ○ water catchments, ○ soil types, ○ nature conservation values. ○ Biodiversity and flooding

Villages

In Villages, the minimum lot size controls aim is to provide appropriate scale of based on access and availability of services determining residential development in a village setting whilst not causing potential land use conflict with surrounding agricultural uses.

Like Semi Rural Land, connection to servicing, residential amenity and lifestyle and preventing land use conflict is key to determining a minimum lot size for Villages.

Villages in Hilltops have an important role to provide housing opportunity for people moving to a rural setting with a strong sense of community. As noted within Hilltops 2040

Rural Villages Objectives

1. Ensure the long term sustainability of rural villages across Hilltops.
2. Accommodate a range of residential and low impact economic activities while protecting rural production values.

The minimum lot size for in town residential will correspond with the following zones:

- RU5 Village Zone

At present, the minimum lot size varies between villages as shown below. There are no MLS for RU5 village zone in Young and Harden LEPs. Villages in Boorowa LEP has MLS of 2000 m2.

	Young LEP	Boorowa LEP	Harden LEP
Zone	Lot size	Lot size	Lot size
RU5 Villages	No MLS	2000 m2	No MLS

Some villages have access to reticulated water either from Goldenfields network or via the Cowra Shire as shown in the table below:

Village	Land use zone	Minimum lot size	Reticulated water	Reticulated sewer
Koorawatha	RU5	No MLS	Yes (Cowra Shire)	None
Bendick Murrell	RU5	No MLS	Yes (Cowra Shire)	None
Bribbaree	RU5	No MLS	None	None
Murringo	RU5	No MLS	None	None
Monteagle	RU5	No MLS	None	None
Rugby	RU5	2000sqm	None	None
Rye Park	RU5	2000sqm	None	None
Reid's Flat	RU5	2000sqm	None	None
Frogmore	RU5	2000sqm	None	None
Jugiong	RU5	No MLS	Yes	None
	R5	1-2ha	(Goldenfields)	

Galong	RU5	No MLS	Yes	None
	R5	1-2ha	(Goldenfields)	
Wombat	RU5	No MLS	Yes	None
	R5	2ha	(Goldenfields)	
Kingsvale	RU5	No MLS	Yes	None
	R5	1ha	(Goldenfields)	

(Source: Hilltops Rural and Residential Study 2019)

In villages, the land is divided into several historic titles which occurred when the village itself was gazetted. Current planning controls attempt to rationalise the existing titles with provision of water and sewer.

Majority of Villages rely on rainwater for potable supply and bore water for non-potable use if they don't have access to a reticulated water supply.

Additionally, many villages are located within environmental layers such as riparian corridors or be included in Ground Water Vulnerable areas which makes it difficult for onsite effluent management for dwellings.

Generally, the criteria that guide the MLS in villages for the erection of a dwelling are:

- connectivity to reticulated water and/or sewer services
- the ability of the site to accommodate on site effluent disposal.
- addressing environmental controls such as Ground Water Vulnerability

Generally, Villages have smaller lots than semi-rural residential development although having similar constraints in relation to access to essential servicing.

However, given the density and mix of uses permissible within, maintaining the historic minimum of 2000m² lot size for a dwelling in the RU5 village zone is proposed.

However, it is noted that each proposed development application for a dwelling will need to respond to environmental controls as well as an assessment articulating how the proposal will accommodate on site effluent disposal.

Recommendation

The table below outlines MLS for RU5 villages based on access and availability of services.

RU5 Village	<p>2000m²</p> <p>In line with historic subdivision pattern.</p> <p>However, noting development to address infrastructure and environmental factors such as:</p> <ul style="list-style-type: none"> • On site sewer management • Connection to Servicing • Groundwater Vulnerability
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Rural Land

In Rural Land the aim of the minimum lot size control is to protect the long-term sustainability of agriculture by preventing fragmentation of productive agricultural land. As well as in Rural Land to minimize the potential for land use conflict where new residential housing encroaches on primary production land and resource areas.

It is proposed that the minimum lot size for in rural lands corresponds with the following zones and associated objectives for the:

- RU1 Primary Production Zone

Minimum Lot Size criteria in the context of rural land primarily focuses on agricultural land use in the Primary Production RU1 zone are:

- Protect the long-term sustainability of agriculture
- Avoid fragmentation of productive agricultural lands.
- Minimise potential land use conflict
- Protecting supply chain for agriculture including:
 - Resources
 - Connectivity to markets

State Legislation and Guidance

These criteria are bases of NSW State, Regional and Local legislation, policy and strategies, as outlined in the diagram below:

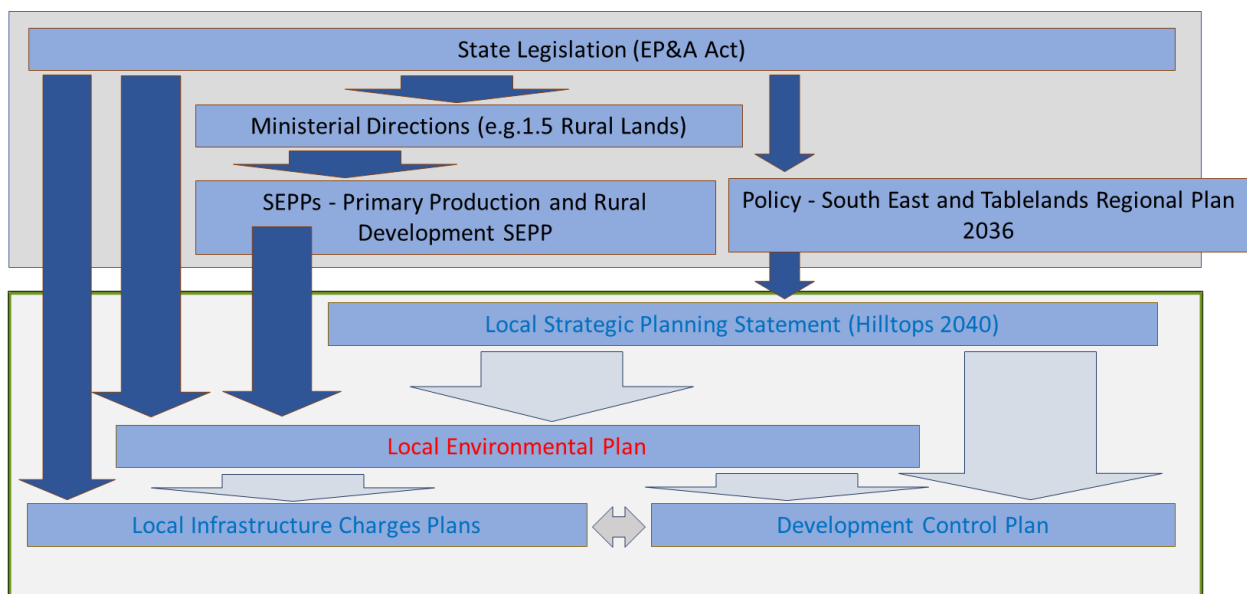


Diagram: Rural Land Legislative and Policy Framework in NSW

Particularly for Rural Land, the NSW Government has a variety of tiers of legislation and policy that guides the protection and development of agricultural land from the Department of Planning Industry and Environment and Department of Primary Industries. These include and are provided as extracts below:

- Ministerial Direction 1.5 Rural Lands
- Primary Production and Rural Development SEPP
- South East and Tablelands Regional Plan 2036
- Policy 0-104: DPI Agriculture - Maintaining land for agricultural industries

MINISTERIAL DIRECTION 1.5 RURAL LANDS

1) The objectives of this direction are to:

- (a) protect the agricultural production value of rural land,
- (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,
- (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,
- (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,
- (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land
- (f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy

Source: [MINISTERIAL DIRECTION 1.5 RURAL LANDS](#)

SOUTH EAST AND TABLELANDS REGIONAL PLAN 2036

DIRECTION 8: PROTECT IMPORTANT AGRICULTURAL LAND

8.1 Map important agricultural land to better inform strategic and local planning processes.

8.2 Protect identified important agricultural land from land use conflict and fragmentation and manage the interface between important agricultural land and other land uses through local environmental plans.

8.3 Develop profiles of the leading agricultural industries to guide future investment decisions.

8.4 Minimise biosecurity risks by undertaking risk assessments that take into account biosecurity plans, and applying appropriate buffer areas.

Hilltops Specific Objectives:

- **Address land management issues** that could impact agricultural productivity and viability, including erosion, salinity, weed management, on-farm practices and management of the water table.
- **Grow and diversify the area's agricultural base**, including value-add activities, expansion into agricultural research and technology and access to national and international markets.
- Capitalise on **value-add opportunities** in food processing with the growth of intensive farming industries.

Source: [SOUTH EAST AND TABLELANDS REGIONAL PLAN 2036](#)

PRIMARY PRODUCTION AND RURAL DEVELOPMENT SEPP

3 SUBDIVISION OF, OR DWELLINGS ON, LAND IN CERTAIN RURAL, RESIDENTIAL OR ENVIRONMENT PROTECTION ZONES

- (1) The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the zones under a relevant EPI that are equivalent to the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses).*
- (4) A consent authority must take into account the matters specified in subclause (5) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—*
 - (a) subdivision of land proposed to be used for the purposes of a dwelling,*
 - (b) erection of a dwelling.*
- (5) The following matters are to be taken into account—*
 - (a) the existing uses and approved uses of land in the vicinity of the development,*
 - (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
 - (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
 - (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

Source: [PRIMARY PRODUCTION AND RURAL DEVELOPMENT SEPP](#)

POLICY 0-104: DPI AGRICULTURE - MAINTAINING LAND FOR AGRICULTURAL INDUSTRIES

Policy

- 1. Environmental planning instruments should be structured to;*
 - a. promote the continued use of agricultural land for commercial agricultural purposes, where that form of land use is sustainable in the long term;*
 - b. avoid land use conflicts;*
 - c. protect natural resources used by agriculture;*
 - d. protect other values associated with agricultural land that are of importance to local communities, such as heritage and visual amenity;*
 - e. provide for a diversity of agriculture enterprises, including specialised agricultural developments, through strategically planned locations to enhance the scope for agricultural investment in rural areas; and*
 - f. allow for value adding and integration of agricultural industries into regional economies.*
- 3. Minimum size of holdings for dwelling entitlement*

The minimum area for a dwelling entitlement and other provisions in Environmental Planning Instruments to regulate subdivisions should take into account:

- a. the agricultural productivity and suitability of the land in question;*

- b. the nature and requirements of agricultural industries in the area being considered;*
- c. the risk of creating land use conflict;*
- d. the current distribution of property sizes and the agricultural industry they support;*
- e. the trends in the size of properties engaged in agriculture; and*
- f. cumulative impacts eg gradual subdivision of agriculture becomes rural residential zone.*

4. Minimising land use conflict

Councils should also consider other approaches to achieving the goal of minimising conflict in agricultural production zones so that farms can operate without unnecessary restrictions

Source: [POLICY 0-104: DPI AGRICULTURE - MAINTAINING LAND FOR AGRICULTURAL INDUSTRIES](#)

Key objectives from these policies which assist in determining minimum lot size include:

- *Protection of agricultural production value of rural land*
- *minimising the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,*
- *protecting natural resources used by agriculture;*

Council are still waiting for NSW Department of Primary Industries

Regional NSW Minimum Lot Size for Rural Land

Local governments across NSW, in response to the above legislation, directions and policy prepare a minimum lot size for rural land for the purpose of protecting agricultural land across NSW. Below is a map and data analysis of various regions and their local government areas approach to minimum lot size:



Map: Surrounding LGAs in Regional NSW

West of Canberra

This includes the following 8 Councils: Albury, Cootamundra-Gundagai, Greater Hume, Junee, Snowy Valleys, Upper Lachlan, Wagga Wagga, and Yass.

Council	RU1 Primary Production
Albury	40 ha, 100 ha
Cootamundra-Gundagai	40 ha, 200 ha
Greater Hume	100 ha
Junee	100 ha
Snowy Valleys	6 ha, 30 ha, 40 ha, 150 ha
Upper Lachlan	40 ha, 80 ha
Wagga Wagga	200 ha
Yass	30 ha, 40 ha

Central West - south of Bathurst and Dubbo

This includes the following Councils: Dubbo, Bathurst, Cowra, Orange

Council	RU1 Primary Production
Dubbo	RU1- 800 ha (RU1 around Wellington – 400 ha)
Bathurst	RU1- 200 ha
Cowra	RU1- 100 ha
Orange	RU1- 100 ha

South to the Victorian border

This includes the following 16 Councils: Berrigan, Bland, Carrathool, Coolamon, Cowra, Edward River, Federation, Griffith, Hay, Leeton, Lockhart, Murray River, Murrumbidgee, Narrandera, Temora, and Weddin.

Council	RU1 Primary Production
Berrigan	120 ha
Bland	200 ha
Carrathool	40 ha
Coolamon	200 ha
Cowra	100 ha
Edward River	40 ha, 200 ha
Federation	100 ha, 250 ha
Griffith	20 ha, 200 ha
Hay	90 ha, 600 ha
Leeton	8 ha, 150 ha
Lockhart	650 ha
Murray River	120 ha, 500 ha
Murrumbidgee	213 ha
Narrandera	400 ha
Temora	40 ha
Weddin	400 ha

East from Parkes, Forbes, West Wyalong

This includes the following Councils: Parkes, Forbes, Weddin, West Wyalong, Temora

Council	RU1 Primary Production
Parkes	RU1 – 400 ha
Forbes	RU1 – varies from 40 ha to 200 ha
Weddin	RU1 – 400 ha
West Wyalong	RU1 – 200 ha
Temora	RU1 – 40 ha

As shown above, the minimum lot size control is varied and contextual in its use within the RU1 Primary Production Zone.

Hilltops approach to minimum lot size, in line with State Legislation and Guidance, will be specific to the agricultural land uses located within Hilltops and objectives of Hilltops Local Strategic Planning Statement.

Local: Hilltops 2040 Objectives

Following from State Guidance and Legislation, Hilltops 2040, Hilltops Local Strategic Planning Statement (LSPS) outlines protection of productive capacity of rural land across Hilltops with no further fragmentation as a key objective. Hilltops 2040 notes:

Hilltops is dominated by rural production lands and as a result they make up approximately eighty-five percent of landscapes in Hilltops. They have a huge impact on Hilltops economy and the scope and scale of activities found within towns and villages across the area.

Therefore, objectives in line with State Legislation and Policy for Rural Landscapes included:

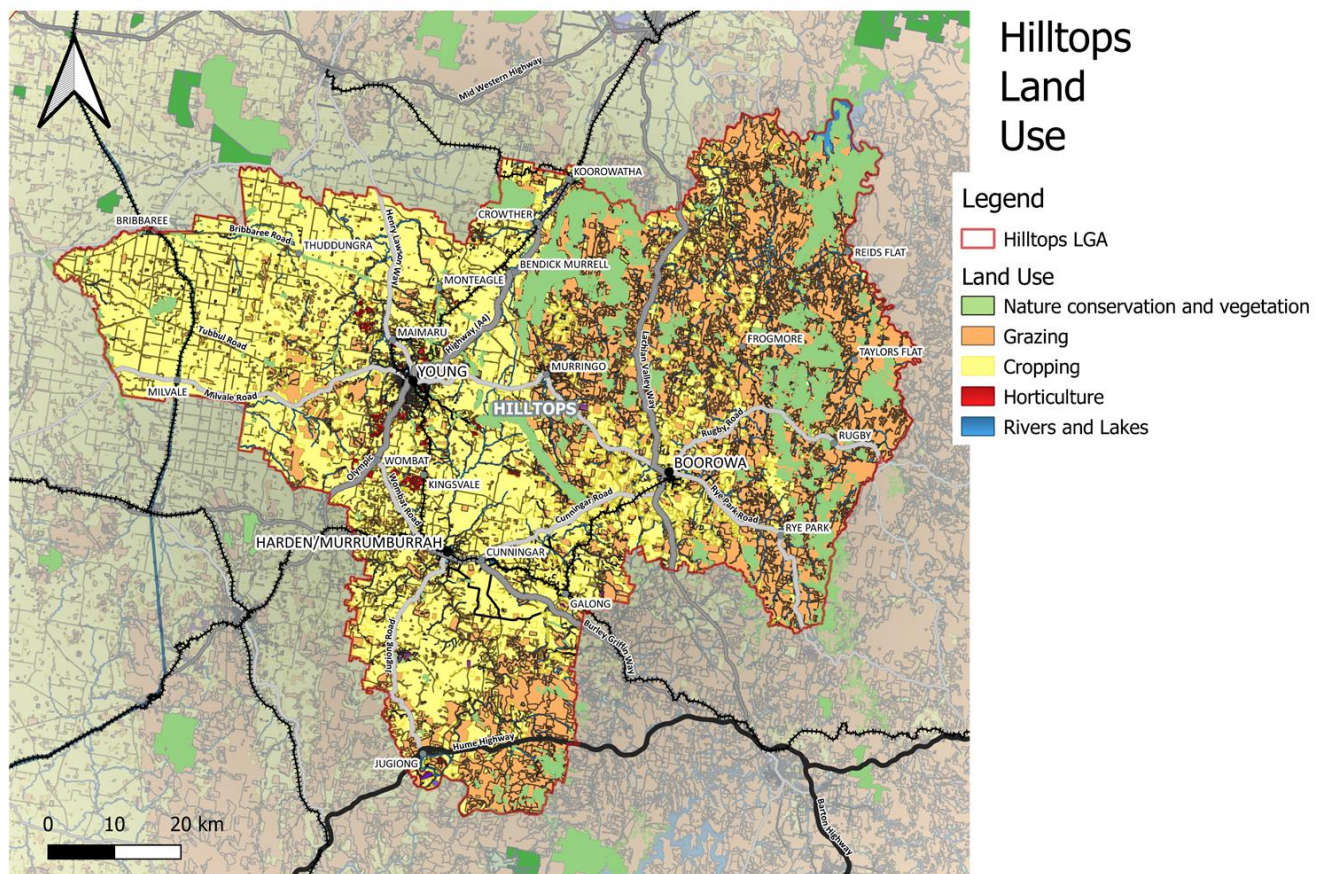
Hilltops 2040 - RURAL LANDSCAPES OBJECTIVES

1. Identify, protect and enhance the productive capacity of rural lands across Hilltops.
2. Protect rural production lands from further fragmentation while supporting the capacity for farming families to live on site.

PRIORITIES

1. Confirm natural resources and agricultural land values in conjunction with the State government and local communities to better inform future planning and management decisions.

Hilltops 2040 notes the capacity of farming families to live on site as well as associated ancillary economic activities that use local produce and rural amenity, such as hospitality and tourism.



Map: Land Use within Hilltops LGA Source: NSW SEED Portal

However, it prioritises land use planning controls and guidelines to support rural production activities and natural resource values over residential development, in line with State Legislation, Directions, Policies and Strategies.

Council Staff have been consistent in their requests for information and data relating to the Important Agricultural Land Mapping being prepared by Department of Primary Industries. The Important Agricultural Land mapping is a priority of the South East and Table Lands Regional plan.

The Important Agriculture Land (IAL) mapping program across NSW to assist state and local government, other organisations and industries to recognise and value important agricultural land and will assist Council in preparation of it planning controls in the Hilltops LEP.

Workshops were attended in November 2018 and August 2019 with the DPI Agriculture team for local stakeholders to engage on the process.

However, to date, no information or data on the Important Agricultural Land Mapping has been received from DPI to assist in the preparation of the Hilltops Local Strategic Planning Statement or the Hilltops LEP.

An update in August 2020, notes the Important Agricultural Land Mapping program delays with further testing of the data and differing policy positions. DPI notes, The draft IAL map will be released before the end of 2020 with a public consultation program to be undertaken early 2021.

If the timing of this program falls in line with the Hilltops LEP process, this information will be considered before finalizing the Hilltops LEP.

Current LEPs in Hilltops

The RU1 Primary Production and RU4 Primary Production Small Lots has been included in the LEP to accommodate the development and operation of agricultural land in the Hilltops.

Rural land in Hilltops outside villages and town is primarily the RU1 Primary Production used for most kinds of commercial primary industry production, including:

- extensive agriculture,
- intensive livestock agriculture
- intensive plant agriculture,
- forestry,
- mining and extractive industries.

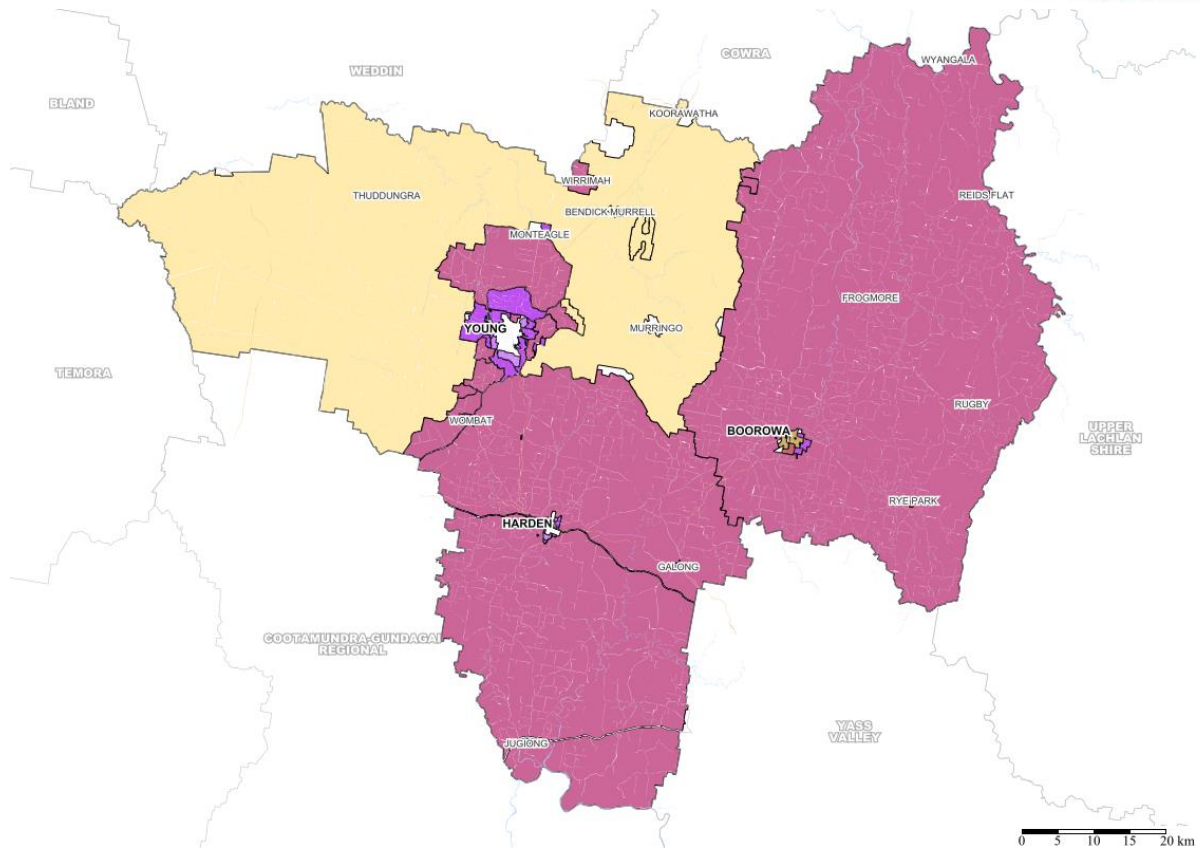
The RU1 Primary Production zones principal function is for agricultural primary production. However, dwelling houses for agricultural use and rural workers can be permitted in this zone.

Standard instrument Objectives for Primary Production Zones:

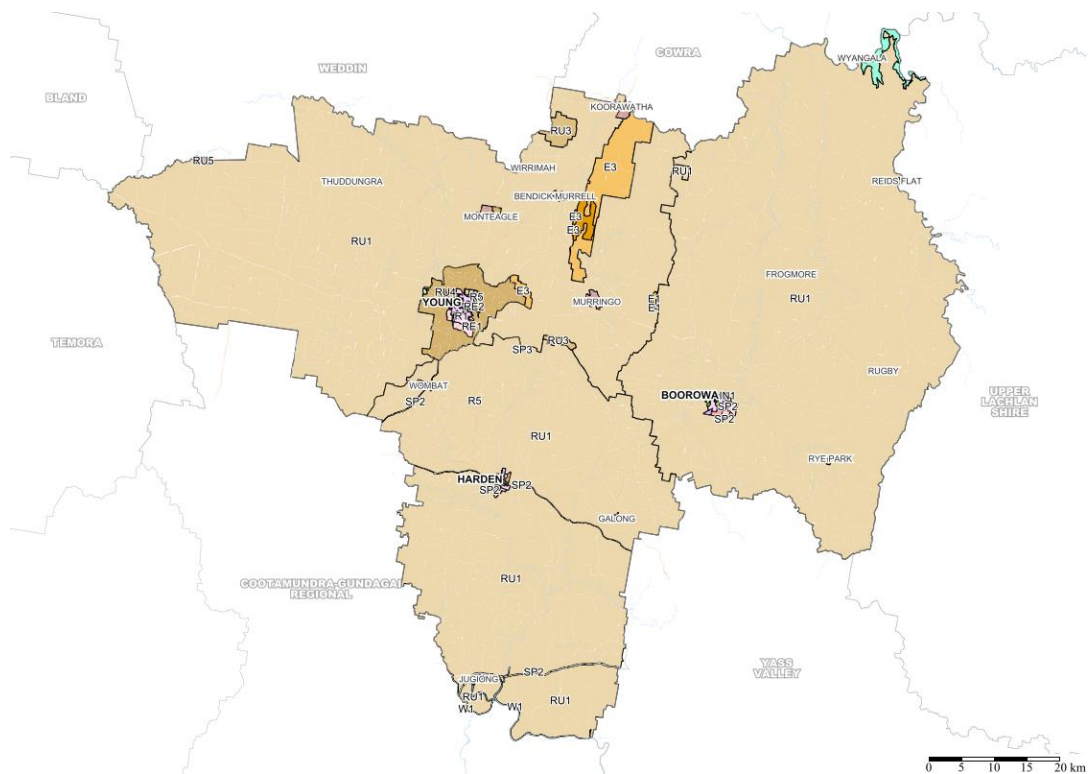
RU1 Primary Production	RU4 Primary Production Small Lots
<ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. 	<ul style="list-style-type: none"> • To enable sustainable primary industry and other compatible land uses. • To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature. • To minimise conflict between land uses within this zone and land uses within adjoining zones.

The current minimum lot size for a dwelling in RU1 Primary Production zone in current LEPs are and as shown on the map below:

- 170 ha in Young (light yellow) and
- 40 ha in Harden and Boorowa (purple).



Map: Current Minimum Lot Sizes in Hilltops



Map: Current Land Use Zoning in Hilltops (RU1 in light brown)

Justification for these minimum lot sizes were taken from the below Studies or Strategies to inform

Study / Strategy	Minimum Lot Size Proposal
Young Rural Lands Study, 2008	<i>170ha for general/mixed broadacre farms 25ha for horticultural and viticultural</i>
Young Shire Strategic Land Use Study – Towards 2030 - 2008	<i>Broadacre farming 170 hectares; Horticulture/viticulture 24 hectares; Rural small holdings 2 hectares</i>
Boorowa Local Environmental Study, October 2010	<i>Supports 40ha MLS, noting that the majority of allotments are already below the MLS proposed under the draft LEP (40ha) or are not able to be subdivided (under 80ha).</i> <i>40ha MLS will enable continuation of farming practices prevalent within the Shire and the creation of smaller rural living in designated areas.</i>
Harden Shire Land Use Study, April 2016	<i>Retain 40ha MLS for a subdivision for the purposes of a dwelling on all RU1</i>

As a note, a standard of 40 hectare (ha) minimum lot size for subdivision of rural land, was introduced by the NSW State Government in 2008 to protect the productive potential for rural lots and to reduce fragmentation of the rural landscape, is today common throughout NSW.

Minimum Lot Size Criteria

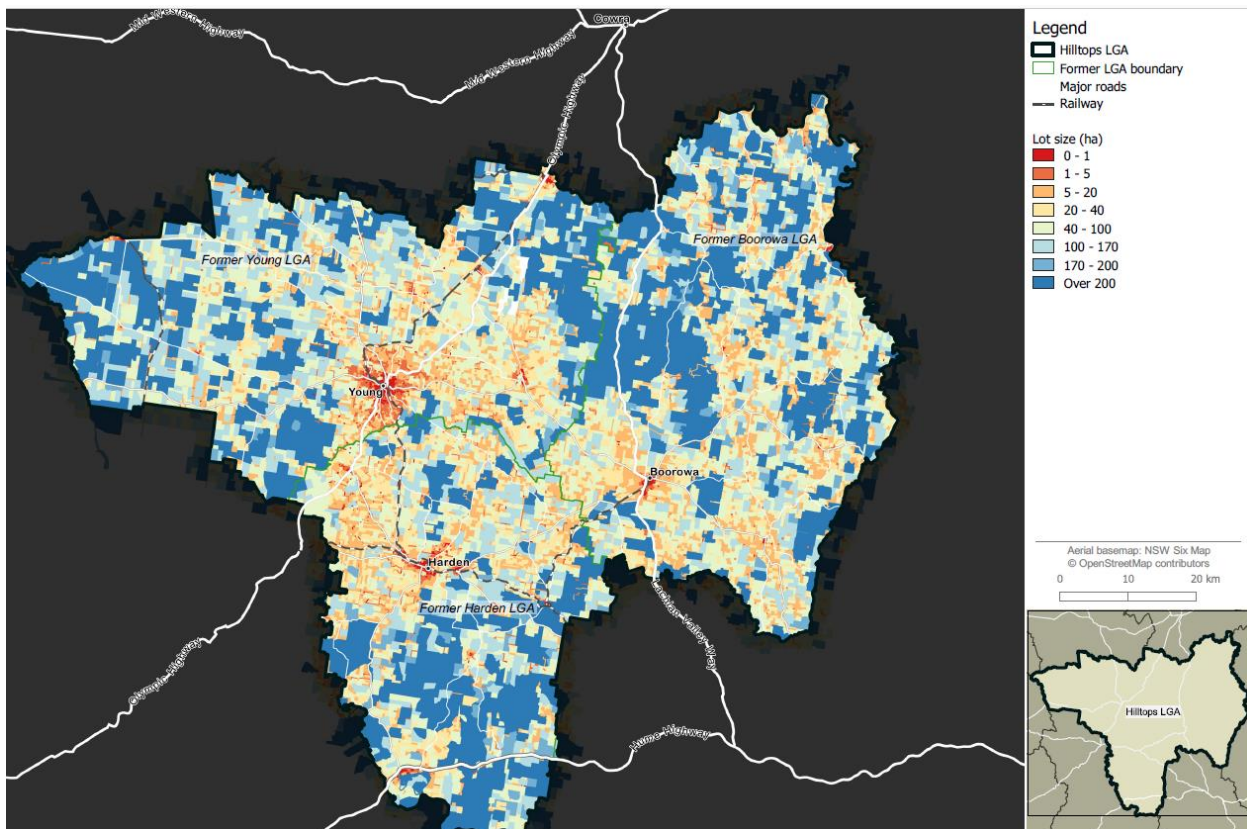
Minimum lot size for rural lands focus is on protecting productive agricultural land.

The smaller the rural lot size allowing for a dwelling, the greater the potential for land use conflict because the less opportunity there is to provide a suitable buffer between differing uses.

With smaller lots and multiple owners that may not intend to farm the land as a commercial enterprise, may reduce the capacity to manage the land. Due to fragmented management impacts and the loss of management of the area in a coordinated approach specifically relating to:

- Weed and pest management
- Bushfire management

Below are maps noting the difference in lot size and holding size:

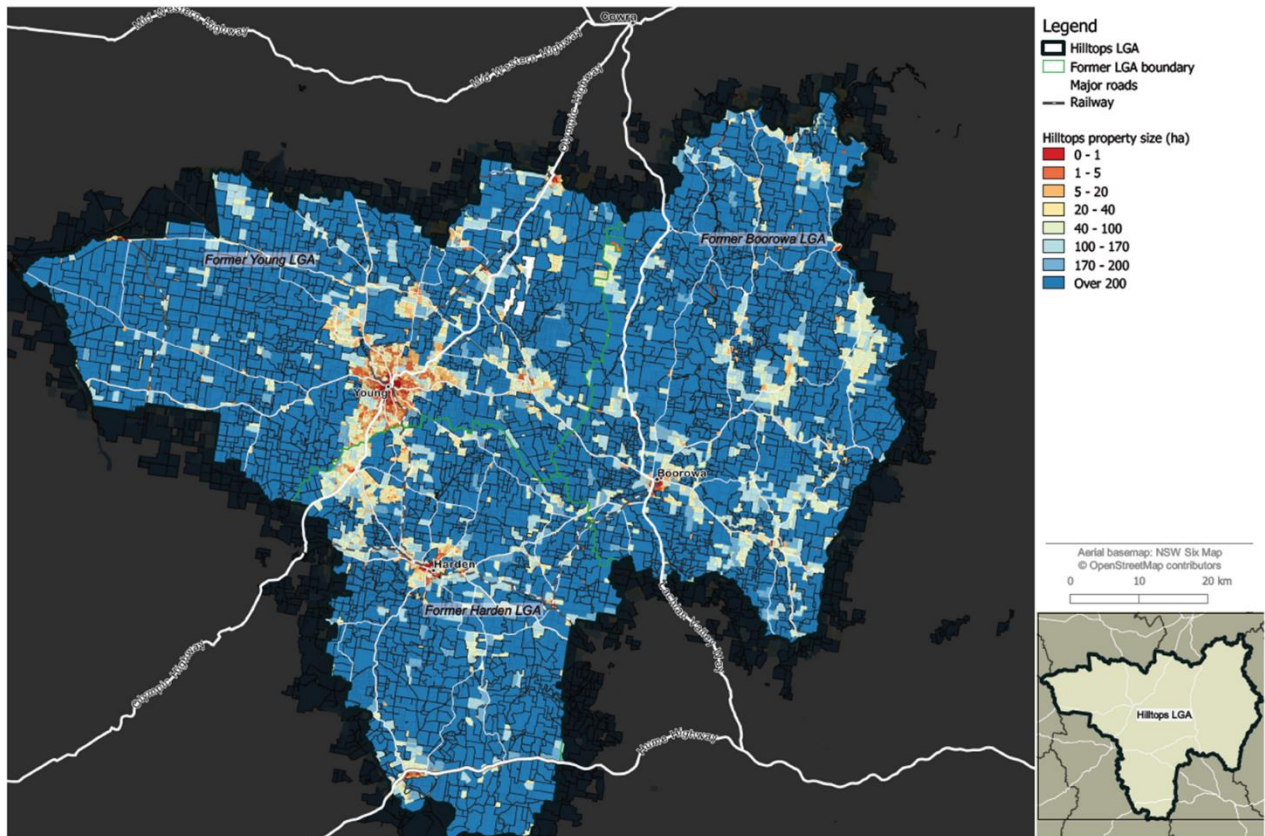


Map: Lot Size across Hilltops - Source Hilltops Rural and Residential Lands Study 2019

If a lot size is in relation to protection of productive agricultural land, the discussion on the commercial viability of an agricultural enterprise would determine contribute in determining the minimum lot size. However as noted within the Hilltops Rural and Residential Lands Study 2019:

- *If commercial viability were the key determining factor to minimum lot size for agriculture, lot sizes would be much larger.*
- *There is no definitive evidence to suggest that to continue to be a viable rural enterprise farms need to be getting smaller*
- *No evidence that continuing to accept the fragmentation of rural land for dwellings would lead to better long-term outcomes in agricultural productivity.*

This is evident with the size and scale of holdings across Hilltops, which may be a better representation of farm size across Hilltops. A holding is multiple lots under single ownership, noted in the below map:



Map: Holding Size across Hilltops - Source Hilltops Rural and Residential Lands Study 2019

From the Holding Map again in the Hilltops Rural and Residential Lands Study 2019 notes:

- There is no correlation between the minimum lot size for the erection of a dwelling in the RU1 Primary Production zone, and actual operating farm size.
- That is, despite having minimum lot sizes of 170ha and 40ha for subdivision for the erection of a dwelling in the RU1 zones, farms are typically much larger than that.

The table below outlines the numbers of lots, holdings and their sizes across Hilltops:

Size (ha)	Lots	% of total lots	Holdings	% of total holdings
<1-20	10,385	55%	1,688	40%
20-40	3,275	17%	354	8%
40-100	2,993	16%	653	15%
100-170	1,162	6%	357	8%
170-200	171	1%	109	3%
Over 200	803	4%	1,130	26%
Total	18,789	100%	4,291	100%

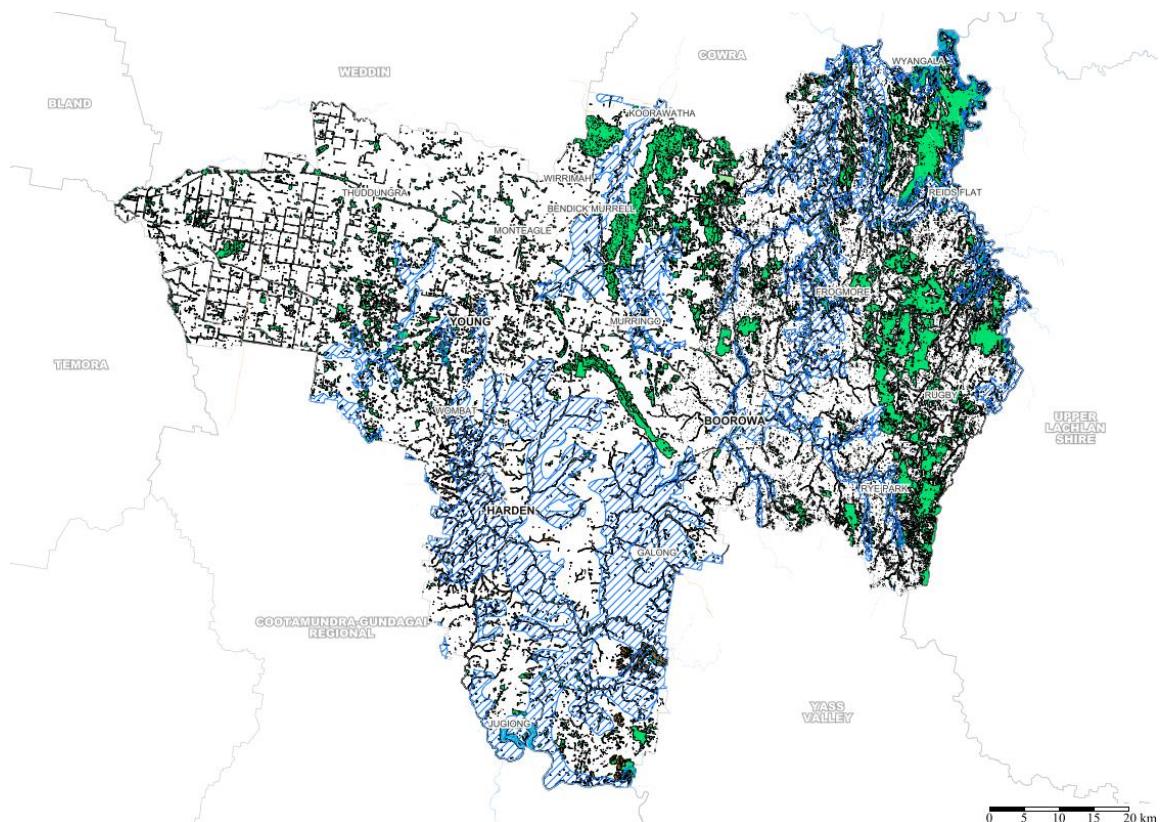
Table: Lot and Holding Size across Hilltops – Source Hilltops Rural and Residential Lands Study 2019

Therefore, based on State Guidance and Legislation, Hilltops 2040 LSPS objectives and priorities, existing provisions in the LEPs, and MLS literature from DPI Agriculture and NSW government, the following criteria for the minimum lot size in rural land:

- Protection of productive agricultural rural lands
- Preventing fragmentation and generational loss of agricultural land
- Minimising and avoiding potential land use conflict
- Environmental impact and protection of natural resources used for agriculture
- Biophysical Characteristics of rural land

Discussed in more detail below:

- **Agricultural land fragmentation and loss from unsuitable settlement**
Large land parcels are likely to reduce the risk of the loss and fragmentation of agricultural land.
- **Environmental impact and protection of natural resources**
Biodiversity, sensitive land, and water conservation are key factors to be considered while determining the lot sizes.



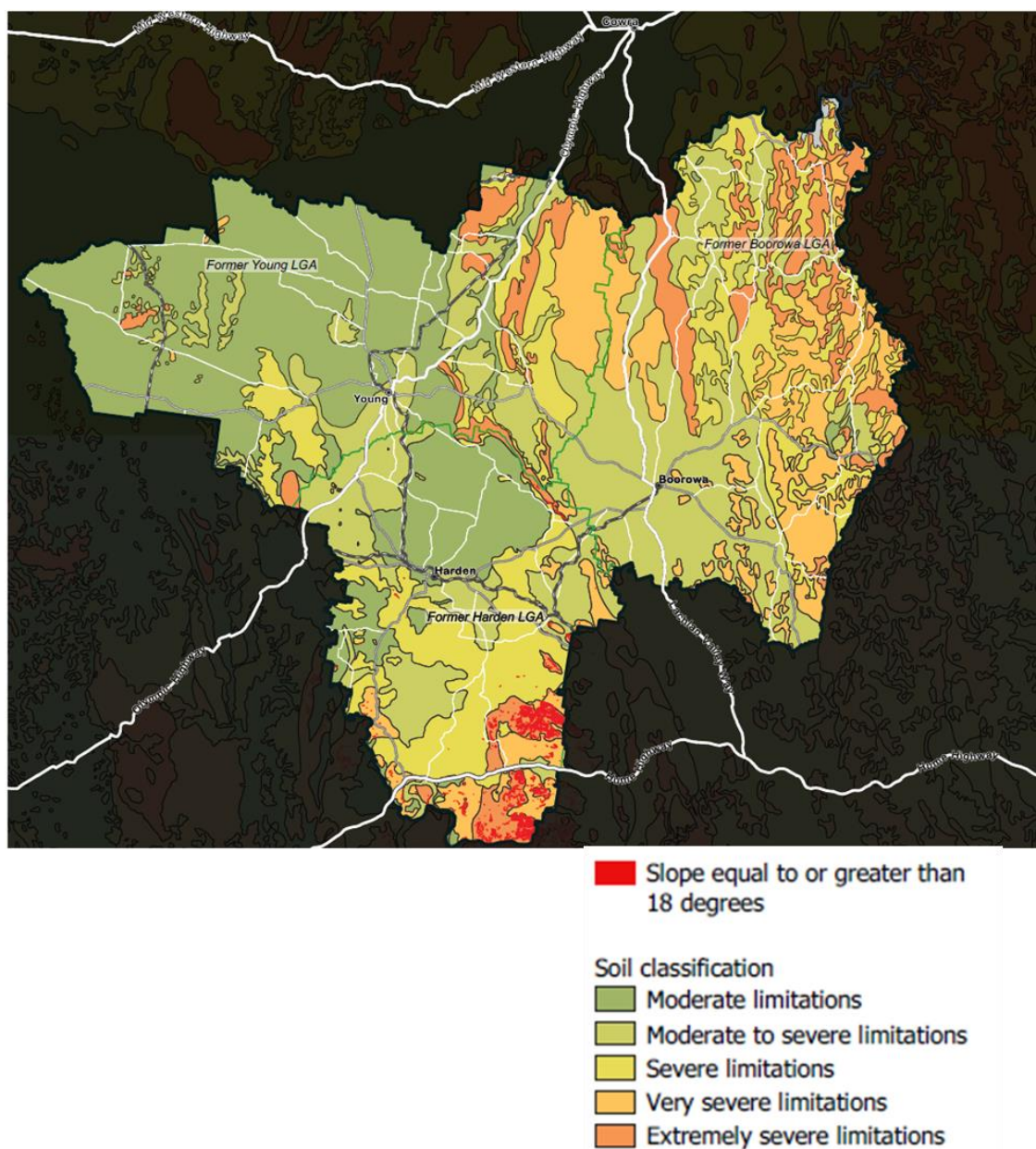
Map: Environmental Layers across Hilltops - Source NSW SEEDS Portal

- **Agricultural production value**

Land area need to support broadacre farming and operation of large equipment. It should be noted that a dwelling entitlement on the lower MLS sizes potentially places more emphasis on amenity value compared to productive value of land.

- **Bio physical characteristics**

Local context and physical characteristics are important elements to determine the size of rural land parcels. The upcoming Important Agricultural land mapping (IAL), DPIE NSW is expected to provide an overlay of biophysical characteristics of land such as soil types and topography that helps to make decisions on MLS.



Map: Land and Soil Capability Analysis across Hilltops - Source NSW eSPADE

- **Commercial farming potential**

Due consideration is required for commercial farming opportunities that are guided by lot sizes. Cropping area / crop yield data from DPI, Australian Bureau of Agricultural Land Resources Economics guides suitable land parcels for intensive agriculture. Livestock performance data from DPI, Australian Bureau of Agricultural Land Resources Economics provides a guideline for MLS to conduct livestock enterprise.

Recommendation

Hilltops is a majority large rural area with different characteristics in its rural land from its location, land use, biophysical characteristics and value as agricultural land depending on the above.

Therefore, a distinction between differing locations is appropriate in the application of a minimum lot size for a dwelling.

This minimum lot size for differing locations is recommended to be based upon the Criteria:

- Protection of productive agricultural rural lands
- Preventing fragmentation and generational loss of agricultural land
- Minimising and avoiding potential land use conflict
- Environmental impact and protection of natural resources used for agriculture
- Biophysical Characteristics of rural land

There is a distinction between different locations of Rural Land in Hilltops. Important Agricultural Land Mapping (IAL) DPIE, NSW will further illustrate this variation and is expected to release in November 2020. IAL will assist in making decisions regarding the Minimum Lot Size in Rural Land.

It is well understood that Council requires a consistent and robust approach for MLS in terms of the exact size that provides uniformity throughout the Hilltops LGA. Nevertheless, the various criteria outlined above including the Important Agricultural Land Mapping (IAL) DPIE, NSW will be the key determining factors to address issues related to MLS and its consistency in the Hilltops Rural Land.

However, Council is yet to receive updated Important Agricultural Land (IAL) Mapping from the Department of Primary Industries to confirm whether different lot sizes may be applicable within this zone.

IAL Mapping is a priority in the NSW South East and Tablelands Regional Plan and in the Primary Production and Rural Development SEPP. In accordance with the Regional Plan and SEPP, the purpose of the IAL Mapping is to assist local government with developing strategic land use plans and protect identified important agricultural land from land use conflict and fragmentation and manage the interface between important agricultural land and other land uses through local environmental plans.

Therefore, to be consistent with the aims of Council to achieve harmonization between the three current LEPs, the current proposal is for one standard minimum lot size to apply within the RU1 Zone. However, updated IAL Mapping may become available from the Department during the Gateway Determination process.

<p>RU1 Primary Production</p>	<p>40 hectares</p> <p>A Varied minimum lot size be applied based on the following criteria:</p> <ul style="list-style-type: none"> • Protection of productive agricultural rural lands • Preventing fragmentation and generational loss of agricultural land • Minimising and avoiding potential land use conflict • Environmental impact and protection of natural resources used for agriculture • Biophysical Characteristics of rural land
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Table: Recommendations Summary

Clause 4.1 Objectives Minimum Lot Size	<div>a) to ensure land use and development are undertaken on appropriately sized parcels of land.</div> <div>b) to ensure sufficient land area to promote high levels of residential amenity,</div> <div>c) to ensure new lots have an adequate water supply and can be provided with an effective means of disposal of domestic waste and adequately serviced,</div> <div>d) to create lots that are compatible with the existing predominant lot pattern or desired future character of the locality and to minimise the likely adverse impact on the amenity of adjoining developments.</div> <div>e) to prevent fragmentation of primary production agricultural land,</div> <div>f) to minimise potential for land use conflict, particularly between residential land uses and other rural land uses</div>																									
Clause 4.1b Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Clause 4.1b Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings <div>(1) The objective of this clause is to achieve planned residential density in certain zones.</div> <div>(2) Development consent may be granted for development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 of the Table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table.</div> <table><tr><th>Column 1</th><th>Column 2</th><th>Column 3</th></tr><tr><td rowspan="3">Dual occupancies (connected to a reticulated sewerage system owned and operated by the Council)</td><td>Zone R1 General Residential</td><td rowspan="3">750 square metres</td></tr><tr><td>Zone RU5 Village</td></tr><tr><td>Zone R5 Large Lot Residential</td></tr><tr><td rowspan="3">Dual occupancies (not connected to a reticulated sewerage system owned and operated by the Council)</td><td>Zone R1 General Residential</td><td rowspan="3">8000 square metres</td></tr><tr><td>Zone RU5 Village</td></tr><tr><td>Zone R5 Large Lot Residential</td></tr><tr><td rowspan="3">Multi dwelling housing (connected to a reticulated sewerage system owned and operated by the Council)</td><td>Zone R1 General Residential</td><td rowspan="3">1000 square metres</td></tr><tr><td>Zone RU5 Village</td></tr><tr><td>Zone R5 Large Lot Residential</td></tr><tr><td rowspan="3">Multi dwelling housing (not connected to a reticulated sewerage system owned and operated by the Council)</td><td>Zone R1 General Residential</td><td rowspan="3">8000 square metres</td></tr><tr><td>Zone RU5 Village</td></tr><tr><td>Zone R5 Large Lot Residential</td></tr></table>			Column 1	Column 2	Column 3	Dual occupancies (connected to a reticulated sewerage system owned and operated by the Council)	Zone R1 General Residential	750 square metres	Zone RU5 Village	Zone R5 Large Lot Residential	Dual occupancies (not connected to a reticulated sewerage system owned and operated by the Council)	Zone R1 General Residential	8000 square metres	Zone RU5 Village	Zone R5 Large Lot Residential	Multi dwelling housing (connected to a reticulated sewerage system owned and operated by the Council)	Zone R1 General Residential	1000 square metres	Zone RU5 Village	Zone R5 Large Lot Residential	Multi dwelling housing (not connected to a reticulated sewerage system owned and operated by the Council)	Zone R1 General Residential	8000 square metres	Zone RU5 Village	Zone R5 Large Lot Residential
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	<p>Residential flat buildings (connected to a reticulated sewerage system owned and operated by the Council)</p> <p>Residential flat buildings (not connected to a reticulated sewerage system owned and operated by the Council)</p>	<p>Zone R1 General Residential</p> <p>Zone RU5 Village</p> <p>Zone R5 Large Lot Residential</p> <p>Zone R1 General Residential</p> <p>Zone RU5 Village</p> <p>Zone R5 Large Lot Residential</p>	<p>2000 square metres</p> <p>8000 square metres</p>
Single Dwelling R1 General Residential	<p>700m² minimum lot size for a dwelling</p> <p>Lot is fully serviced to town water and sewer networks. Add clause noting if not fully serviced:</p> <ul style="list-style-type: none"> • 1 hectare, if not connected to Council's reticulated sewer network (can be connected to reticulated water) 		
R2 Low Density Residential	<p>4000m² minimum lot size for a dwelling</p> <p>Add clause noting if not fully serviced:</p> <ul style="list-style-type: none"> • 1 hectare, if the consent authority is satisfied that each lot will be connected to the Council's reticulated water supply system but not sewer network. 		
Dual Occupancy (as per Clause 4.1b)	<p>750m² or 1000m² for corner lot and battle axe blocks (two lots of 375m²)</p>		
Multi-Unit housing (as per Clause 4.1b)	<p>1000m² (three lots of 333m²)</p>		
Residential Flat Building (as per Clause 4.1b)	<p>2000m²</p>		
New Local Clause: Essential services in RU4 and R5 Zones	<p><i>Essential services in RU4 and R5 Zones</i></p> <p>(4) <i>This clause applies to land in Zone RU4 Primary Production Small Lots and Zone R5 Large Lot Residential.</i></p> <p>(5) <i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:</i></p> <p style="padding-left: 40px;">(a) <i>the supply of water,</i></p> <p style="padding-left: 40px;">(b) <i>the supply of electricity,</i></p> <p style="padding-left: 40px;">(c) <i>the disposal and management of sewage,</i></p> <p style="padding-left: 40px;">(d) <i>stormwater drainage or on-site conservation,</i></p> <p style="padding-left: 40px;">(e) <i>suitable road access.</i></p> <p>(6) <i>This clause does not apply to development for the following purposes:</i></p>		

	<p>(a) providing, extending, augmenting, maintaining, or repairing any public utility infrastructure,</p> <p>(b) the subdivision of land that is more than 800 metres from any public sewer main or is intended only to:</p> <ol style="list-style-type: none"> enlarge the area of an existing lot, or rectify any encroachment on an existing lot, or open a new road
R5 Large Lot Residential	<p>Lot Size dependant on connectivity to reticulated water and/or sewer services</p> <ul style="list-style-type: none"> 2 hectares minimum if not connected to reticulated water and/or sewer services <p>Add clause noting if connected the following:</p> <ul style="list-style-type: none"> 1 hectare, if the consent authority is satisfied that each lot will be connected to the Council's reticulated water supply system.
RU4 Primary Production Small Lots - Inner Ring	<p>Lot Size dependant on connectivity to reticulated water and/or sewer services</p> <ul style="list-style-type: none"> 2 hectares minimum if not connected to reticulated water and/or sewer services <p>Add clause noting if connected the following:</p> <ul style="list-style-type: none"> 1 hectare, if the consent authority is satisfied that each lot will be connected to the Council's reticulated water supply system.
RU4 Primary Production Small Lots - Outer Ring and Other	<p>4 hectares 12 hectares 24 hectares</p> <p>Varied based on: agricultural production context and buffering, infrastructure servicing, road access, environmental factors such as:</p> <ul style="list-style-type: none"> topography, water catchments, soil types, nature conservation values. Biodiversity and flooding
RU5 Village	<p>2000m²</p> <p>In line with historic subdivision pattern.</p> <p>However, noting development to address infrastructure and environmental factors such as:</p> <ul style="list-style-type: none"> On site sewer management Connection to Servicing Groundwater Vulnerability

<p>RU1 Primary Production</p>	<p>40 hectares</p> <p>A Varied minimum lot size be applied based on the following criteria:</p> <ul style="list-style-type: none"> • Protection of productive agricultural rural lands • Preventing fragmentation and generational loss of agricultural land • Minimising and avoiding potential land use conflict • Environmental impact and protection of natural resources used for agriculture • Biophysical Characteristics of rural land
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