

***ATTACHMENT B***  
***LEP CLAUSE EXPLAINER***  
**Draft Hilltops Local  
Environmental Plan**

***22 OCTOBER 2020***



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## Summary

A local environmental plan (LEP) is a legal document prepared by Council and approved by the NSW State Government to regulate land use and development.

LEPs guide planning decisions for local governments. The LEP allows Council to regulate the ways in which all land both private and public may be used and protected through zoning and development controls.

In NSW, the Standard Instrument Local Environmental Plan provides a 'template' that all NSW councils must use as the basis for an LEP.

The Standard Instrument uses standardised content including:

- Land use zones including:
  - standard zone objectives and
  - mandated permitted and prohibited uses.
- land use definitions;
- clauses; and
- format.

The Standard Instrument LEP Template includes 7 parts, 6 schedules and associated mapping.

- Part 1- Preliminary
- Part 2 - Permitted or prohibited development
- Part 3 – Exempt and Complying Development
- Part 4 – Principle Development Standards
- Part 5 – Miscellaneous Provisions
- Part 6 – Urban Release Area
- Part 7 - Local Provisions
- Schedule 1 - Additional permitted uses (Clause 2.5)
- Schedule 2 - Exempt Development (Clause 3.1)
- Schedule 3 - Complying Development (Clause 3.2)
- Schedule 4 - Classification or reclassification of public land (clause 5.2)
- Schedule 5 Environmental Heritage (clause 5.10)
- Schedule 6 Pond-based and tank-based aquaculture (Clause 5.19)

## Recommendations Summary:

Section of LEP	Proposed Changes
<b>Part 1 Preliminary</b>	
Clause 1.1 Name of Plan	Administrative Change for Hilltops LEP
Clause 1.1AA Commencement	No Change from Standard Instrument
Clause 1.2 Aims of Plan	Proposed Changes
Clause 1.3 Land to which Plan applies	Administrative Change for Hilltops LEP
Clause 1.4 Definitions	No Change from Standard Instrument
Clause 1.5 Notes	No Change from Standard Instrument
Clause 1.6 Consent authority	No Change from Standard Instrument
Clause 1.7 Maps	No Change from Standard Instrument
Clause 1.8 Repeal of planning instruments applying to land	No Change from Standard Instrument

Section of LEP	Proposed Changes
Clause 1.8A Savings provision relating to development applications	No Change from Standard Instrument
Clause 1.9 Application of SEPPs	No Change from Standard Instrument
Clause 1.9A Suspension of covenants, agreements and instruments	No Change from Standard Instrument
<b>Part 2 Permitted or prohibited development</b>	See <b>Attachment D – Land Use Zones (Part 2 of LEP)</b> for more detail.
Clause 2.1 Land use zones	No Change from Standard Instrument
Clause 2.2 Zoning of land to which Plan applies	No Change from Standard Instrument
Clause 2.3 Zone objectives and Land Use Table	No Change from Standard Instrument
Clause 2.4 Unzoned land	No Change from Standard Instrument
Clause 2.5 Additional permitted uses for particular land	No Change from Standard Instrument
Clause 2.6 Subdivision—consent requirements	No Change from Standard Instrument
Clause 2.7 Demolition requires development consent	No Change from Standard Instrument
Clause 2.8 Temporary use of land	Proposed Amendments
<b>Part 3: Exempt and Complying Development</b>	
Clause 3.1 Exempt Development and Clause 3.2 Complying Development	No Change from Standard Instrument
Clause 3.3 Environmentally sensitive areas excluded [compulsory]	No Change from Standard Instrument
<b>Part 4 Principal development standards</b>	See <b>Attachment E – Minimum Lot Size (Part 4 of LEP)</b> for more detail.
Clause 4.1 Minimum Subdivision Lot Size	Proposed Amendments
Clauses 4.1AA - Minimum Lot Sizes for Community and Strata Subdivisions	Proposed Amendments
New Clause: Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Proposed Amendments
Clauses 4.2 Rural subdivision	No Change from Standard Instrument
Clause 4.2A Erection of dwelling houses on land in certain rural and residential zones (Harden LEP) and 4.2A Erection of dwelling houses or secondary dwellings on land in Zone RU1 Primary Production (Boorowa LEP)	Proposed Amendments
Clause 4.2B Minimum subdivision lot size for strata plan schemes in Zone RU1 Primary Production (Boorowa LEP) and Clause 4.2B Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones (Harden LEP)	Proposed Amendments
Clause 4.3 Height of buildings	Not adopted

<b>Section of LEP</b>	<b>Proposed Changes</b>
Clause 4.4 Floor space ratio	Not adopted
Clause 4.5 Calculation of floor space ratio and site area	Not adopted
Clause 4.6 Exceptions to development standards	No Change from Standard Instrument
<b>Part 5 Miscellaneous Provisions</b>	
Clause 5.1 Relevant acquisition authority	No Change from Standard Instrument
Clause 5.2 Classification and reclassification of public land	No Change from Standard Instrument
Clause 5.3 Development near zone boundaries	Proposed Amendments
Clause 5.4 Controls relating to miscellaneous permissible uses	Proposed Amendments
Clause 5.6 Architectural roof features	Not adopted
Clause 5.7 Development below mean high water mark	Not adopted
Clause 5.8 Conversion of fire alarms	No Change from Standard Instrument
Clause 5.10 Heritage conservation	No Change from Standard Instrument
Clause 5.11 Bush fire hazard reduction	No Change from Standard Instrument
Clause 5.12 Infrastructure development and use of existing buildings of the crown	No Change from Standard Instrument
Clause 5.13 Eco-tourist facilities	No Change from Standard Instrument
Clause 5.14 Siding Spring Observatory – maintaining dark sky	Not adopted
Clause 5.15 Defense communications facility	No Change from Standard Instrument
Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	No Change from Standard Instrument
Clause 5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	No Change from Standard Instrument
Clause 5.18 Intensive livestock agriculture	No Change from Standard Instrument
Clause 5.19 Pond-based, tank-based and oyster aquaculture	No Change from Standard Instrument
<b>Part 6: Urban Release Area</b>	See <b>Attachment F – Urban Release Area (Part 6 of LEP)</b> for further detail.
Clause 6.1 – Arrangements for designated State public infrastructure [local]	Standard Instrument Model Clause
Clause 6.2 Public utility infrastructure [local]	Standard Instrument Model Clause
Clause 6.3 Development control plan [local]	Standard Instrument Model Clause
Clause 6.4 Relationship between Part and remainder of Plan [local]	Standard Instrument Model Clause

Section of LEP	Proposed Changes
<b>Part 7: Additional Local Provisions</b>	See <b>Attachment G – Local Clauses and Environmental Layers (Part 7 of LEP) for more detail.</b>
Clause 6.1 Earthworks	Harmonization from previous LEPs across Hilltops
Clause 6.2 Terrestrial biodiversity	Harmonization from previous LEPs across Hilltops
Clause 6.3 Riparian land and watercourses	Harmonization from previous LEPs across Hilltops
Clause 6.4 Groundwater vulnerability	Harmonization from previous LEPs across Hilltops
Clause 6.5 Flood planning	Harmonization from previous LEPs across Hilltops
Clause 6.5A Protection of water quality in drinking water catchments	Harmonization from previous LEPs across Hilltops
Clause 6.6 Salinity	Harmonization from previous LEPs across Hilltops
Clause 6.7 Highly erodible soils	Harmonization from previous LEPs across Hilltops
Clause 6.8 Development along the Lachlan and Boorowa Rivers and Lake Wyangala – Applicable in Boorowa LEP only	Harmonization from previous LEPs across Hilltops
Clause 6.9 Essential Services – Applicable to Boorowa and Harden LEPs only	Harmonization from previous LEPs across Hilltops
Clause 6.10 Development on land known as Carinya Estate -Applicable to Boorowa LEP only	Harmonization from previous LEPs across Hilltops
<b>Schedules</b>	
Schedule 1 – Additional Permitted Uses	No Changes to previous inclusions in Young and Harden LEP. Transfer into Hilltops LEP.
Schedule 2 – Exempt Development	No Change from Standard Instrument
Schedule 3 – Complying Development	No Change from Standard Instrument
Schedule 4 – Classification and reclassification of public land	No Change from Standard Instrument
Schedule 5 – Environmental Heritage	Updated Heritage Schedule based on previous identified heritage items. See Attachment H – Hilltops Heritage Review Study (Schedule 5 of LEP) for more details.
Schedule 6 – Pond-based and tank-based aquaculture	No Change from Standard Instrument

## Purpose of Document

The purpose of this document is to provide details of the planning matters to be resolved between the existing planning instruments before a new comprehensive LEP for the amalgamated Hilltops LGA can be established.



A consolidated comprehensive LEP will provide a single set of planning guidance across the Hilltops LGA.

This will enable a consistent approach and objectives for development across Hilltops when residents, stakeholders, businesses, industries and other groups engage with the Council for development.

The future Hilltops LEP will also resolve inconsistencies and update based on revised policy and information since the current inforce LEP's were made in 2010, 2011 and 2012.

This document will set through the Standard Instrument LEP structure, going clause by clause and noting:

- Identifying and resolving consistency and inconsistencies across current three LEP's
- Briefly describe the intention of the clause
- Note current Clauses content and difference across the three LEP's
- Provides resolutions and recommendations for the draft Hilltops LEP clauses

## Introduction

Council needs to prepare a Local Environmental Plan consistent with the requirements of [Division 3.4 Environmental Planning instruments - LEPs in the Environmental Planning and Assessment Act, 1979](#). As well as in line with guidance from the Department of Planning Industry and Environment such as [Planning Proposals - A guide to preparing planning proposals](#) and [Local Environmental Plans - A guide to preparing local environmental plans](#).

The NSW Department of Planning, Industry and Environment (DPIE) prepared a document at the time titled *Guidance for merged councils on planning functions* which sets out the land use planning matters for new Council's to consider whilst implementing a merger.

In accordance with the DPIE's guidance material, the harmonisation of local planning controls is an important action for newly amalgamated councils. Accordingly, Hilltops' Strategic Planning team have commenced the process of examining the actions required to prepare a new comprehensive LEP for the Hilltops LGA.

## Local Environmental Plans applying to Hilltops

The following LEPs are currently in force across Hilltops.

Former Boorowa LEPs	Former Harden LEPs	Former Young LEPs
<b>Boorowa LEP 2012</b>	<b>Harden LEP 2011</b>	<b>Young LEP 2010</b>

It should be noted that a small area of Young (2 Park Ave YOUNG NSW) is still subject to older non-standard instrument LEPs as a consequence of land being deferred from LEPs in the past.

The two LEPs that still apply for those lands includes with clauses below:

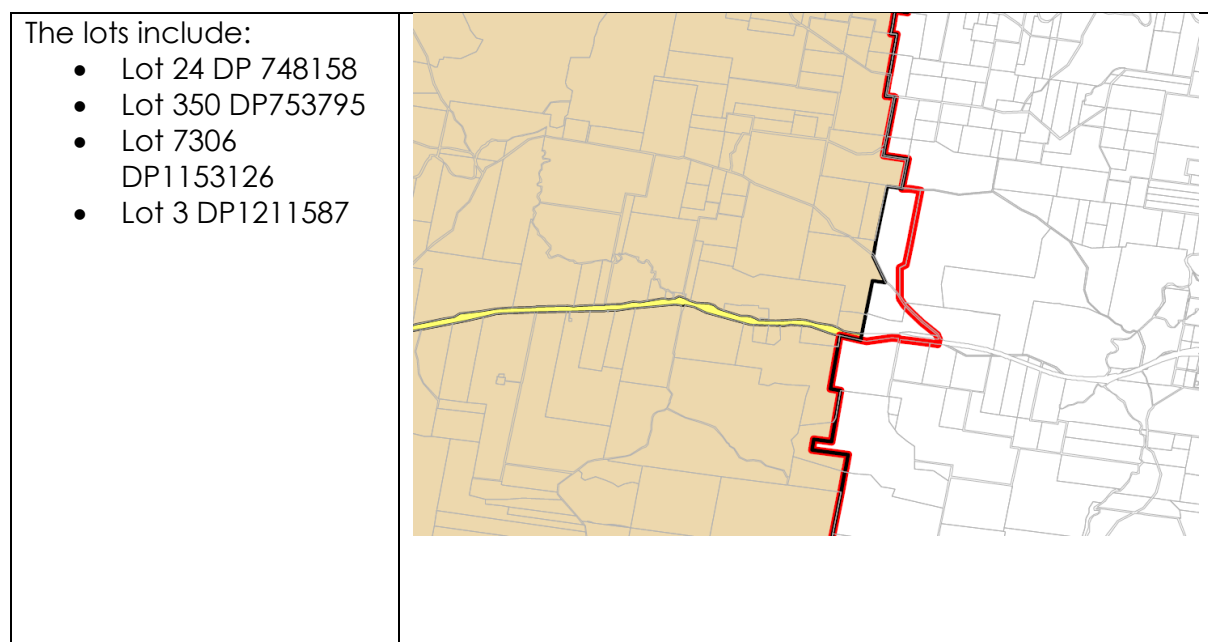
- (a) Young Local Environmental Plan 1991—Urban Lands,
- (b) Young Local Environmental Rural Plan 1993.

*(1B) Clauses 2.6(1), 2.7, 2.8, 4.6 and 5.8 of this Plan is taken to apply to land to which Young Local Environmental Plan 1991—Urban Lands continues to apply under subclause (1A), with the following modifications—*

- (a) clause 4.6(6) of this Plan is taken to apply only to land in Zone No 1 (a) (Rural "A" Zone), Zone No 1 (c) (Rural "C" Zone) and Zone No 7 (h) (Environmental Protection (Scenic) Zone),*
- (b) clause 4.6(8)(c) of this Plan is taken not to apply.*

Additionally, an area adjacent to the Yass Valley LGA and Hilltops LGA boundary is an anomaly of unzoned land within Hilltops LGA which occurred at the time of amalgamation.

The area is to the north of the Hume Highway and bisected Whitefields Lane to the South East of the Hilltops LGA as shown below:



The deferred matter and anomaly will be resolved in rezoning and administrative mapping changes.

In the circumstances where a particular zone exists in only one LEP, it is generally proposed to initially transfer the existing zoning table for that zone into a combined LEP with no changes.

### Comparison of Local Provisions

Many of the clauses in the respective LEPs are similar given they are all based on the Standard Instrument LEP issued by the NSW State Government.

However, each of the LEPs has also introduced local clauses where relevant to further inform various development outcomes, either in specific circumstances or more generally through the LEP.

Inconsistent provisions and recommended approaches to resolving these are discussed below.

## Part 1 Preliminary

### Clause 1.1 Name of Plan [compulsory]

This is a compulsory administrative clause like most of Part 1 of the Standard Instrument LEP template.

The Hilltops LEP will replace italics with name of council LGA and year in numbers, as below:

'This Plan is Hilltops Local Environmental Plan 2020/2021'

It is recommended the draft Hilltops LEP:

*Administrative Change otherwise, no changes to the Standard Instrument Clause 1.1 Name of Plan*

### Clause 1.1AA Commencement [compulsory]

This is a compulsory administrative clause like most of Part 1 of the Standard Instrument LEP template. It reads:

'This Plan commences on the day on which it is published on the NSW legislation website.'

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 1.1AA Commencement*

### Clause 1.2 Aims of Plan [compulsory]

This is a compulsory administrative clause like most of Part 1 of the Standard Instrument LEP template.

The aims of the LEP are to reflect the local strategic planning guiding the LEP being, Hilltops 2040 – the Hilltops Local Strategic Planning Statement. The LEP aims also align with the Hilltops Community Strategic Plan Wellbeing Pillars and Objectives. As well as the NSW South East and Tablelands Regional Plan.

See **Attachment C – Aims of the Plan** for further information and sources for aims of Hilltops LEP.

Currently the three inforce LEP's have the following aims:

<b>Boorowa LEP 2012</b>	<b>Harden LEP 2011</b>	<b>Young LEP 2010</b>
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<p>(a) to encourage sustainable economic growth and development within Boorowa,</p> <p>(b) to encourage the retention of productive rural land for agriculture,</p> <p>(c) (c) to encourage sustainable primary industry production,</p> <p>(d) (d) to identify, protect, conserve and enhance Boorowa's natural assets,</p> <p>(e) (e) to allow for the equitable provision of social services and facilities for the community,</p> <p>(f) (f) to encourage and support growth in the Boorowa township.</p>	<p>(a) to protect and encourage a diversity of sustainable primary industry production,</p> <p>(b) to protect primary industry production areas from conflicting land uses,</p> <p>(c) to encourage the proper management, development and conservation of natural and human resources in Harden by protecting, enhancing, managing and conserving—</p> <ul style="list-style-type: none"> <li>i. areas of high scenic or recreational value, and</li> <li>ii. areas of significance for nature conservation, and</li> <li>iii. timber, minerals, soil, water, vegetation and other natural resources, and</li> <li>iv. landscapes, places and buildings of archaeological or heritage significance,</li> </ul> <p>(d) to provide opportunities for—</p> <ul style="list-style-type: none"> <li>i. industrial relocation and development, employment, economic and enterprise growth, and</li> <li>ii. the expansion of Harden-Murrumburrah township and village areas to meet future urban growth needs, and</li> <li>iii. rural small holding subdivisions,</li> </ul>	<p>(a) to protect the natural resources of Young from development that may reduce horticultural and agricultural productivity, while allowing for the planned urban expansion of Young Township,</p> <p>(b) to encourage the proper management, development and conservation of resources through the principles of ecologically sustainable development by protecting, enhancing and conserving the following—</p> <ul style="list-style-type: none"> <li>i. land of significance to agricultural production,</li> <li>ii. areas of high scenic value,</li> <li>iii. areas of significance for nature conservation,</li> <li>iv. timber, minerals, soil, water and other natural resources,</li> </ul> <p>(c) to protect, conserve and enhance the natural and cultural heritage of Young, including native biodiversity, threatened species, remnant and riparian vegetation, corridors and links and environmentally sensitive lands,</p> <p>(d) to encourage the renewal and upgrade of the older residential precincts in Young Township,</p> <p>(e) to encourage a range of housing, employment, recreational activities and services to meet the needs of existing</p>
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	(e) to encourage a built environment which is attractive to visitors, residents and investors.	and future residents of Young.
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Originating from Hilltops 2040 and using similar wording from other LEPs around NSW, it is proposed that the Hilltops LEP aims be as follows:

- (1) This Plan aims to make local environmental planning provisions for land in Hilltops in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) to advance the environmental, economic, and social goals of Hilltops.
  - (b) To enable the quality of the built, rural and natural environment of Hilltops provides the lifestyles sought by current and future residents including:
    - i. Sustaining the rural lifestyle and liveability of Hilltops Communities
    - ii. Connected, safe and accessible communities
    - iii. Diverse and affordable housing options
    - iv. Timely and efficient provision of infrastructure
    - v. Sustainable building design and energy efficiency
  - (c) To build and sustain healthy, diverse and empowered communities that actively participate in planning and managing their future including:
    - i. Social infrastructure is appropriately planned and located in response to demand and demographic change
    - ii. Protect and enhance cultural heritage values
    - iii. Land management practices support sustainable outcomes including Water efficiency
    - iv. Siting and arrangement of land uses for development in response to climate change
    - v. Planning development to manage emissions
    - vi. Planning decisions recognise basic needs expectations diverse community members
  - (d) To facilitate a strong and diverse economy providing a range of services as well as diverse employment and economic opportunities for residents and investors alike including:
    - i. Protect employment lands including rural lands, from incompatible land uses and enhance productivity over time
    - ii. Strengthen accessibility to expand markets for economic activity
    - iii. Adaptable to assist in generating economic activity and value adding opportunities
    - iv. Long term sustainable productivity while
    - v. Intensive ag and manning are supported subject to the full consideration of soil types topography and environmental impact.
    - vi. Providing an environment for job creation and economic activity
    - vii. Major enabling infrastructure projects are advocated planned and facilitated.
    - viii. Innovative renewable energy projects are fostered and encouraged

- (e) To recognise and sustain the diverse natural environment and associated natural resources that underpin the liveability and economic productivity of Hilltops.
- i. Further development is avoided in areas with a high exposure to natural hazards.
  - ii. Alterations to natural systems, such as natural flow regimes and floodplain connectivity, are minimised by
  - iii. effective management of riparian environments to reduce risk.
  - iv. The retention and protection of remnant vegetation.
  - v. Support revegetation of endemic vegetation to assist in sustaining natural resource values, reducing impacts of invasive weeds and the capacity of rural landscapes to support biodiversity.
  - vi. Establishment of buffers and setbacks to minimise impacts of conflicting uses and environmental values, including consideration of potential impacts on noise, water, biosecurity and air quality.
  - vii. Water in the region is managed on a sustainable and total water cycle basis to provide sufficient quantity and quality of water for consumptive uses, while protecting biodiversity and the function and health of ecosystems, including their resilience.

It is recommended the draft Hilltops LEP:

*Adopt the following objectives under Standard Instrument Clause 1.2 Aims of Plan:*

*The particular aims of this Plan are as follows:*

*(a) to advance the environmental, economic, and social goals of Hilltops.*

*(b) To enable the quality of the built, rural and natural environment of Hilltops provides the lifestyles sought by current and future residents including:*

- i. Sustaining the rural lifestyle and liveability of Hilltops Communities*
- ii. Connected, safe and accessible communities*
- iii. Diverse and affordable housing options*
- iv. Timely and efficient provision of infrastructure*
- v. Sustainable building design and energy efficiency*

*(c) To build and sustain healthy, diverse and empowered communities that actively participate in planning and managing their future including:*

- i. Social infrastructure is appropriately planned and located in response to demand and demographic change*
- ii. Protect and enhance cultural heritage values*
- iii. Land management practices support sustainable outcomes including Water efficiency*
- iv. Siting and arrangement of land uses for development in response to climate change*
- v. Planning development to manage emissions*
- vi. Planning decisions recognise basic needs expectations diverse community members*

*(d) To facilitate a strong and diverse economy providing a range of services as well as diverse employment and economic opportunities for residents and investors alike including:*

- i. *Protect employment lands including rural lands, from incompatible land uses and enhance productivity over time*
  - ii. *Strengthen accessibility to expand markets for economic activity*
  - iii. *Adaptable to assist in generating economic activity and value adding opportunities*
  - iv. *Long term sustainable productivity while*
  - v. *Intensive ag and manning are supported subject to the full consideration of soil types topography and environmental impact.*
  - vi. *Providing an environment for job creation and economic activity*
  - vii. *Major enabling infrastructure projects are advocated planned and facilitated.*
  - viii. *Innovative renewable energy projects are fostered and encouraged*
- (e) *To recognise and sustain the diverse natural environment and associated natural resources that underpin the liveability and economic productivity of Hilltops.*
- i. *Further development is avoided in areas with a high exposure to natural hazards.*
  - ii. *Alterations to natural systems, such as natural flow regimes and floodplain connectivity, are minimised by*
  - iii. *effective management of riparian environments to reduce risk.*
  - iv. *The retention and protection of remnant vegetation.*
  - v. *Support revegetation of endemic vegetation to assist in sustaining natural resource values, reducing impacts of invasive weeds and the capacity of rural landscapes to support biodiversity.*
  - vi. *Establishment of buffers and setbacks to minimise impacts of conflicting uses and environmental values, including consideration of potential impacts on noise, water, biosecurity and air quality.*
  - vii. *Water in the region is managed on a sustainable and total water cycle basis to provide sufficient quantity and quality of water for consumptive uses, while protecting biodiversity and the function and health of ecosystems, including their resilience.*

### Clause 1.3 Land to which Plan applies

This is a compulsory clause as per the Standard Instrument LEP.

The Standard Instrument specifies that there is to be a Land Application Map. This will note the boundary and apply to the whole of the Hilltops LGA

There are no differences in application between the LEPs.

It is recommended the draft Hilltops LEP:

*Adopt administrative change naming Hilltops in Clause 1.3 Land to which Plan applies*

### Clause 1.4 Definitions [compulsory]

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

The Dictionary at the end of the document contains both land use terms (to be used in the Land Use Table) and explanatory terms (not to be used in the Land Use Table). Direction 5 lists all types of development that may be included in the Land Use Table.

No changes are proposed to the Standard Instrument LEP clause:

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 1.4 Definitions unchanged*

#### Clause 1.5 Notes [compulsory]

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

The notes are non-statutory guidance to aid in the understanding of a clause and do not form part of the legal instrument. Notes will remain in councils' LEPs.

No changes are proposed to the Standard Instrument LEP clause:

Notes in this Plan are provided for guidance and do not form part of this Plan.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 1.4 Definitions unchanged*

#### Clause 1.6 Consent authority [compulsory]

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

The consent authority for the Hilltops LEP is (subject to the Act) the Council.

No changes are proposed to the Standard Instrument LEP clause:

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

It is recommended the draft Hilltops LEP:

*Adopt administrative change naming Hilltops in Clause 1.6 Consent authority*

#### Clause 1.7 Maps [compulsory]

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

No changes are proposed to the Standard Instrument LEP clause:



Requirements relating to the maps are set out in the documents entitled Standard technical requirements for LEP maps and Standard requirements for LEP GIS data

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 1.7 Maps*

#### Clause 1.8 Repeal of planning instruments applying to land [compulsory]

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

This clause repeals all existing environmental planning instruments that apply to the land to which the Plan applies.

This would include all the current in force LEP's covering the Hilltops LGA:

- Boorowa Local Environmental Plan 2012
- Harden Local Environmental Plan 2011
- Young Local Environmental Plan 2010
- Young Local Environmental Plan 1991—Urban Lands,
- Young Local Environmental Rural Plan 1993.

This would be repealed once the Hilltops Local Environmental Plan is adopted.

It is recommended the draft Hilltops LEP:

*Note to repeal the current in force Local Environmental Plans across the Hilltops LGA as per the Standard Instrument Clause 1.8 Repeal of planning instruments applying to land including:*

- *Boorowa Local Environmental Plan 2012*
- *Harden Local Environmental Plan 2011*
- *Young Local Environmental Plan 2010*
- *Young Local Environmental Plan 1991—Urban Lands,*
- *Young Local Environmental Rural Plan 1993.*

#### Clause 1.8A Savings provision relating to development applications [local]

This is a local clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

This clause provides a saving provision for development applications that have been made, the settled model clause below should be used and inserted as clause 1.8A.

This Clause states that if a development application has been made before the commencement of the Hilltops LEP in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had been exhibited but had not commenced.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Local Clause 1.8A Savings provision relating to development applications*

#### Clause 1.9 Application of SEPPs

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 3.28 of the Act.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 1.9 Application of SEPPs unchanged*

#### Clause 1.9A Suspension of covenants, agreements and instruments

This is a local clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Local Clause 1.9A Suspension of covenants, agreements and instruments unchanged*

## Part 2 Permitted or prohibited development

### Clause 2.1 Land use zones [compulsory]

This is a compulsory clause as per the Standard Instrument LEP.

Only zones defined within the Standard Instrument template may be used. No localized or subzones are not to be inserted.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 2.1 Land use zones unchanged*

### Clause 2.2 Zoning of land to which Plan applies

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

No changes are proposed to the Standard Instrument Clause being:

For the purposes of the Plan, land is within the zones shown on the Land Zoning Map.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 2.2 Zoning of land to which Plan applies unchanged*

### Clause 2.3 Zone objectives and Land Use Table

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

No changes are proposed.

The notes applicable to this clause explain the elements of the Land Use Table and the relationship between the Land Use Table and other provisions of the Plan.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 2.3 Zone objectives and Land Use Table unchanged*

### Clause 2.4 Unzoned land

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

All land must be zoned. However, the purpose of this clause is generally to capture any land that a council may inadvertently not zone.

No changes are proposed.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 2.4 Unzoned land unchanged*

**Clause 2.5 Additional permitted uses for particular land**

This is a compulsory clause as per the Standard Instrument LEP.

Councils may insert a list of additional permitted uses in Schedule 1 for particular land, e.g. by lot and DP number. The current Harden and Young LEP list a number of site specific uses, whereas the Boorowa LEP does not list any. See below.

Young LEP 2010	Harden LEP 2011
<p><b>1 Use of certain land at Campbell Street, Young</b></p> <p>(1) This clause applies to land at 21 Campbell Street, Young, being Lots 1–21, Section 53, DP 759144 and Lot 2, DP 251940.</p> <p>(2) Development for the following purposes is permitted with consent—</p> <ul style="list-style-type: none"> <li>(a) backpackers' accommodation,</li> <li>(b) business premises,</li> <li>(c) hotel or motel accommodation,</li> <li>(d) office premises.</li> </ul> <p><b>2 Use of certain land at Henry Lawson Way, Young</b></p> <p>(1) This clause applies to land at 161 Henry Lawson Way, Young, being Lot 5, DP 1065909.</p> <p>(2) Development for the following purposes is permitted with consent—</p> <ul style="list-style-type: none"> <li>(a) agricultural produce industries,</li> <li>(b) office premises,</li> <li>(c) retail premises (other than specialised retail premises)</li> <li>(d) tourist and visitor accommodation.</li> </ul> <p><b>3 Use of certain land at Lovell Street, Young</b></p> <p>(1) This clause applies to land at Lovell Street, Young, being Lot 1, DP 249816, Lots 1 and 2, DP 579936, Lots 4 and 5, DP 907118, Lots A and B, DP 909444, Lot 1, DP 723903, Lot 1, DP 915844, Lots 21 and 22, DP 136178, Lot 2, DP 909310 and railway land directly to the west of Lot 1, DP 249816.</p> <p>(2) Development for the purposes of agricultural produce industries is permitted with consent.</p> <p><b>4 Use of certain land at 910 Olympic Way North, Young</b></p> <p>(1) This clause applies to land at 910 Olympic Way North, Young, being Lot 2, DP 791404.</p> <p>(2) Development for the purposes of an industry for the purpose of a hotmix and coldmix production plant is permitted with consent.</p> <p><b>5 Use of certain land at Telegraph Road and Murringo Road, Young</b></p> <p>(1) This clause applies to the lots in the table to this clause.</p>	<p><b>1 Use of certain land at Kalangan Road, Galong</b></p> <p>(1) This clause applies to land at Kalangan Road, Galong, being Lot 1, DP 606878, known as St Clement's Retreat Centre.</p> <p>(2) Development for the purposes of a place of public worship being a monastery with tourist and visitor accommodation is permitted with development consent.</p> <p><b>2 Use of certain land at Simmonds Road, Harden</b></p> <p>(1) This clause applies to land at Simmonds Road, Harden, being Lot 3, DP 787896, known as Stock's Native Nursery.</p> <p>(2) Development for the purposes of a restaurant or cafe, plant nursery and dwelling is permitted with development consent.</p> <p><b>3 Use of certain land at Neill Street, Harden</b></p> <p>(1) This clause applies to land at 136 Neill Street, Harden, being Lot 20, Section 29, DP 758737.</p> <p>(2) (2) Development for the purposes of storage premises used for the storage of motor vehicles is permitted with development consent.</p>

Young LEP 2010	Harden LEP 2011										
<p>(2) Development for the purposes of agricultural produce industries and a poultry farm is permitted with consent.</p> <table border="1"> <thead> <tr> <th style="text-align: left;">Address</th> <th style="text-align: left;">Property description</th> </tr> </thead> <tbody> <tr> <td>90 Telegraph Road, Young</td> <td>Lots 1251, 1416 and 1195, DP 754611</td> </tr> <tr> <td>114 Telegraph Road, Young</td> <td>Lots 1196 and 1197, DP 754611</td> </tr> <tr> <td>151 Telegraph Road, Young</td> <td>Lot 2, DP 829700; Lot 1771, DP 754611</td> </tr> <tr> <td>4207 Murringo Road, Young</td> <td>Lot 1228, DP 754611</td> </tr> </tbody> </table> <p><b>6 Use of certain land at 8 Wombat Street, Young</b></p> <p>(1) This clause applies to land at 8 Wombat Street, Young, being Lot 2A, DP 976203.</p> <p>(2) Development for the purposes of vehicle sales or hire premises is permitted with development consent.</p> <p><b>7 Use of certain land at 1 Murringo Street, Young</b></p> <p>(1) This clause applies to land at 1 Murringo Street, Young, being Lot 9, Section 57, DP 759144.</p> <p>(2) (2) Development for the purposes of a car park is permitted with development consent.</p>	Address	Property description	90 Telegraph Road, Young	Lots 1251, 1416 and 1195, DP 754611	114 Telegraph Road, Young	Lots 1196 and 1197, DP 754611	151 Telegraph Road, Young	Lot 2, DP 829700; Lot 1771, DP 754611	4207 Murringo Road, Young	Lot 1228, DP 754611	
Address	Property description										
90 Telegraph Road, Young	Lots 1251, 1416 and 1195, DP 754611										
114 Telegraph Road, Young	Lots 1196 and 1197, DP 754611										
151 Telegraph Road, Young	Lot 2, DP 829700; Lot 1771, DP 754611										
4207 Murringo Road, Young	Lot 1228, DP 754611										

No changes are proposed to the additional uses listed within Schedule 1 which will roll over into the Hilltops LEP.

It is recommended the draft Hilltops LEP:

*Incorporate the existing listed Schedule 1 items in the Young and Harden LEP into the Hilltops LEP.*

#### Clause 2.6 Subdivision—consent requirements

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

The purpose of this clause is to clarify that land may be subdivided with consent. The exception to this relates to the subdivision of land on which there is a secondary dwelling in particular circumstances.

No changes are proposed.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 2.6 Subdivision—consent requirements unchanged*

### Clause 2.7 Demolition requires development consent

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

This clause states that the demolition of a building or work may only be carried out with consent, unless identified within the *Exempt and Complying Development Codes SEPP 2008*.

No changes are proposed.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 2.7 Demolition requires development consent unchanged*

### Clause 2.8 Temporary use of land

This is an optional clause as per the Standard Instrument LEP.

This clause enables Council to consider temporary land uses for a certain period of time, such as events or sales for a short period of time.

The objective of this clause is to provide temporary use of land if the use does not compromise the:

- future development of the land, or
- have detrimental economic, social, amenity or environmental effects on the land.

Councils can change the number of days as considered appropriate, provided it reflects the 'temporary' intent of the clause.

The three LEPs currently in force use the Standard Instrument wording with variation on how many days a temporary use can operate for in a 12 month period. As below:

<b>Boorowa LEP 2012</b>	<b>Harden LEP 2011</b>	<b>Young LEP 2010</b>
a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.	a maximum period of 72 days (whether or not consecutive days) in any period of 12 months.	a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.

It is proposed to adopt 52 days over a 12 month period and allow the consent to last up to 3 years (eg three year approval for an annual year event such as the Harden Kite Festival).

It is recommended the draft Hilltops LEP:

*Adopt the provision under Clause 2.8 Temporary use of land:*

- a maximum period of 52 days (whether or not consecutive days) in any period of 12 months; and
- allow the consent to last up to 3 years

### Land Use Table Comparison

This section reviews the zone objectives currently in use in Hilltops as per the three pre-amalgamation LEPs of Boorowa, Harden and Young.

Recommended adjustments and changes for the consolidated Hilltops LEP are established through the:

- NSW Standard Instrument LEP (the Standard Instrument),
- Current 3 Standard Instrument LEP's in use across Hilltops
  - Young LEP 2010;
  - Harden LEP 2011;
  - Boorowa LEP 2012; and
- Strategic directions provided within *Hilltops 2040*, the Hilltops Local Strategic Planning Statement (LSPS).

Zones proposed to be used within the consolidated Hilltops LEP are:

#### Zones proposed for use within the Consolidated Hilltops LEP

(as defined by the NSW standardised LEP guidelines)

##### 'Industrial' Zones

**IN1 General Industrial**

**IN2 Light Industrial**

##### 'Commercial' Zones

**B2 Local Centre - Proposed Removal**

**B4 Mixed Use**

**B6 Enterprise Corridor - Proposed Removal**

**B7 Business Park - Proposed Removal**

##### 'Residential' Zones

**R1 General Residential**

**R5 Large Lot Residential**

**R2 Low Density Residential**

##### 'Rural' Zones

**RU1 Primary Production**

**RU4 Primary Production Small Lots**

**RU3 Forestry – Proposed Removal**

**RU5 Village**

##### 'Specialist' Zones

**SP1 Special Activities - Proposed Removal**

**SP2 Infrastructure**

**SP3 Tourist – Proposed Removal**

##### 'Recreation' Zones

**RE1 Public Recreation**

**RE2 Private Recreation**

*'Conservation' Zones*

**E1 National Parks and Nature Reserves**

**E3 Environmental Management**

*'Waterways' Zones*

**W1 Natural Waterways**

**W2 Recreational Waterways**

SEE Attachment D for further information



## Part 3: Exempt and Complying Development

### Clause 3.1 Exempt Development and Clause 3.2 Complying Development

These are compulsory clauses in accordance with the Standard Instrument LEP that allow councils to include additional forms of development as exempt and/or complying development where not currently provided for under the Exempt and Complying SEPP.

It is recommended all exempt matters set out under any existing LEP be carried forward into a combined LEP where not currently provided for under the Exempt and Complying SEPP.

It is recommended the draft Hilltops LEP:

All exempt matters set out under any existing LEP be carried forward into a the Hilltops LEP in Schedule 1 where not currently provided for under the Exempt and Complying SEPP

### Clause 3.3 Environmentally sensitive areas excluded [compulsory]

This clause allows councils to nominate particular areas that should not be subject to exempt or complying development due to environmental concerns.

Only the Young LEP 2010 has a different provision in respect of identifying areas where exempt and/or complying development cannot be undertaken. In the Young LEP exempt or complying development cannot be undertaken in a land identified as a "Riparian Corridor", as below:

*(ja) land identified as "Riparian Corridor" on the [Natural Resources Sensitivity Water Map](#).*

It is recommended the draft Hilltops LEP:

*1. Continue with the restriction on complying development in a "Riparian Corridor" in Young noting it can potentially be expanded to cover the Hilltops area in the future if considered desirable*

## Part 4 Principal development standards

### Clause 4.1 Minimum Subdivision Lot Size

**UPDATE BASED ON WORKSHOP**

**SEE OBJECTIVES REPORT**

This is a compulsory clause as per the Standard Instrument LEP.

Each LEP has adopted this clause but each include different objectives for a minimum subdivision lot size.

Consistent with Standard Instrument controls, Council determines the objectives in determining the minimum subdivision lot size for a dwelling. Currently within the three LEPs includes the following objectives:

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

The minimum lot size applies to a subdivision of any land shown on the Lot Size Map that requires development consent. The Lot Size Map control can vary within the same Land Use Zone.

The subdivision and building of a dwelling on a lot that is smaller than the minimum lot size identified on the Lot Size Map is not permissible.

Minimum lot size control is only in consideration where dwellings are permissible within a zone. For example within an Industrial Zone – IN1, dwellings are not permissible to minimize land use conflict and to allow for uninhibited industrial development.

Areas where the Lot Size Map applies include:

- Town Residential Land – R1 and R2, and B4 (Mixed Use);

- Semi Rural Land – R5 and RU4; and
- Rural Lands – RU1 and RU5.

Considerations and criteria for determining a minimum lot size for a dwelling control includes but is not limited to the following:

Town Residential Land R1 and R2, and B4 (Mixed Use):

- Connection to reticulated water and sewer networks
- Stormwater
- Road access

Semi Rural R1 and R2, and B4 (Mixed Use):

- Sustainable on site in relation to on site sewer connection,
- Not impeding on rural production of lands and causing fragmentation
- Sustaining Semi Rural Amenity
- Topography
- Access
- Vegetation

Rural Lands – RU1 and RU5

- Protection of rural production of lands
- Limiting fragmentation of productive agricultural land
- Topography
- Soil
- Access
- Vegetation

Objectives should reflect the criteria and intent of areas where.

It is recommended the draft Hilltops LEP adopt the following objectives for Clause 4.1 Minimum Subdivision Lot Size:

***In relation to residential land:***

- 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 are adequately serviced with town water supply and reticulated sewer network, with an effective means of disposal of domestic waste.*
- d) to create lots that desired future layout of the locality and to minimise the likely adverse impact on the amenity and productivity of adjoining developments.*

***In relation to semi rural land and rural villages:***

- 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 amenity,*
- c) to ensure new lots have adequate land area for on site sewer management or able to connect to reticulated sewer network.*

*to create lots that are compatible with the existing predominant lot pattern or desired future layout of the locality and to minimise the likely adverse impact on the amenity and productivity of adjoining primary production lands.*

***In relation to rural land:***

- a) *to ensure land use and development are undertaken on appropriately sized parcels of land.*
- b) *to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- c) *to prevent fragmentation of primary production agricultural land,*
- d) *To sustain primary production and natural resource values*
- e) *to minimise potential for land use conflict, between other land uses and primary production land uses  
to protect supply chain for primary production land uses including natural resources and access to markets.*

#### Clauses 4.1AA - Minimum Lot Sizes for Community and Strata Subdivisions

By virtue of the drafting of clause '4.1 Minimum Subdivision Lot Size' (which states minimum lot sizes on LEP maps do not apply to community or strata title subdivisions), it is necessary to introduce local controls that ensure these types of subdivisions meet minimum lot sizes in rural zones where inappropriate subdivision and fragmentation may occur.

Boorowa and Harden LEP 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.

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 similar clause to this effect be carried forward into a combined LEP.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 4.1AA - Minimum Lot Sizes for Community and Strata Subdivisions*

#### Clauses 4.2 Rural subdivision

This is a compulsory clause as per the Standard Instrument LEP.

“The purpose of this clause is to provide some flexibility in the subdivision of land for primary production purposes, without creating opportunities for dwellings on undersized lots.”

This clause allows lots in rural zones to be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size.

However the subdivision cannot include an existing dwelling, where as a result of the subdivision, the resulting lot size would be below the minimum lot size control.

Or on that created lot less than the minimum lot size, enable a dwelling to be erected on such a lot.

All three current LEPs contain this clause.

No change is proposed to this clause.

It is recommended similar clause to this effect be carried forward into a combined LEP.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 4.2 Rural subdivision*

[Clause 4.2A Erection of dwelling houses on land in certain rural and residential zones \(Harden LEP\)](#) and [4.2A Erection of dwelling houses or secondary dwellings on land in Zone RU1 Primary Production \(Boorowa LEP\)](#)

The objectives of this clause are to minimise unplanned rural residential development and to enable the replacement of lawfully erected dwelling houses Rural zones.

The Boorowa and Harden LEP have variations of this clause, Young LEP does not contain this clause.

These clauses essentially seek to have the same effect, which is to establish controls in respect of what land dwellings can be erected upon. In the case of the Boorowa LEP, the clause also provides controls in respect of secondary dwellings.

This clause is now covered by the Standard Instrument Clause 4.1 and 4.2 and therefore no longer required.

It is recommended the draft Hilltops LEP:

*Remove Clause 4.2A Erection of dwelling houses on land in certain rural and residential zones (Harden LEP) and 4.2A Erection of dwelling houses or secondary dwellings on land in Zone RU1 Primary Production (Boorowa LEP)*

[Clause 4.2B Minimum subdivision lot size for strata plan schemes in Zone RU1 Primary Production \(Boorowa LEP\)](#) and [Clause 4.2B Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones \(Harden LEP\)](#)

The objectives of this clause to ensure that in rural land is not fragmented by subdivisions that would create additional dwelling entitlements.

The Boorowa and Harden LEP have variations of this clause, Young LEP does not contain this clause.

The clause states that the size of any lot resulting from a subdivision of land in RU1 Primary Production Zone under Boorowa LEP or RU1 Primary Production and RU4 Primary Production Small Lots under Harden LEP for a strata plan scheme that would create lots below the minimum lot size.

It is recommended the draft Hilltops LEP:

*Remove Clause 4.2A Erection of dwelling houses on land in certain rural and residential zones (Harden LEP) and 4.2A Erection of dwelling houses or secondary dwellings on land in Zone RU1 Primary Production (Boorowa LEP)*

#### Clause 4.3 Height of buildings

This clause has not been adopted in the Boorowa, Harden or Young LEPs.

No change is proposed to adopt this clause.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 4.3 Height of buildings*

#### Clause 4.4 Floor space ratio

This clause has not been adopted in the Boorowa, Harden or Young LEPs.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 4.4 Floor space ratio*

#### Clause 4.5 Calculation of floor space ratio and site area

This clause has not been adopted in the Boorowa, Harden or Young LEPs.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 4.5 Calculation of floor space ratio and site area*

No change is proposed to adopt this clause.

#### Clause 4.6 Exceptions to development standards

This is a compulsory clause as per the Standard Instrument LEP.

The objectives of this clause are to provide an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

No changes are proposed within the Hilltops LEP.

It is recommended the draft Hilltops LEP:

*Make no changes to the Standard Instrument Clause 4.6 Exceptions to development standards.*

## Part 5 Miscellaneous Provisions

### Clause 5.1 Relevant acquisition authority

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

No changes are proposed.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.1 Relevant acquisition authority*

### Clause 5.2 Classification and reclassification of public land

This is a compulsory clause as per the Standard Instrument LEP. There are no differences in application between the LEPs.

From advice from DPIE, no reclassifications of land are proposed as a part of this initial planning proposal to make the Hilltops LEP due to processes impacting upon timing of the LEP.

Further consultation is required with public authorities who use or have interest in Crown Land such a Local Land Services, Local Aboriginal Land Council's and local community groups.

Future reclassifications, if required, will be undertaken through a separate planning proposal process once the Hilltops LEP has been made.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.2 Classification and reclassification of public land*

A future separate planning proposal will include consultation in accordance with the Act including required with public authorities who use or have interest in Crown Land such a Local Land Services, Local Aboriginal Land Council's and local community groups.

The Planning Proposal for Classification and reclassification of public land will be pursued after the publishing of the Hilltops LEP.

### Clause 5.3 Development near zone boundaries

The purpose of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. Currently the three in force LEPs include:

<b>Boorowa LEP</b>	50 metres between any two zones
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<b>Harden LEP</b>	<p>30 metres between Zone RU1 Primary Production and Zone RU4 Primary Production Small Lots,</p> <p>10 metres between Zone RU1 Primary Production and Zone RU5 Village,</p> <p>10 metres between Zone RU4 Primary Production Small Lots and Zone RU5 Village, and</p> <p>5 metres in all other cases.</p>
<b>Young LEP</b>	20 metres between any two zones

It is proposed to adopt the 50 metres within RU5/Village Zone as per the Boorowa LEP and 20m between any two zones as per the Young LEP.

The proposed amendment will provide additional flexibility for uses adjacent to village zones across road reserve corridors and all other zones.

It is recommended the draft Hilltops LEP:

- *Adopt the 50 metres within RU5 - Village Zones as per the Boorowa LEP and*
- *20m between any two zones to as per the Young LEP for Clause 5.3 Development near zone boundaries*

#### Clause 5.4 Controls relating to miscellaneous permissible uses

This is a compulsory clause as per the Standard Instrument LEP.

There are specified additional guidance around the following land uses:

- Bed and breakfast accommodation
- Home businesses
- Home industries
- Industrial retail outlets
- Farm stay accommodation
- Kiosks
- Neighbourhood shops
- Neighbourhood supermarkets
- Roadside stalls
- Secondary dwellings
- Artisan food and drink industry exclusion

The differences in the application of this clause between the LEPs are detailed below:

#	Land Use	Boorowa LEP	Harden LEP	Young LEP	Recommendation
1	<p><b>Bed and breakfast accommodation</b></p> <p>If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of:</p>	no more than 5 bedrooms.	no more than 5 bedrooms.	no more than 3 bedrooms.	no more than 5 bedrooms.
2	<p><b>Home businesses</b></p> <p>If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than:</p>	30 square metres of floor area.	30 square metres of floor area.	30 square metres of floor area.	<p>(a) No more than 33% of the gross floor area of the dwelling or</p> <p>(b) 45 square metres of floor area.</p> <p>whichever is the lesser.</p>
3	<p><b>Home industries</b></p> <p>If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than:</p>	100 square metres of floor area.	30 square metres of floor area.	30 square metres of floor area.	<p>(a) No more than 50% of the gross floor area of the dwelling or</p> <p>(b) 120 square metres of floor area.</p> <p>whichever is the lesser.</p>
4	<p><b>Industrial retail outlets</b></p> <p>If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed—</p>	<p>(a) 67% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or</p> <p>(b) 400 square metres, whichever is the lesser.</p>	<p>(a) 33% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or</p> <p>(b) 400 square metres, whichever is the lesser.</p>	<p>67% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or</p> <p>400 square metres, whichever is the lesser.</p>	<p>(a) 67% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or</p> <p>(b) 400 square metres, whichever is the lesser.</p>

#	Land Use	Boorowa LEP	Harden LEP	Young LEP	Recommendation
5	<b>Farm stay accommodation</b> If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of	no more than 5 bedrooms.	no more than 5 bedrooms.	no more than 8 bedrooms.	no more than 8 bedrooms.
6	<b>Kiosks</b> If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed	30 square metres.	25 square metres.	10 square metres.	25 square metres.
7	<b>Neighbourhood shops</b> If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed	200 square metres.	100 square metres.	80 square metres.	100 square metres.
7AA	<b>Neighbourhood supermarkets</b> If development for the purposes of a neighbourhood supermarket is permitted under this Plan, the gross floor area must not exceed	1,000 square metres.	1,000 square metres	1,000 square metres	1,000 square metres
8	<b>Roadside stalls</b> If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed	50 square metres.	30 square metres.	8 square metres.	40 square meters where they are located on land zoned RU1 Primary Production and RU4 Primary Production Small Lots  25 square metres where they are located on land zoned RU5 Village.
9	<b>Secondary dwellings</b> If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor	(a) 60 square metres, (b) 25% of the total floor area	(a) 60 square metres, (b) 67% of the total floor area	(a) 60 square metres, (b) 25% of the total floor area	(a) 60 square metres, (b) 33% of the total floor area of the principal dwelling.

#	Land Use	Boorowa LEP	Harden LEP	Young LEP	Recommendation
	area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater—	of the principal dwelling.	of the principal dwelling.	of the principal dwelling.	
<b>10</b>	<b>Artisan food and drink industry exclusion</b>  If development for the purposes of an artisan food and drink industry is permitted under this Plan in an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed—	(a) 67% of the gross floor area of the industry, or (b) 400 square metres, whichever is the lesser.	(a) 33% of the gross floor area of the industry, or (b) 400 square metres, whichever is the lesser.	67% of the gross floor area of the industry, or 400 square metres, whichever is the lesser.	(a) 67% of the gross floor area of the industry, or (b) 400 square metres, whichever is the lesser.

It is recommended the draft Hilltops LEP:

*Adopt Clause 5.4 Controls relating to miscellaneous permissible uses  
As per below:*

#	Land Use	Recommendation
<b>1</b>	<b>Bed and breakfast accommodation</b>  If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of:	no more than 5 bedrooms.
<b>2</b>	<b>Home businesses</b> If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than:	(c) No more than 33% of the gross floor area of the dwelling or (d) 45 square metres of floor area.  whichever is the lesser.
<b>3</b>	<b>Home industries</b> If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than:	(c) No more than 50% of the gross floor area of the dwelling or (d) 120 square metres of floor area.  whichever is the lesser.
<b>4</b>	<b>Industrial retail outlets</b> If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed—	(c) 67% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or 400 square metres, whichever is the lesser.
<b>5</b>	<b>Farm stay accommodation</b>	no more than 8 bedrooms.

	If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of	
<b>6</b>	<b>Kiosks</b> If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed	25 square metres.
<b>7</b>	<b>Neighbourhood shops</b> If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed	100 square metres.
<b>7AA</b>	<b>Neighbourhood supermarkets</b> If development for the purposes of a neighbourhood supermarket is permitted under this Plan, the gross floor area must not exceed	1,000 square metres
<b>8</b>	<b>Roadside stalls</b> If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed	40 square meters where they are located on land zoned RU1 Primary Production and RU4 Primary Production Small Lots  25 square metres where they are located on land zoned RU5 Village.
<b>9</b>	<b>Secondary dwellings</b> If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater—	(a) 60 square metres, (b) 33% of the total floor area of the principal dwelling.
<b>10</b>	<b>Artisan food and drink industry exclusion</b> If development for the purposes of an artisan food and drink industry is permitted under this Plan in an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed—	(a) 67% of the gross floor area of the industry, or (b) 400 square metres, whichever is the lesser.

### Clause 5.6 Architectural roof features

This is optional clause under the Standard Instrument LEP which was not adopted in any of LEPs current LEPs.

This clause enables consent to be granted to development that includes an architectural roof feature which exceeds the height limits set by clause 4.3.

The Height of Buildings Clause 4.3 has not been adopted for the Hilltops LEP. Therefore, nothing has changed since the previous adoption of the LEPs which would impact upon including this clause.

It is proposed that this clause not be adopted in the Hilltops LEP.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 5.6 Architectural roof features*

#### Clause 5.7 Development below mean high water mark

This is optional clause under the Standard Instrument LEP. This clause has not adopted in any of LEPs current LEPs.

It is proposed that this clause not be adopted in the Hilltops LEP as it relates to coastal areas and zones which are not found in the Hilltops LGA.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 5.7 Development below mean high water mark*

#### Clause 5.8 Conversion of fire alarms

This is compulsory clause under the Standard Instrument LEP.

There is no difference between the three LEPs which provide the same wording.

This clause specifies when consent is required for the conversion of fire alarm systems, and which development is complying development.

No change is proposed to this clause.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.8 Conversion of fire alarms*

#### Clause 5.10 Heritage conservation

This is a compulsory clause as per the Standard Instrument LEP.

There are no differences in application between the LEPs.

Administrative Change to include under Objective 1(a):

(a) to conserve the environmental heritage of **Hilltops**,

No change is proposed to this clause.

It is recommended the draft Hilltops LEP:

*Administrative Change naming Hilltops in Objective 1(a) otherwise, no changes to the Standard Instrument Clause 5.10 Heritage conservation*

#### Clause 5.11 Bush fire hazard reduction

This is a compulsory clause as per the Standard Instrument LEP.

The Clause notes 'Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.'

There are no differences in application between the LEPs.

No change is proposed to this clause.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.11 Bush fire hazard reduction*

#### Clause 5.12 Infrastructure development and use of existing buildings of the crown

This is a compulsory clause as per the Standard Instrument LEP. There are no differences in application between the LEPs.

This clause specifies that nothing in the Plan in any way restricts or prohibits permitted or exempt development undertaken by or on behalf of a public authority under *State Environmental Planning Policy (Infrastructure) 2007*.

No change is proposed to this clause.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.12 Infrastructure development and use of existing buildings of the crown*

#### Clause 5.13 Eco-tourist facilities

This is a compulsory clause where eco-tourist facilities are permitted with consent under an LEP.

Accordingly, this clause only applies under the Harden LEP and Young LEP but is not applicable in the Boorowa LEP.

The clause requires Council to be satisfied that the eco-tourist facility is sympathetic to and maintains the environmental and cultural values of the land, and is designed and managed to have minimum impact on the environment.

It is proposed that the comprehensive Hilltops LEP adopt this clause.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument Clause 5.13 Eco-tourist facilities to apply across the Hilltops LGA where ecotourist facilities are permissible.*

#### Clause 5.14 Siding Spring Observatory – maintaining dark sky

This clause is optional does not apply to the Hilltops LGA and will not be adopted in the Hilltops LEP.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 5.14 Siding Spring Observatory – maintaining dark sky as it does not apply in the Hilltops LGA.*

#### Clause 5.15 Defence communications facility

This clause is optional does not apply to the Hilltops LGA and will not be adopted in the Hilltops LEP.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 5.15 Defence communications facility as it does not apply in the Hilltops LGA.*

#### Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones

This is a compulsory clause where rural, large lot residential and environmental zones are used in Councils outside of the Greater Sydney Region, Central Coast, Lake Macquarie, Newcastle and Wollongong.

Boorowa, Harden and Young LEP's all contain the Standard instrument clause.

The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or environment protection zones concerned, particularly residential land uses and other rural land uses)

No change is proposed to this clause.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones*

#### Clause 5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations

This clause is optional does not apply to the Hilltops LGA and will not be adopted in the Hilltops LEP.

It is recommended the draft Hilltops LEP:

*Not adopt the Standard Instrument Clause 5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations as it does not apply in the Hilltops LGA.*



#### Clause 5.18 Intensive livestock agriculture

This is a compulsory clause where intensive livestock agriculture permitted with consent under an LEP. Boorowa, Harden and Young LEP's all contain the Standard instrument clause.

The objective of this clause is:

- (a) to ensure appropriate environmental assessment of development for the purpose of intensive livestock agriculture; and*
- (b) To provide for certain capacity thresholds below which development consent is not required for that development subject to certain restrictions as to location.*

No change is proposed to this clause.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.18 Intensive livestock agriculture*

#### Clause 5.19 Pond-based, tank-based and oyster aquaculture

This is a compulsory clause as per the Standard Instrument LEP. There are no differences in application between the LEPs.

No change is proposed to this clause.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.19 Pond-based, tank-based and oyster aquaculture*

## Part 6: Urban Release Area

Hilltops 2040 identifies Concept Plan Area locations in Boorowa, Harden and Young for future investigation for potential rezoning for residential development. Within the framework of the Standard Instrument LEP, an option for identifying future investigation areas is the use of an Urban Release Area clause. This clause will become Part 6 of the Hilltops LEP.

This clause is often used where lands have been identified as potential locations for future residential growth but further work is required to confirm its suitability and service provision. It's also used as an interim measure to stop inappropriate or potential under development (eg. use for rural residential purposes).

The following areas identified in the LSPS as Concept Plan areas, are potential Urban Release Areas (URA's) which could be identified in the draft Hilltops LEP:

1. Boorowa South
2. Boorowa East
3. Harden East
4. Young North
5. Young North East
6. Young North West

A URA requires the preparation of a site specific Development Control Plan for each area prior to the release of the land.

The site specific DCP is intended to address:

- Infrastructure provision and sequencing – water and sewer
- Road access and transport movements
- landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation
- stormwater and water quality management controls

The DCP will include undertaking master planning such as including an indicative layout plan of the Urban Release Area noting;

- Differing residential typologies
- Environmental / Open space
- Road layouts

The release of each URA is controlled by Part 6 of the draft Hilltops LEP which ensures that the release of land is phased to meet the needs of the community in a manner that is economically and environmentally efficient and sustainable.

The Standard Wording from the model clause and proposed to be used within the Hilltops LEP is as follows:

### Clause 6.1 – Arrangements for designated State public infrastructure [local]

*Not Applicable in Hilltops.*

### Clause 6.2 Public utility infrastructure [local]

*(1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or*

that adequate arrangements have been made to make that infrastructure available when required.

(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

#### Clause 6.3 Development control plan [local]

(1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

(2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.

(3) The development control plan must provide for all of the following:

(a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,

(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,

(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,

(d) a network of passive and active recreational areas,

(e) stormwater and water quality management controls,

(f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,

(g) detailed urban design controls for significant development sites,

(h) measures to encourage higher density living around transport, open space and service nodes,

(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,

(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

(4) Subclause (2) does not apply to any of the following development:

(a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,

(b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,

(c) a subdivision of land in a zone in which the erection of structures is prohibited,

(d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

#### Clause 6.4 Relationship between Part and remainder of Plan [local]

A provision of this Part prevails over any other provision of this Plan to the extent of any inconsistency.

**Drafting Directions** relating to Clause 6 are as follows:

1. A definition of urban release area must be included in the Dictionary. It may define the area, usually by reference to an area on an urban release area map, or alternatively by description if it is agreed with the Department that a map is not required. For example:

**urban release area** means an area of land shown hatched and lettered "Urban Release Area" on the Urban Release Area Map.

**Urban Release Area Map** means the [Name] Local Environmental Plan 2008 Urban Release Area Map.

2. The following definition must also be included in the Dictionary:

**designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

(a) State and regional roads,

(b) bus interchanges and bus lanes,

(c) land required for regional open space,

(d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

3. Any additional provision that is specific to a particular LEP is to be included after clause 6.4.
4. Section 74D of the Act refers to DCP's.
5. For the purposes of clause 6.2, the following definition must be included in the Dictionary:

**public utility infrastructure**, in relation to an urban release area, includes infrastructure for any of the following:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

See **Attachment E – Urban Release Area Report** for more information about Urban Release Areas.

It is recommended the draft Hilltops LEP:

*Adopt the Standard Instrument LEP Model Clause - Urban Release Area as a new Part 6 of the Hilltops LEP.*

## Part 7: Additional Local Provisions

As a result of including Urban Release Area in Part 6, Additional Local Provisions becomes Part 7 with the Hilltops LEP Planning Proposal.

Local provisions have been harmonised in the new LEP to apply across the Hilltops Local Government Area.

For the Environmental Clauses, further data and information will be made available working with the Biodiversity and Conservation Team of DPIE. These will be utilised to provide up to date data and mapping as a part of the Gateway process and before public exhibition of the draft Hilltops LEP. Environmental Layers

Proposed Additional Local Provisions include:

- 7.1 Earthworks
- 7.2 Terrestrial biodiversity
- 7.3 Riparian land and watercourses
- 7.4 Groundwater vulnerability
- 7.5 Flood planning
- 7.5A Protection of water quality in drinking water catchments
- 7.6 Salinity
- 7.7 Highly erodible soils
- 7.8 Development along the Lachlan and Boorowa Rivers and Lake Wyangala
- 7.9 Essential Services Provision
- 7.10 Development on land known as Carinya Estate

### Clause 7.1 Earthworks

The purpose of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighboring uses, cultural or heritage items or features of the surrounding land.

This clause was included within the three current LEPs

- Clause 6.1 in Boorowa LEP 2012 and
- Clause 6.1 in Harden LEP 2011
- Clause 6.7 in Young LEP 2010

The additional clauses in the three LEPs are illustrated below:

Young LEP 2010	Development consent is required for the earthwork unless the work does not alter the existing ground level by more than 600 millimeters.
Boorowa LEP 2012	Before granting development consent for earthworks the consent authority must consider any appropriate measures proposed to avoid minimize or mitigate the impacts of the development.
Harden LEP 2011	No additional clause

It is recommended the draft Hilltops LEP:

*Adopt the 7.1 Earthworks Clause in the draft Hilltops LEP. See Attachment F for further information.*

### Removal of Clause 6.1 Young LEP – Erection of dwelling houses on land in certain residential, rural, and environmental protection zones.

The purpose of this clause is to minimize unplanned rural residential development and to enable the replacement of lawfully erected dwelling in rural and environmental protection zone.

It applies to land in RU1, RU4, RU5, R5 and E3.

Boorowa LEP 2012 and Harden LEP 2011 does not include this clause.

This clause has not been adopted in the Hilltops LEP as the inclusion of a minimum lot size for these zones meets the objectives of this clause

It is recommended the draft Hilltops LEP:

*Not adopt Clause 6.1 from the Young LEP – Erection of dwelling houses on land in certain residential, rural, and environmental protection zones, as its objectives are met by the inclusion of a minimum lot size for the zones RU1, RU4, RU5, R5 zones.*

### Removal of Clause 6.2 Young LEP – Subdivision for residential purpose in Zone RU5

The purpose of this clause is to ensure that development consent is not granted for a subdivision of land in village zone for residential purpose unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed residential development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

Boorowa LEP 2012 and Harden LEP 2011 does not include this clause.

RU5 subdivision local provision may not be needed in Young as MLS subdivision provision is adequate.

This clause has not been adopted in the Hilltops LEP as the inclusion of a minimum lot size for the RU5 zone meets the objectives of this clause

It is recommended the draft Hilltops LEP:

*Not adopt 6.2 Young LEP – Subdivision for residential purpose in Zone RU5, as its objectives are met by the inclusion of a minimum lot size for the zones RU5 zones.*

### Removal of Clause 6.3 Young LEP - Land

The objective of this clause is to maintain soil resources and the diversity and stability of landscape. Before determining the development application on this land, the consent authority must consider the adverse impact from the proposed development in relation to geotechnical stability and land degradation.

Boorowa LEP 2012 and Harden LEP 2011 does not include this clause.

This clause has not been adopted in the Hilltops LEP as it is covered by the Clause 7.1 Earthworks

It is recommended the draft Hilltops LEP:

*Not adopt 6.3 Young LEP – Land, as its objectives are met by the inclusion of a Clause 7.1 Earthworks.*

### Clause 7.2 Terrestrial Biodiversity

Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on native ecological community, habitat of any threatened species, population of ecological community and a regionally significant species of fauna and flora or habitat, and habitat elements providing connectivity.

This clause was included within the three current LEPs

- Clause 6.3 in Boorowa LEP 2012 – Terrestrial Biodiversity
- Clause 6.2 in Harden LEP 2011 – Biodiversity Protection
- Clause 6.5 in Young LEP 2010 - Biodiversity

Young LEP 2010	Boorowa LEP 2011	Harden LEP 2011
The objective of this clause is to maintain terrestrial and aquatic biodiversity.	The objective of this clause is to maintain terrestrial biodiversity.	The objective of this clause is to maintain terrestrial biodiversity.
This clause applies to land identified as “Areas of High Biodiversity” on the <a href="#">Natural Resources Sensitivity Biodiversity Map</a> .	This clause applies to land identified as “High Conservation Value Vegetation” on the <a href="#">Terrestrial Biodiversity Map</a> .	This clause applies to land identified as “Significant Vegetation” on the <a href="#">Natural Resources Biodiversity Map</a> .

It is recommended the draft Hilltops LEP:

*Adopt the 7.2 Terrestrial Biodiversity Clause in the draft Hilltops LEP. See Attachment F for further information.*

### Clause 7.3 Riparian Land and Watercourses

The purpose of this clause is to maintain hydrological functions of riparian land, waterways, and aquifers.

This clause was included within the three current LEPs

- Clause 6.5 in Boorowa LEP 2012 - Riparian Land and Watercourses
- Clause 6.3 in Harden LEP 2011 – Riparian Land and Watercourses
- Clause 6.4 in Young LEP 2010 - Water



Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
This clause applies to land identified as “Riparian Corridor” or “Groundwater Vulnerability” on the <a href="#">Natural Resources Sensitivity Water Map</a> .	This clause applies to all of the following— - land identified as “Riparian Land and Watercourses” on the <a href="#">Riparian Lands and Watercourses Map</a> . - all land that is within 40 metres of the top of the bank of land identified as “Riparian land and Watercourses” on that map.	This clause applies to land situated within a watercourse, or within 40 metres of the top of the bank of any watercourse, identified on the <a href="#">Natural Resources Water Map</a> .

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.3 Riparian land and watercourses in the draft Hilltops LEP. See Attachment F for further information.*

#### Clause 7.4 Ground Water Vulnerability

The purpose of this clause is to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from contamination as a result of inappropriate development.

This clause was included within the three current LEPs

- Clause 6.4 in Boorowa LEP 2012 – Ground Water Vulnerability
- Clause 6.4 in Harden LEP 2011 – Ground Water Vulnerability
- Clause 6.4 in Young LEP 2010 – Water (partially address this issue)

Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
NA (Refer to 6.4 Young LEP- Water)	This clause applies to land identified as “Ground Water Vulnerable” on the “ <a href="#">Ground Water Vulnerability Map</a> ”.	This clause applies to land identified as “Ground Vulnerability” on the <a href="#">Natural Resources Water Map</a> .

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.4 Groundwater vulnerability in the draft Hilltops LEP. See Attachment F for further information.*

#### Clause 7.5 Flood Planning

The purpose of this clause is to minimize the flood risk to life and property associated with the use of land and applies to land that is at or below the flood planning level.

This clause was included within the three current LEPs

- Clause 6.2 in Boorowa LEP 2012 – Flood Planning
- Clause 6.5 in Harden LEP 2011 – Flood Planning
- Clause 6.6 in Young LEP 2010 – Flood Planning

Only Harden LEP 2011 has the flood planning map.

Council is proposing to note and map flood prone land outside of the LEP Framework to allow for flexibility to update Flood mapping when appropriate. Further consultation with NSW DPIE will occur as a part of the Gateway Determination and Consultation.

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.5 Flood planning in the draft Hilltops LEP. See Attachment F for further information.*

### Clause 7.5A Protection of water quality in drinking water catchments

The purpose of this clause is to protect and maintain water quality in the drinking water catchments.

This clause was only included in the current Boorowa LEP

- Clause 6.5 A in Boorowa LEP 2012 – Protection of water quality in drinking water catchments

Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
NA	This clause applies to land identified as "Drinking Water Catchment" on the <a href="#">Drinking Water Catchment Map</a> .	NA

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.5A Protection of water quality in drinking water catchments in the draft Hilltops LEP. See Attachment F for further information.*

### Clause 7.6 Salinity

The purpose of this clause is to provide for the appropriate management of land that is subject to salinity and the minimisation and mitigation of adverse impacts from development that contributes to salinity.

This clause was only included in the current Harden and Boorowa LEP

- Clause 6.6 in Boorowa LEP 2012 – Salinity
- Clause 6.6 in Harden LEP 2011 – Salinity

Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
NA	This clause applies to land identified as "Saline Land" on the <a href="#">Salinity Map</a> .	(1) This clause applies to land identified as "Dryland Salinity" on the <a href="#">Natural Resources Land Map</a> .

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.6 Salinity in the draft Hilltops LEP. See Attachment F for further information.*

### Clause 7.7 Highly Erodible Soils

The purpose of this clause is to provide for the appropriate management of land that has highly erodible soils or has the potential to be affected by the process of erosion.

This clause was only included in the current Harden LEP

- Clause 6.7 in Harden LEP 2011 – Highly Erodible Soils

Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
NA	NA	This clause applies to land identified as “High Soil Erodibility” on the <a href="#">Natural Resources Land Map</a> .

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.7 Highly erodible soils in the draft Hilltops LEP. See Attachment F for further information.*

### Clause 7.8 Development along the Lachlan and Boorowa Rivers and Lake Wyangala

The purpose of this clause is to protect the immediate environment of Boorowa's main rivers and water bodies by controlling development along their banks.

Development must not be granted for erection of building on land;

- comprising the bed of Lachlan or Boorowa Rivers, or
- Zone RU1 primary production or Zone R5 large lot residential – within 100m of the top of the bank of the Lachlan or Boorowa River
- Within 100m of the fully supply level of Lake Wyangala

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.8 Development along the Lachlan and Boorowa Rivers and Lake Wyangala in the draft Hilltops LEP. See Attachment F for further information.*

### Clause 7.9 Essential Services

The purpose of this clause is to make sure that development consent must not be granted to development unless the consent authority is satisfied that any of the essential services (water, electricity, sewage, stormwater drainage and road access) are available or that adequate arrangements have been made to make them available when required.

This clause was included only in the current Boorowa and Harden LEP

- Clause 6.8 in Boorowa LEP 2012 – Essential Services

- Clause 6.8 in Harden LEP 2011 – Essential Services

Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
NA	No mention of zone where this clause applies.	This clause applies to land in Zone RU4 Primary Production Small Lots and Zone R5 Large Lot Residential.

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.9 Essential Services in the draft Hilltops LEP. See Attachment F for further information.*

### Clause 7.10 Development on land known as Carinya Estate

The purpose of this clause is to ensure that the location of dwellings and other development on the land to which this clause applies is appropriate having regard to the management of bushfire risk and biodiversity protection.

This clause was included only in the current Boorowa LEP

- Clause 6.9 in Boorowa LEP 2012 – Development on land known as Carinya Estate

Young LEP 2010	Boorowa LEP 2012	Harden LEP 2011
NA	This clause applies to land off Caringa Road, Boorowa, being Lots 1–31, DP 285029 (known as Carinya Estate and identified as “Environmentally Sensitive Land” on the <a href="#">Environmentally Sensitive Land Map</a> ).	NA

It is recommended the draft Hilltops LEP:

*Adopt the Clause 7.10 Development on land known as Carinya Estate in the draft Hilltops LEP. See Attachment F for further information.*

## Schedules

### Schedule 1 – Additional Permitted Uses

Schedule is referenced in Clause 2.5 noting the additional site-specific permitted uses. Boorowa LEP does not include any items within Schedule 1.

Young LEP 2010	Harden LEP 2011
<p><b>1 Use of certain land at Campbell Street, Young</b>            (3) This clause applies to land at 21 Campbell Street, Young, being Lots 1–21, Section 53, DP 759144 and Lot 2, DP 251940.            (4) Development for the following purposes is permitted with consent—                (a) backpackers' accommodation,                (b) business premises,                (c) hotel or motel accommodation,                (d) office premises.</p> <p><b>2 Use of certain land at Henry Lawson Way, Young</b>            (3) This clause applies to land at 161 Henry Lawson Way, Young, being Lot 5, DP 1065909.            (4) Development for the following purposes is permitted with consent—                (a) agricultural produce industries,                (b) office premises,                (c) retail premises (other than specialised retail premises)                (d) tourist and visitor accommodation.</p> <p><b>3 Use of certain land at Lovell Street, Young</b>            (3) This clause applies to land at Lovell Street, Young, being Lot 1, DP 249816, Lots 1 and 2, DP 579936, Lots 4 and 5, DP 907118, Lots A and B, DP 909444, Lot 1, DP 723903, Lot 1, DP 915844, Lots 21 and 22, DP 136178, Lot 2, DP 909310 and railway land directly to the west of Lot 1, DP 249816.            (4) Development for the purposes of agricultural produce industries is permitted with consent.</p> <p><b>4 Use of certain land at 910 Olympic Way North, Young</b>            (3) This clause applies to land at 910 Olympic Way North, Young, being Lot 2, DP 791404.            (4) Development for the purposes of an industry for the purpose of a hotmix and coldmix production plant is permitted with consent.</p> <p><b>5 Use of certain land at Telegraph Road and Murringo Road, Young</b>            (3) This clause applies to the lots in the table to this clause.</p>	<p><b>1 Use of certain land at Kalangan Road, Galong</b>            (3) This clause applies to land at Kalangan Road, Galong, being Lot 1, DP 606878, known as St Clement's Retreat Centre.            (4) Development for the purposes of a place of public worship being a monastery with tourist and visitor accommodation is permitted with development consent.</p> <p><b>2 Use of certain land at Simmonds Road, Harden</b>            (3) This clause applies to land at Simmonds Road, Harden, being Lot 3, DP 787896, known as Stock's Native Nursery.            (4) Development for the purposes of a restaurant or cafe, plant nursery and dwelling is permitted with development consent.</p> <p><b>3 Use of certain land at Neill Street, Harden</b>            (3) This clause applies to land at 136 Neill Street, Harden, being Lot 20, Section 29, DP 758737.            (4) (2) Development for the purposes of storage premises used for the storage of motor vehicles is permitted with development consent.</p>

Young LEP 2010	Harden LEP 2011										
<p>(4) Development for the purposes of agricultural produce industries and a poultry farm is permitted with consent.</p> <table border="1"> <thead> <tr> <th style="text-align: left;">Address</th> <th style="text-align: left;">Property description</th> </tr> </thead> <tbody> <tr> <td>90 Telegraph Road, Young</td> <td>Lots 1251, 1416 and 1195, DP 754611</td> </tr> <tr> <td>114 Telegraph Road, Young</td> <td>Lots 1196 and 1197, DP 754611</td> </tr> <tr> <td>151 Telegraph Road, Young</td> <td>Lot 2, DP 829700; Lot 1771, DP 754611</td> </tr> <tr> <td>4207 Murringo Road, Young</td> <td>Lot 1228, DP 754611</td> </tr> </tbody> </table> <p><b>6 Use of certain land at 8 Wombat Street, Young</b>            (3) This clause applies to land at 8 Wombat Street, Young, being Lot 2A, DP 976203.            (4) Development for the purposes of vehicle sales or hire premises is permitted with development consent.</p> <p><b>7 Use of certain land at 1 Murringo Street, Young</b>            (3) This clause applies to land at 1 Murringo Street, Young, being Lot 9, Section 57, DP 759144.            (4) (2) Development for the purposes of a car park is permitted with development consent.</p>	Address	Property description	90 Telegraph Road, Young	Lots 1251, 1416 and 1195, DP 754611	114 Telegraph Road, Young	Lots 1196 and 1197, DP 754611	151 Telegraph Road, Young	Lot 2, DP 829700; Lot 1771, DP 754611	4207 Murringo Road, Young	Lot 1228, DP 754611	
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4207 Murringo Road, Young	Lot 1228, DP 754611										

It is recommended the draft Hilltops LEP:

*Incorporate the existing listed Schedule 2 items in the Young and Harden LEP into the Hilltops LEP.*

### Schedule 2 – Exempt Development

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) specifies exempt development which has state-wide application. It is carried out without the need for development consent under the act.

However, such development is not exempt from any approval, license, permit, or authority that is required under any other act and adjoining property rights and the common law still apply.

Schedule 2 contains additional exempt development not specified in that policy.

Boorowa LEP does not list any localized exempt development.

Harden LEP 2011	Young LEP
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<p><b>Advertising structures and displays</b></p> <p>The advertisement and structure together must have an area not exceeding 0.75 sq. m. in residential area, 8 sq. m. in industrial area, 25% of the front elevation of the building in which it is displayed with a maximum height of 3m or the height of the underside of the awning in B4 mixed zone.</p>	<p><b>Fuel tanks- Zone RU 1 Primary Production and RU4 Primary Production Small Lots</b></p> <ul style="list-style-type: none"> <li>- Maximum size - 5000L.</li> <li>- Must not be erected within 20m of a street boundary or within 4 m of side or rear boundary of the property.</li> </ul> <p><b>Signage—business and industrial zones and real estate signs in all zones</b></p> <ul style="list-style-type: none"> <li>- Must not exceed more than 100mm from the wall of the building.</li> <li>- Maximum area of signs—5m<sup>2</sup>.</li> <li>- Must be at least 600 mm from the kerb or roadway, if over public roads.</li> <li>- In the case of real estate signs, must not project more than 100mm from the existing boundary fence.</li> </ul> <p><b>Silos—Zone RU1 Primary Production and Zone RU4 Rural Small Holdings</b></p> <ul style="list-style-type: none"> <li>- Maximum size capacity – 150 L</li> <li>- Must not be erected within 20m of a street boundary or within a distance equivalent to the height of the silo plus 1m from another property boundary.</li> </ul>
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It is recommended the draft Hilltops LEP:

*Incorporate the existing Schedule 2 items listed in the Young and Harden LEP into the Hilltops LEP.*

### Schedule 3 – Complying Development

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 specifies complying development which has state-wide application. Schedule 3 contains additional complying development not specified in that policy.

Boorowa and Harden LEP do not list any additional complying development in their Schedule 3. Young LEP is the only current inforce LEP that adopts an additional complying development as shown below.

<p><b>Young LEP 2010</b></p> <p>Part1 – Types of Development</p> <p><b>Parking and storage of passenger buses, heavy vehicles, plant, and machinery.</b></p> <ul style="list-style-type: none"> <li>- Must only be in zone RU1, RU4, RU5, R1 or R5 and be used for commercial purposes.</li> <li>- Maximum area if constructed in land RU5, R1 or R5 – 30 sq. m. If constructed in zone RU1 or zone RU4 -100 sq. m.</li> <li>- If located on land in Zone RU5, Zone R1 or Zone R5—must be located at least 3m from the primary road frontage of the lot and from other lot boundaries.</li> <li>- If located on land in Zone RU1 or Zone RU4—must be located at least 10m from the primary road frontage of the lot and from other lot boundaries.</li> </ul> <p>Part 2 Complying Development Certificate conditions</p> <p><b>Note 2.</b> Division 2A of Part 7 of the <i>Environmental Planning and Assessment Regulation 2000</i> specifies conditions to which certain complying development certificates are subject.</p>
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**Note 3.** In addition to the requirements specified for development under this Schedule, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

**Note 4.** If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development.

**Note 5.** Under section 86A of the *Environmental Planning and Assessment Act 1979*, a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

It is recommended the draft Hilltops LEP:

*Incorporate the existing Schedule 3 items listed in the Young LEP into the Hilltops LEP.*

#### Schedule 4 – Classification and reclassification of public land

Clause 5.2 of the Standard Instrument LEP No change is proposed to this Schedule.

From advice from DPIE, no reclassifications of land are proposed as a part of this initial planning proposal to make the Hilltops LEP due to processes impacting upon timing of the LEP.

Further consultation is required with public authorities who use or have interest in Crown Land such a Local Land Services, Local Aboriginal Land Council's and local community groups.

Future reclassifications, if required, will be undertaken through a separate planning proposal process once the Hilltops LEP has been made.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Clause 5.2 Classification and reclassification of public land*

*A future separate be pursued for any classification or reclassification of public land, after the publishing of the Hilltops LEP.*

#### Schedule 5 – Environmental Heritage

The Hilltops Heritage Review recommends 298 individual heritage items that should be included in the proposed Schedule 5 Environmental Heritage in the new Hilltops LEP

Updated Schedule 5 Environmental Heritage is to include previous identified heritage items of local significance including items previously identified in Boorowa which were not include in the Boorowa LEP.



It is recommended the draft Hilltops LEP:

*Adopt the proposed Schedule 5 Environmental Heritage as recommended in the HILLTOPS HERITAGE REVIEW STUDY*

#### Schedule 6 – Pond based and tank-based aquaculture

This is a compulsory Schedule as per *Clause 5.19 Pond-based, tank-based and oyster aquaculture* required by the Standard Instrument LEP.

There are no differences in application between the LEPs.

No change is proposed to this Schedule.

It is recommended the draft Hilltops LEP:

*No changes to the Standard Instrument Schedule 6 – Pond based and tank-based aquaculture*