Area Clearing Threshold
Technical Explanation
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Introduction

This document explains how the Biodiversity Values Map and Threshold (BMAT) Tool determines the area clearing threshold and provides a range of examples to explain the process.

The Biodiversity Conservation Regulation 2017 sets out threshold levels for when the Biodiversity Offsets Scheme will be triggered. The threshold has two triggers:

- whether the amount of native vegetation being cleared exceeds a threshold area, referred to in this document as the ‘area clearing threshold’
- whether the impacts occur on an area mapped on the Biodiversity Values Map published by the Environment Agency Head.

If clearing and other impacts prescribed by clause 6.1 of the Biodiversity Regulation 2017 exceed either trigger, the Biodiversity Offset Scheme applies to the proposed development.

The area clearing threshold is determined by the minimum lot size (MLS) that applies to the lot(s) on which the proposed development occurs and the location of development within the lot(s). If the land on which the proposed development is to be carried out comprises different areas of land with different minimum lot sizes—the minimum lot size used for the trigger is the smaller or smallest of those minimum lot sizes.

The area clearing threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. For proposed subdivisions, the clearing area must include all future clearing including roads and asset protection zones likely to be required for the intended use of the land after it is subdivided.

It is important that proponents when using the BMAT Tool to draw the polygon to represent the footprint of their proposed development, to draw the polygon as accurately as possible to enable the Tool to determine the appropriate clearing area threshold. The BMAT report can be provided to the consent authority who should check the polygon as drawn in the report against the development application.

Two minimum lot size methods

The area clearing threshold depends on the Minimum Lot Size (MLS) Method and the associated MLS. There are two MLS Methods:

Local Environmental Plan Method

Local environmental plans (LEPs) that are developed by councils can include Lot Size Maps that specify the minimum lot size for subdivision of land. Areas with different specified MLS are shown in different colours and include a figure that is the MLS (in hectares or meters squared). Figure 1 shows a typical example of part of lot size map from an LEP.
Figure 1  Example of a LEP Lot Size Map specifying different minimum lot sizes over only part of the land within the LEP.

Note that some lots may be smaller than that specified by the LEP as these lots were subdivided prior to the LEP Lot Size Map being developed. In these instances, the BMAT Tool will still use the MLS specified by the LEP to determine the MLS for the development proposal.

LEP Lot size maps are one of the layers that are included in the BMAT Tool that can be switched on and off (refer to the BMAT User Guide on how to do this).

**Actual Lot Size Method**

LEP Lot Size Maps generally don’t cover all the local government area (LGA). Where the proposed development occurs on land that is not covered by the LEP Lot Size Map, the actual size of the lot is used to determine the MLS. As can be seen from Figure 1, some lots may partially be within land on the LEP Lot Size Map and partially on land outside the Lot Size map. These are referred to as being ‘Partially LEP Specified’. In these situations, the BMAT Tool selects the smallest MLS.
Four stages for determining the area clearing threshold

To generate a BMAT report you are required to use the polygon tool to draw a shape that includes the land within the proposed development i.e. the ‘development footprint’ (refer to the BMAT User Guide). The BMAT Tool overlays your development footprint with the LEP Lot Size Map to determine the Minimum Lot Size Method and associated MLS. The area clearing threshold is then determined based on the MLS.

There are four stages in the process.

Stage 1 – Determine the LEP Minimum Lot Size Status of each of the lots that fall within, or partially within the development footprint

This involves intersecting each of the lots that contain the development footprint with the LEP Lot Size Map to determine whether the LEP Method or the Lot Size Method applies.

As can be seen from Figure 1, the boundaries of LEP Lot Size Maps coincide with lot boundaries (cadastre) in some, but not all areas. In some instances, the boundaries may follow some other landscape feature. There are also situations where it appears that it was intended that the LEP MLS boundaries follow actual lot boundaries, but there is a misalignment between the two.

The BMAT Tool is unable to determine whether the lack of alignment between the LEP Lot Size Map and cadastre is intentional or not. For this reason, the BMAT Tool makes a ‘10% allowance’ for assigning lots to either the LEP Method or the Actual Lot Size Method. This means that lots can be assigned to one of three categories:

1. LEP MLS specified (>90% LEP coverage)
2. Partially LEP Specified – Straddles both LEP specified and Not specified (10 – 90% LEP coverage inclusive)
3. Not specified by LEP (<10% LEP coverage)

Stage 2 – Determine the proportion of the development footprint that occurs in a LEP specified area

The development footprint is intersected with the LEP Lot Size Map.

- If all the development footprint occurs on land on the Lot Size map, the MLS Method will be LEP.
- If the development footprint is entirely on land not on the Lot Size map, then the MLS Method will be Actual Lot Size.
- Where the footprint occurs partially on the Lot Size map, then the MLS Method is determined in stage 3.

Stage 3 – Determine the smallest of the MLS for all the lot(s) containing the footprint

The way this is done varies depending on whether all or some of the lots containing the footprint overlap with the LEP Lot Size Map.
1. Where all the lots within the development footprint are entirely contained within the LEP Lot Size Map
   a. Create a list of the LEP minimum lot sizes.
   b. Choose the smallest minimum lot size.
2. Some of the lots overlap with the LEP Lot Size Map.
   a. Create a list of the lots in the development footprint.
   b. For each lot, determine the lot size method. For each lot in the list, there are three possible outcomes:
      i. Method = LEP. Determine the MLS from the LEP Lot Size Map. Actual lot size is not considered.
      ii. Method = Actual Lot Size. Determine the MLS from the lot database (entire area of lot is used). LEP minimum lot size is not considered.
      iii. Method = Smallest of LEP Minimum lot size and Actual lot size. The lot size method is the smallest of the area specified on the LEP Lot Size Map and the actual lot size.
   c. Choose the smallest minimum lot size of all lots in the list.
3. Where all the lots within the development footprint are entirely outside the LEP Lot Size Map.
   a. Create a list of the actual lot sizes.
   b. Choose the smallest actual lot size.

Stage 4 - Determine the area clearing threshold

Using the smallest MLS identified in stage 3, refer to Table 1 to determine the area clearing threshold (column 2). For example, the clearing threshold for lots < 1 ha is 0.25 ha.

<table>
<thead>
<tr>
<th>Minimum lot size of the land</th>
<th>Threshold for clearing, above which the BAM and offsets scheme apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1 ha</td>
<td>0.25 ha or more</td>
</tr>
<tr>
<td>1 ha to less than 40 ha</td>
<td>0.5 ha or more</td>
</tr>
<tr>
<td>40 ha to less than 1000 ha</td>
<td>1 ha or more</td>
</tr>
<tr>
<td>1000 ha or more</td>
<td>2 ha or more</td>
</tr>
</tbody>
</table>

(Biodiversity Conservation Regulation 2017 cl. 7.2 (4))

Illustrated examples of how the area clearing threshold is determined is provided in Appendix A.
BMAT Report

The results summary table in the report generated by the BMAT Tool states the:

- Minimum Lot Size Method
- Minimum Lot Size
- Area Clearing Threshold

An example of a report is provided in Appendix B.

Note that the row on ‘Area clearing trigger’ in the report states ‘Unknown’. This is due to the BMAT Tool not having a layer depicting native vegetation to intersect with the development footprint to determine the area of native vegetation that would be cleared and whether it exceeds the area clearing threshold. The BMAT User Guide provides advice on how to work out the area of native vegetation that would be cleared. For proposals with a development footprint area (as shown in the ‘Total Digitised Area’ row of the report) less than the area clearing threshold, the clearing area trigger will not be exceeded.
Appendix A - Examples of how the clearing area threshold is determined

The MLS Method is determined by two factors:
1. The extent to which the lot(s) that contains the development footprint is covered by the LEP Lot Size Map.
2. The extent to which the development footprint is covered by the LEP Lot Size Map.

The combination of these two factors can lead to nine different scenarios (see Table 2).

Table 2 Minimum Lot Size Method Matrix.

<table>
<thead>
<tr>
<th>LEP MLS % Cover within Development Footprint</th>
<th>LEP MLS specified</th>
<th>Partially LEP Specified</th>
<th>Not specified by LEP</th>
</tr>
</thead>
<tbody>
<tr>
<td>(&gt;90% LEP MLS coverage)</td>
<td></td>
<td></td>
<td>(&lt;10% LEP coverage)</td>
</tr>
<tr>
<td>100% of footprint</td>
<td>LEP MLS</td>
<td>LEP MLS</td>
<td>LEP MLS</td>
</tr>
<tr>
<td>(Examples 1, 2 &amp; 3)</td>
<td>(Example 6)</td>
<td></td>
<td>(Example 10)</td>
</tr>
<tr>
<td>&gt;0% but &lt;100% of footprint</td>
<td>LEP MLS</td>
<td>Smallest of LEP MLS and Actual Lot Size</td>
<td>Actual Lot Size</td>
</tr>
<tr>
<td>(Example 4)</td>
<td>(Examples 7 and 8)</td>
<td></td>
<td>(Examples 11 &amp; 12)</td>
</tr>
<tr>
<td>0% of footprint</td>
<td>Actual Lot Size</td>
<td>Actual Lot Size</td>
<td>Actual Lot Size</td>
</tr>
<tr>
<td>(Example 5)</td>
<td>(Example 9)</td>
<td></td>
<td>(Examples 13 &amp; 14)</td>
</tr>
</tbody>
</table>

Examples are provided below to illustrate how the MLS Method, MLS and clearing area threshold is determined in each of these scenarios. The development footprint as drawn by the proponent using the BMAT Tool, are shown in yellow.
**LEP minimum lot size specified**

>90% of the lots are covered by the LEP Lot Size Map

Five examples are provided:

- 1, 2 and 3 where the 100% of the footprint is within the LEP MLS specified area
- 4 where less than 100% of the footprint is within the LEP MLS specified area
- 5 where none of the footprint is within the LEP MLS specified area.

**Example 1  100% of footprint in LEP specified area**

LEP Lot Size Map specifies MLS as 100 ha, see Figure 2. Using Table 2 above, as the MLS is >40ha and <1000ha the area clearing threshold is 1.0 ha.

---

**Figure 2** Single lot covered by LEP Lot Size Map

---

**Example 1**

- MLS Method = LEP
- MLS = 100 ha
- Threshold = 1.0 ha
Example 2  Single lot, split by LEP MLS zones

In this example in a large lot residential area, the development footprint is on a single lot, split by LEP MLS zones (Figure 3). The south west part of the lot specifies 4000m², whereas the north east part is 40ha. Therefore, the MLS result is the smaller of the two MLS zones, 4000m².

Figure 3  Single lot with two MLS’s specified in the LEP Lot Size Map.
Example 3 Multiple lots that are covered by the LEP MLS map

The development footprint occurs over three lots that have a specified minimum lot size of 40 ha by LEP (Figure 4)

Figure 4 Multiple lots with a single MLS specified in the LEP Lot Size Map.

Example 3
MLS Method = LEP
MLS = 40ha
Threshold = 1.0 ha
Example 4  Lot straddles LEP MLS area and footprint extends into non-LEP specified area

In this example >90% of the lot is covered by the LEP and likely that the intention is that LEP should cover 100% of the lot. <100% of the footprint is in the area covered by the LEP. LEP MLS is 40 ha (Figure 5).

Figure 5  Footprint straddles LEP MLS specified area
Example 5  > 90% of the lot is within the LEP specified area but 0% of the footprint is in this area

In this example >90% of the lot is covered by the LEP that specifies a MLS of 40 ha but none of the development footprint is in this area (Figure 6). Therefore, the MLS Method is Lot Size which is 25.13 ha. In this case the area clearing threshold is 0.5 ha. This scenario is not likely to occur very often.

Figure 6  Footprint outside the LEP MLS specified area
Partially LEP Specified

Straddles both LEP specified and Not specified (10 – 90% LEP coverage inclusive)

In these examples, the subject lot is split by an LEP MLS boundary, which intentionally does not follow the lot boundary (Figure 7). That is, the partial LEP coverage is not a result of a misalignment with the cadastre.

Example 6  Development footprint is 100% contained within LEP specified area.

Figure 7  Lot partially covered by the LEP Lot Size Map – footprint 100% in LEP
Example 7  Development footprint straddles LEP and non-LEP specified areas (>0% – <100%)

Figure 8  Lot partially covered by the LEP Lot Size Map – footprint straddles LEP

List both methods and determine which method gives the smallest MLS (table 4):

<table>
<thead>
<tr>
<th>Lot</th>
<th>Method</th>
<th>MLS</th>
<th>Potential threshold</th>
<th>Final (smaller) threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western</td>
<td>LEP</td>
<td>40 ha</td>
<td>1 ha</td>
<td></td>
</tr>
<tr>
<td>Eastern</td>
<td>Lot size</td>
<td>16.2 ha</td>
<td>0.5 ha</td>
<td>0.5 ha</td>
</tr>
</tbody>
</table>
Example 8  Footprint extends over two lots – one specified in LEP the other not specified

In this example, the development footprint extends across two lots. The western lot is largely covered by LEP MLS 40ha and the eastern lot is not in an LEP specified area (Figure 9).

![Figure 9 Multiple Lots – one LEP specified the other not specified](image)

The two lots are considered separately, and the results are shown in Table 5. The eastern lot has a smaller lot size than the MLS specified for the western lot, therefore the size of the eastern lot is used to determine the clearing area threshold.

<table>
<thead>
<tr>
<th>Lot</th>
<th>MLS Method</th>
<th>MLS</th>
<th>Potential threshold</th>
<th>Final (smaller) threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western</td>
<td>LEP</td>
<td>40 ha</td>
<td>1.0 ha</td>
<td></td>
</tr>
<tr>
<td>Eastern</td>
<td>Lot Size</td>
<td>5.4 ha</td>
<td>0.5 ha</td>
<td>0.5 ha</td>
</tr>
</tbody>
</table>
Example 9  0% of development footprint within the LEP specified area.
Lot partially covered by LEP MLS but 0% of the footprint is within the LEP specified area (Figure 10)

Example 9
MLS Method = Lot Size
MLS = 16.2 ha
Threshold = 0.5 ha

Figure 10  Lot partially covered by LEP MLS but 0% of footprint within the LEP specified area
**Not specified by LEP**

**<10% LEP coverage**

LEP MLS boundary is a different shape to the cadastre (Figure 11). Assumed that the LEP Lot Size Map boundary is derived from environmental or landscape features. LEP specifies MLS of 40ha.

**Example 10** 100% of the footprint is with the LEP specified area

![Figure 11 Footprint 100% within the LEP specified area](image)

**Example 10**
MLS Method = LEP
MLS = 40ha
Threshold = 1ha

**Example 11** Development footprint is majority (>90%) outside LEP

Lot partially specified by LEP. Small strip of 450 m² LEP MLS included along southern boundary (Figure 12).

![Figure 12 Development footprint is majority (>90%) outside LEP](image)

**Example 11**
MLS Method = Lot Size
MLS = 3.1 ha
Threshold = 0.5 ha
Examples where there is a potential misalignment of LEP Lot Size Map and cadastre

Less than 10% of the lot is covered by the LEP MLS map and appears that this is a misalignment (Figure 13). The size of the actual lot is 16.02ha.

Example 12  <10% of the footprint is with the LEP specified area

Example 13  0% of the footprint is with the LEP specified area
Example 14  Development footprint occurs on multiple lots none of which are covered by the LEP Lot Size Map

![Figure 15 Footprint extends over multiple lots none of which are covered by the LEP MLS map](image)

The footprint extends over three lots (Figure 15). As none of these lots are covered by the LEP MLS map, the MLS Method will be Lot Size. The MLS will be the smallest of the MLS associated with each of the lots (refer to Table 6).

<table>
<thead>
<tr>
<th>Lots</th>
<th>MLS Method</th>
<th>MLS</th>
<th>Potential threshold</th>
<th>Final (smallest) threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top</td>
<td>Lot Size</td>
<td>18 ha</td>
<td>1.0 ha</td>
<td></td>
</tr>
<tr>
<td>Middle</td>
<td>Lot Size</td>
<td>20.42 ha</td>
<td>1.0 ha</td>
<td></td>
</tr>
<tr>
<td>Bottom</td>
<td>Lot Size</td>
<td>1.03 ha</td>
<td>0.5 ha</td>
<td>0.5 ha</td>
</tr>
</tbody>
</table>
Appendix B – Example of a Biodiversity Values Map and Threshold Report

Biodiversity Offset Scheme (BOS) Entry Threshold Map

Legend
- Biodiversity Values that have been mapped for more than 30 days
- Biodiversity Values added within last 90 days

Notes
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Biodiversity Values Map and Threshold Report

<table>
<thead>
<tr>
<th>Results Summary</th>
<th>Date of Calculation</th>
<th>BDAR Required*</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>12/12/2019 3:45 AM</td>
<td></td>
</tr>
<tr>
<td>Total Digitised Area</td>
<td>0.29 ha</td>
<td></td>
</tr>
<tr>
<td>Minimum Lot Size Method</td>
<td>Lot size</td>
<td></td>
</tr>
<tr>
<td>Minimum Lot Size</td>
<td>8.83 ha</td>
<td></td>
</tr>
<tr>
<td>Area Clearing Threshold</td>
<td>0.5 ha</td>
<td></td>
</tr>
<tr>
<td>Area clearing trigger</td>
<td>Unknown</td>
<td>Unknown</td>
</tr>
<tr>
<td>Area of native vegetation cleared</td>
<td>Unknown</td>
<td>Unknown</td>
</tr>
<tr>
<td>Biodiversity values map trigger</td>
<td>no</td>
<td>no</td>
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<tr>
<td>Impact on biodiversity values map/not including values added within the last 90 days?</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Date of the 90 day Expiry</td>
<td>N/A</td>
<td></td>
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</tbody>
</table>