



Byron Shire Development Control Plan 2014

Chapter B6 Buffers and Minimising Land Use Conflict



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Chapter B6 – Buffers and Minimising Land Use Conflict

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B6.1 Introduction

B6.1.1 Purpose of this Chapter

The purpose of this Chapter is to provide advice and guidance on planning for land use compatibility, avoiding land use conflict and the use of buffers. The emphasis in this Chapter is on identifying current and potential future land use conflicts at the outset and designing to avoid them during the development process where possible.

Valuable information, advice and techniques for planning to avoid land use conflicts in rural situations on the NSW North Coast are available in the publication *'Living and Working in Rural Areas, a handbook for managing land use conflict issues on the NSW North Coast'* (referred to in this Chapter as 'North Coast Living and Working in Rural Areas Handbook').

B6.1.2 Application of this Chapter

This Chapter applies to all of the land subject to Byron LEP 2014.

B6.1.3 Aims of this Chapter

The Aims of this Chapter are:

1. To ensure that potential land use conflicts are identified early in the development process.
2. To provide planning principles aimed at avoiding or minimising land use conflicts.
3. To ensure that development proposals are designed to minimise land use conflicts.
4. To provide standards for various types of buffers that aim to avoid conflicts or reduce them to acceptable levels.
5. To encourage a diversity of small agricultural enterprises by providing opportunities to vary the recommended buffer distances through the site assessment process where best practice is being utilised.

B6.1.4 Planning to avoid land use conflict

Byron Shire provides a wide range of living, recreational and working environments, including coastal, urban, tourism, agricultural, rural living and environmentally sensitive environments. To accommodate the needs of residents and visitors a wide range of transport, infrastructure and resource-based facilities must also be provided. Consequently there is extensive potential for land use conflict, ranging from conflicts about noise and amenity issues between permanent residents and visitors in urban areas, through the types of rural conflicts discussed in the following paragraphs, to conflicts between residents and the carrying on of essential activities such as quarries, transport corridors and waste management facilities.

In relation to rural conflicts, 'North Coast Living and Working in Rural Areas Handbook' advises:



'Rural amenity issues are the most common land use conflict issues, followed by environmental protection issues. Rural amenity issues include:

- *the impacts of agricultural and rural industry operations on local air quality (odour, pesticides, dust, smoke and particulates)*
- *impacts on the use and enjoyment of neighbouring land e.g. noise from machinery*
- *visual impacts associated with rural industry e.g. the use of netting, planting of mono cultures and impacts on views.*

Environmental protection issues include soil erosion leading to land and water pollution, clearing of native vegetation and stock access to waterways. In addition to farming and residential conflicts, there are also conflicts between forestry and mining and residential land uses, and conflicts within the farming sector in rural areas.'

The primary focus of this Chapter is to ensure that the potential for land use conflict is recognised at the project planning stage and is addressed in the development application process. Satisfactory avoidance of land use conflicts at DA stage can often be achieved through good site planning, sustainable management measures, or the provision of well-planned buffers.

B6.2 Development Controls

B6.2.1 Responsibility for Managing Land Use Conflict

Objectives

1. *To ensure that existing legitimate development and land uses are not compromised by new development.*

Performance Criteria

1. It is the responsibility of applicants for development consent to ensure that potential land use conflicts are identified and managed appropriately.
2. Development applications must identify potential land use conflicts and must be designed to avoid those conflicts, or to reduce them to acceptable levels.
3. Where relevant, development applications must demonstrate that the natural and built resources of importance to the local, regional or state economy are not unreasonably constrained, impacted or sterilised by the location of incompatible land uses or by the design of new developments.
4. If potential conflicts cannot be resolved by site design or sustainable management methods, the most effective means of preventing conflict may be to plan for adequate separation between conflicting land uses. Where development design alone cannot deal adequately with potential adverse impacts and land use conflicts it often will be necessary to provide a buffer. It is the responsibility of the new development to provide the necessary buffer. Unless extenuating circumstances apply, a buffer must not extend beyond the boundary of the property on which the new development is located.

Particular criteria for buffers are addressed in Section B6.2.4.

Prescriptive Measures

There are no Prescriptive Measures.

B6.2.2 Conflict Risk Assessment (CRA)

Objectives

1. *To ensure that potential for land use conflict is identified and addressed systematically in the early stages of the development application process.*

Performance Criteria

1. All development applications must identify any potential for land use conflicts and the means proposed to address those conflicts. In cases where potential for conflict is evident, development applications must be accompanied by a formal **Conflict Risk Assessment (CRA)** and associated mapping that defines and addresses at least the following:
 - a) The nature, intensity, extent and operational characteristics of any intended activities or uses within the proposed development that may create potential for land use conflicts in the locality.
 - b) Details of all geographical, topographical, vegetation, meteorological and other factors in the surrounding environment that may influence the potential for land use conflict.
 - c) Location, separation distances and use of all adjoining and other lands likely to create or influence potential for conflict between the proposed development and existing or proposed land uses.
 - d) The nature, intensity, extent and operational characteristics of activities or land uses within the adjoining and nearby lands that may create potential for land use conflicts with the proposed development.
 - e) An assessment of the external effects and impacts likely to be generated by both the proposed development and the adjoining land uses and their potential to cause conflict.
 - f) Details of the proposed management measures, buffers and other planning or operational strategies to be incorporated in the proposed development to manage potential land use conflicts, together with an evaluation of the nature, extent and quantum of mitigation expected to be achieved.
2. The format, level of detail and assessment criteria for each **CRA** will vary depending on factors such as the nature and scale of the proposed development, the likely intensity and significance of potential conflicts, local environment and circumstances. Consequently no prescriptive format is specified for a **CRA**, however valuable guidance can be found in the 'North Coast Living and Working in Rural Areas Handbook'.

Prescriptive Measures

There are no Performance Criteria.

B6.2.3 Planning Principles to Minimise Land use conflict

Objectives

1. *To ensure that development applications are designed to avoid land use conflicts.*
2. *To define planning principles to be applied to proposed development to minimise the risk of land use conflicts.*



Performance Criteria

When considering development applications and associated **CRAs** where potential for land use conflict arises, Council will apply the following principles adapted from 'North Coast Living and Working in Rural Areas Handbook'. Development applications involving potential land use conflict must demonstrate how the proposed development addresses each principle and achieves the above Objectives.

1. General

- a) Decisions about new development should ensure that the natural and built resources of importance to the local, regional or State economy are not unreasonably constrained, impacted or sterilised by the location of incompatible land uses.
- b) Buffers between incompatible land uses do not take the place of sound strategic planning though they do offer an added level of conflict risk avoidance in land use planning and development.
- c) It is the responsibility of the encroaching development to provide the necessary setback and buffer to incompatible land uses. The extent of a buffer should not extend beyond the boundary of the property required to provide the buffer except via negotiation and agreement.
- d) The most effective means of preventing conflict is to plan for adequate separation between conflicting land uses.
- e) Potential risks of conflict created by residential expansion towards rural lands should be systematically assessed as early as possible in the planning process.
- f) New development next to or near to farmland, extractive resources, waterways, wetlands, and areas of high biodiversity value should incorporate buffers to avoid land use conflict.

2. Environmental Protection

- a) New urban development, rural settlement and other development should be sited and designed to protect key environmental assets and, where possible, enhance environmental assets including **high conservation value vegetation and habitats** and ecosystems, ecosystem corridors, waterways, endangered ecological communities and key habitat.
- b) The potential for land use conflict and development of mitigation measures should be assessed as part of any proposed intensification of use, in particular proposed residential development at the urban/rural interface and within the rural areas.
- c) Natural resources and environmental assets should not be damaged, constrained or sterilised by the location of incompatible land uses.

3. Community engagement

- a) Community engagement, including consultation with adjoining landowners and operators of 'scheduled activities' (as defined by the *Protection of the Environment Operations Act*), should be part of the development planning process to identify and avoid land use conflict.

4. Protection of resource access and use

- a) New urban development, rural settlement and other development in rural areas should be sited and designed so they do not interfere with legitimate and routine rural land uses on adjoining lands.



- b) Landscape values of rural lands should be protected.
- c) The different values of rural lands should be co-managed.
- d) Rural land uses should be protected from conflict with residential uses.
- e) The compatibility of proposed development in rural areas with the rural land uses currently or expected to take place in the locality and on adjoining lands should be documented and assessed before determining an application for new development in rural areas.
- f) Current best practice and the most likely intensive rural land use should be adopted in assessing the compatibility of adjoining land uses.
- g) Agricultural farmland should remain available in large contiguous areas for future rural industry activities. Lack of current viability of a property or farming areas is not enough justification to convert rural land to non-rural uses.
- h) The potential for land use conflict and development of mitigation measures should be assessed as part of any proposed residential development at the urban/rural interface and within rural areas.
- i) In rural zones, rural land uses should generally take precedence over non rural land uses in order to protect resource access and use.

5. Cultural heritage recognition

- a) Aboriginal cultural heritage should be taken into account in the planning, siting, design and management of developments where there is a threat or perceived threat to Aboriginal cultural values including significant sites and places.
- b) Early consultation with Aboriginal communities in a culturally appropriate manner is a fundamental prerequisite of any development application where these sensitivities require consideration. Consult the local council's Aboriginal liaison officer or Local Aboriginal Land Council community support officer.

Prescriptive Measures

There are no Prescriptive Measures.

B6.2.4 Buffers

Objectives

1. *To avoid land use conflicts between proposed new development and existing, legitimate land uses.*
2. *To outline controls for buffers aimed at reducing land use conflicts between proposed new development and existing, legitimate land uses where development design and siting cannot deal satisfactorily with land use conflict.*
3. *To provide for existing, legitimate agricultural and associated rural industry uses to take precedence over other rural land uses within primary production rural zones and where appropriate in other rural zones.*
4. *To protect significant environmental and natural resources through incorporation of buffers into developments.*

Performance Criteria

Where development design and siting cannot deal satisfactorily with potential for land use conflict between a proposed development and existing or proposed developments or land uses, Council will apply the following requirements and principles for the establishment of buffers. Much of the following has been adapted from Chapter 6 of *'North Coast Living and Working in Rural Areas Handbook'*. Measures to ensure that buffers are maintained for the life of the proposed development should be nominated in the development application.

Development applications involving such potential for land use conflicts must demonstrate how the proposed development addresses each of the following criteria and achieves the above Objectives:

1. The Role of Buffers

Defining minimum buffer distances between incompatible land uses and key natural resource assets is a useful mechanism for reducing and avoiding the threat of land use conflict issues between incompatible land uses. However, buffers have their limitations and need to be used with caution and in combination with other strategies to reduce land use conflict risks and manage interface issues.

Complying with prescribed buffer setbacks will help decrease the potential for conflict, though it cannot guarantee that land use conflict and interface issues will be totally removed. Variables such as changes in ownership of adjoining lands, changes in land use and management practices and variable climatic conditions can affect the success of land use buffers.

Similarly, complying with a buffer setback does not guarantee that Council will grant consent to a development application. Equally, where a buffer is found to not be suitable for the subject site Council may reduce the width of the buffer. Mitigation of land use conflict and the application of land use buffers are part of a broader consideration of environmental, social and economic factors which Council must take into account in determining the merits of a given land use proposal.

In circumstances where the use of a buffer does not deal satisfactorily with conflicts or impacts (e.g. in cases where farm machinery, crop spraying or other agricultural practices are used on an adjoining property) it will be necessary for the proposed development to incorporate further design or management measures to address those impacts.

2. Types of Buffers

Different types of buffers may be used to deal with differing land-use conflicts and planning scenarios, including the following:

- a) *Separation buffers* are the most common and involve establishing a physical separation between land uses where conflict could arise. The aim of doing this is to reduce the impacts of the uses solely by distance separation, rather than by any physical means such as earthworks or vegetation planting. These can be fixed separation distances or variable. Fixed separation distances generally apply in the absence of evidence that an alternate lesser buffer will be effective in the circumstances. Variable separation distances are calculated based on the site specific circumstances given factors such as the scale of the development, risk of conflict and risk to the adjoining environment having regard to accepted procedures for assessing these risks.
- b) *Biological and vegetated buffers* are buffers created by vegetation planting and physical landscaping works. They are most commonly designed to reduce visual impact and reduce the potential for airborne-created conflict such as chemical



- spray drift and dust. They can help provide environmental protection through vegetated filter strips and riparian plantings.
- c) *Landscape and ecological buffers* refer to the use of vegetation to help reduce the ecological impacts from development. They are mostly used to protect a sensitive environment by maintaining or enhancing existing habitat and wildlife corridors.
 - d) *Riparian buffers* are a particular form of separation, biological and ecological buffers. They are designed to protect the biophysical and geophysical integrity of riparian environments.
 - e) *Property management buffers* refer to the use of alternative or specialised management practices or actions at the interface between uses where the potential for conflict is high. The aim of these buffers is to reduce the potential of conflict arising in the first place. Examples include siting cattle yards well away from a nearby residence to reduce potential nuisance issues, and adopting a specialised chemical application regime for crops close to a residence or waterways with the aim of minimising off-site impacts on neighbours and the environment.
 - f) Other buffers: There are other statutory and recommended buffers that can apply to a specific sites and situations. These include:
 - i) Bushfire protection buffers.
 - ii) Mosquito buffers.
 - iii) Airport buffers.
 - iv) Power line buffers.
 - v) Rifle range buffers.
 - vi) Railway line buffers.
 - vii) Cultural heritage buffers.

Prescriptive Measures

1. The buffer distances in Tables B6.1, B6.2 and B6.3 (adapted from 'North Coast Living and Working in Rural Areas Handbook') apply generally to development. Because each case will be different depending on the nature of the local environment and the extent and intensity of existing and proposed land uses, Council may vary the buffer distances specified herein following consideration of a formal **Land Use Conflict Risk Assessment**, planning principles and resultant management measures as referred to in Sections B6.2.2 and B6.2.3.
2. In circumstances where the proposed buffer does not satisfactorily deal with conflicts or impacts the proposed development must incorporate further management measures to ensure that those impacts are addressed.

Table B6.1 – Recommended minimum buffers (metres) for primary industries

(Note: The desirable buffer in the circumstances will be the separation distance and conflict avoidance strategy that protects: community amenity, environmental assets, the carrying out of legitimate rural activities in rural areas and the use of important natural resources.)

	Residential areas & urban development	Rural dwellings	Education facilities & pre-schools	Rural tourist accommodation	Watercourses & wetlands	Bores & wells	Potable water supply/ catchment	Property boundary	Roads
Piggeries ¹ Housing & waste storage (9)	1000	500	1000	500	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Feedlots ² Yards & waste storage (9)	1000	500	1000	1000	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Poultry ³ Sheds & waste storage (9)	1000	500	1000	500	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Dairies ⁴ Sheds & waste storage (9)	500	250	250	250	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Rabbits ⁵ Wet shed, ponds & irrigation.	300	150	150	150	100	SSD	800	50	50
Dry shed	120	60	120	60	100	SSD	800	20	20
Other intensive livestock operations ⁶	500	300	500	300	100	SSD	800	100	100
Grazing of stock	50	NAI	50	50	BMP	SSD	BMP	NAI	BMP
Sugar cane, cropping & horticulture	300	200	200	200	BMP	SSD	BMP	NAI	BMP
Greenhouse & controlled environment horticulture	200	200	200	200	50	SSD	SSD	50	50
Macadamia de-husking	300	300	300	300	50	SSD	SSD	50	50
Forestry & plantations	SSD	SSD	SSD	SSD	STRC	SSD	SSD	BMP	STRC
Bananas	150	150	150	150	BMP	SSD	SSD	BMP	BMP
Turf farms ⁸	300	200	200	200	50	SSD	SSD	BMP	SSD
Rural industries (incl. feed mills and sawmills)	1000	500	500	500	50	SSD	SSD	SSD	50
Abattoirs	1000	1000	1000	1000	100	SSD	800	100	100
Potentially hazardous or offensive industry	1000	1000	1000	1000	100	SSD	800	100	100
Mining, petroleum, production & extractive industries	500 1000*	500 1000*	500 1000*	500 1000*	SSD	SSD	SSD	SSD	SSD

* Recommended minimum buffer distance for operations involving blasting.

Source: Table 6, 'North Coast Living and Working in Rural Areas Handbook'.



NAI: Not an issue.

SSD: Site specific determination (no standard or simple buffer distance applies).

BMP: Best management practice to apply given site circumstances. Buffer and/or management practice should represent duty of care to the environment and the public and include measures necessary to protect bank stability, maintain riparian vegetation and protect water quality. The incorporation of best management practice measures in property and farm plans is encouraged.

STRC: Subject to relevant codes.

Buffer distances represent the recommendations of the North Coast Land Use Conflict Working Group following a synthesis of existing guidelines and policy. In some cases, specific and relevant guidelines may require larger buffers or lesser buffers than those prescribed and may be appropriate in the circumstances.

Notes:

1. Subject to environmental assessment in accordance with National *Environmental Guidelines for Piggeries* (APL 2004) and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
2. Subject to environmental assessment in accordance with *NSW Feedlot Manual* (NSW Agriculture 1997) or *A Producers Guide to Starting a Small Beef Feedlot in NSW* (NSW Agriculture, 2001) and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
3. Subject to environmental assessment in accordance with *NSW Poultry Farming Guidelines* (NSW Agriculture 1996), *NSW Meat Chicken Guidelines* (NSW Agriculture 2004), *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
4. Subject to environmental assessment in accordance with *NSW Guidelines for Dairy Effluent Resource Management – Draft* (NSW Agriculture 1999), and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
5. Subject to environmental assessment in accordance with *Rabbit Farming: Planning and development control guidelines* (NSW Inter-Departmental Committee on Intensive Agriculture, 1999) and environmental assessment in accordance with *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
6. Subject to environmental assessment in accordance with *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006) and any other relevant guideline or policy
7. Subject to environmental assessment in accordance with *Guidelines for the Development of Controlled Environment Horticulture* (NSW DPI 2005)
8. Subject to environmental assessment in accordance with *Turf Farming – Guidelines for Consent Authorities in NSW* (NSW Agriculture 1996)
9. Smaller enterprises may not require the recommended buffer distance provided that nuisance issues created by odour, noise, machinery, vehicle movements (tractors/ delivery trucks etc), dust and the like are actively managed and minimised in accordance with the best practice guidelines

Table B6.2 – Recommended minimum buffers (metres) for key environmental assets

	Residential areas & urban development	Rural settlement	Education facilities & pre-schools	Rural tourist accommodation
State & regionally significant farmland	300	SSD	SSD	SSD

Source: Table 7 (modified), 'North Coast Living and Working in Rural Areas Handbook'.

SSD: Site specific determination (no standard or simple buffer distances apply).

Buffer distances represent the recommendations of the North Coast Land Use Conflict Working Group following a synthesis of existing guidelines and policy. In some cases, specific and relevant guidelines may require larger buffers or lesser buffers than those prescribed and may be appropriate in the circumstances.

Table B6.3 – Recommended minimum buffers (metres) for other land uses

	Residential areas & urban development	Rural settlement	Education facilities & pre-schools	Rural tourist accommodation
Waste facilities	300	300	300	300
Sewage treatment plant	400	400	400	400
Dip sites ¹	200	200	200	200
Boarding kennels	500	500	500	500
Stock yards including cattle yards	200	200	200	200
Stock homes/stables ²	SSD	SSD	SSD	SSD
Effluent re-use areas ³	SSD	SSD	SSD	SSD

Source: Table 8, 'North Coast Living and Working in Rural Areas Handbook'.

SSD: Site specific determination (no standard buffer distances apply).

Notes:

1. The Cattle Tick Dip Site Management Committee (DIPMAC) recommends a nominal 200 metre radius assessment zone around cattle dip sites. Residential development proposed within this zone should be subject to a contaminated lands assessment to determine the extent of contamination and risks posed by contamination. The assessment and any proposed remediation works must also meet the requirements of *State Environmental Planning Policy No. 55 – Remediation of Land*. Urban encroachment onto working cattle dip sites is to be avoided where possible.
2. Subject to assessment in accordance with NSW Department of Environment and Conservation publication *Environmental Management on the Urban Fringe – Horse Properties on the Rural Urban Fringe, Best Practice Environmental Guide for Horses* (2004).
3. Subject to assessment in accordance with NSW Department of Environment and Conservation publication *Use of Effluent by Irrigation* (2003) or local policy as adopted by individual councils.