

11i Buffer areas and separation distances

Explanatory outline

Section 11i outlines assessment criteria relating to the provision of buffer areas and separation distances to mitigate adverse impacts of development on adjoining land and to avoid conflict between different land uses.

Note that:

- Section **7a Rural Development** contains additional provisions for rural development's potential impact on significant agricultural land
- Section **13d Scone Memorial Airport** contains provisions for land within and adjacent to the Airport
- section **13f Scone Bypass** contains provisions for land within 300m of the bypass

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11i.1 Application of this section

Buffer areas are areas of land set aside to minimise the impacts of land uses on each other. It is also generally accepted as being an area where a landholder has legal control of the land needed to separate their development from adjoining land.

A **separation distance** is the distance between the point of generation of an environmental impact and a receptor that is sensitive to that impact (although it may also be used to specify the width of a buffer area or zone).

(Source: NSW Department of Primary Industry, 2018: *Buffer Zones to Reduce Land Use Conflict with Agriculture: An Interim Guideline Primefact 1624, First edition*)

This section applies to development described in Column 1 when carried out on land described in Column 2.

Column 1: Type of development	Column 2: Applicable land
<p>REGARDING BUFFER AREAS</p> <p>Development that potentially may cause nuisance to adjacent or nearby land by reason of biosecurity risk, noise, vibration, dust, smoke, fumes, odour, light or other emissions and is subject to any of the following sections:</p> <ul style="list-style-type: none"> • Pt 6 Industrial Development • Pt 7c Rural industry and intensive agriculture • Pt 8c Wind Energy Systems • Pt 8d Extractive Industries • 13d Scone Memorial Airport • 13e Hunter Valley Equine Precinct • 13f Scone Bypass 	Any land

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REGARDING SEPARATION DISTANCES	
Development that may potentially be affected by biosecurity risk, noise, vibration, dust, smoke, fumes, odour, light or other emissions which emanate from development on adjacent or nearby land	Any land
Residential accommodation, tourist and visitor accommodation, hospital, educational establishment, place of public worship or centre-based child care facility	Any land within 500 metres of the boundary of a property containing existing intensive livestock agriculture, intensive plant agriculture or rural industry.

11i.2 Relevant planning instruments & legislation

The following environmental planning instruments or other legislation are relevant to development to which this section applies:

- *Upper Hunter Local Environmental Plan 2013*
- *Protection of the Environment Operations Act 1997*
- *State Environmental Planning Policy (Primary Production) 2021*

Further planning instruments and legislation may also be relevant. In the event of any inconsistency, the above listed instruments will prevail over requirements or criteria contained in this section.

11i.3 Definitions

There may be words used in this Part that are defined in the *Environmental Planning and Assessment Act, 1979*, as amended, or within *Upper Hunter Local Environmental Plan 2013*, as amended. The Dictionary to this DCP provides additional definitions that are relevant to this Part.

11i.4 Objectives

The objectives of this section are to ensure that development proposals and land uses avoid and minimise the potential for current and future conflict by:

1. identifying and assessing likely impacts from development proposals and the potential for land use conflict (including noise, odour, biosecurity risk, vibration, dust, smoke, fumes, odour, light or other emissions and biosecurity risk)
2. avoiding inappropriate development, or increasing the scale or intensity of development close to existing uses that may have impacts on proposed development (such as, but not limited to, intensive agricultural industries, wastewater treatment plants or similar activities)
3. providing buffer areas separating land uses to minimise potential adverse effects
4. enabling alternative economic use of buffer areas by suitable land uses, where future compatibility of the uses can be demonstrated

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11i.5 Supporting plans & documentation

Development applications that are subject to this section should be supported by the following plans and documentation.

Item	When required	Plans or information to be provided
A. General requirements	All applications	Refer to Part 2 Preparing & lodging a development application . Note: the Statement of Environmental Effects must describe potential impacts from or to adjoining land
B. Site specific requirements	Any application subject to section: <ul style="list-style-type: none"> • 13d Scone Memorial Airport; or • 13f Scone Bypass 	Refer to relevant section: <ul style="list-style-type: none"> • 13d Scone Memorial Airport; or • 13f Scone Bypass
C. Acoustic assessment report	Applications involving the potential for noise impacts on adjoining development, including: <ul style="list-style-type: none"> • rural industry • residential development that adjoins or is adjacent to a main road (for example, the New England Highway) or a railway line • some types of commercial, industrial or tourist and visitor accommodation activities • applications to extend trading hours • extractive industries • animal boarding or training establishments • helipads 	<p>A report prepared by a relevant qualified and experienced professional containing the requirements as set out in the Department of Planning, 2008. <i>Development Near Rail Corridors and Busy Roads – Interim Guideline</i> (or any other relevant or subsequent updated reference document(s)). It should generally include sections:</p> <ul style="list-style-type: none"> • Background • Site Description • Noise Criteria • Noise Assessment • Recommendations • Conclusion <p>For helipad proposals, demonstration must be made that a suitable separation distance has been met between the helipad and either a residential zone and/or an existing building used for a 'sensitive use' (ie dwelling, child care centre, education facility or hospital) that is not associated with the helicopter operation. This can be achieved by demonstrating at least one of the following has been met:</p> <ul style="list-style-type: none"> • the proposed helipad is located at least the distance specified in this Section, away from a sensitive use and/or residential zone, or • an acoustic report is provided that demonstrates the proposed helipad does not have an adverse noise impact on a nearby sensitive use and/or residential zone. The acoustic report should prove it meets the noise level criteria for helicopters.

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Item	When required	Plans or information to be provided
D. Buffer & separation distance plans & report	All applications involving either: <ul style="list-style-type: none"> • the potential for impacts on adjoining or nearby development • the potential to be impacted by adjoining or nearby development 	A plan showing: <ul style="list-style-type: none"> • location of proposed development • location of adjoining or nearby development • all property boundaries • minimum buffer and/or separation distances as specified in this section • impact affectation areas for nearby development consents for extractive or mining industries (where relevant) • locations of transmission lines and easements (where relevant). Where required by Council, an accompanying report describing the application of the minimum buffer and/or separation distances to the development, and any issues arising. If it is not possible or appropriate to achieve the specified minimum buffer and/or separation distances, describe (with accompanying plans where relevant) the proposed measures to mitigate the effects of the proximity of the development
E. Development near existing intensive plant or livestock agriculture developments	All applications with the potential to be impacted by existing intensive plant or livestock agriculture developments	Plans and documentation prepared by a suitably qualified and experienced professional that includes sufficient details of the development and site that is able to determine the extent of potential conflict between the proposed development and existing intensive plant or livestock agriculture development. Necessary information includes: <ol style="list-style-type: none"> 1. site plans drawn to scale showing all proposed buildings and boundaries in relation to established intensive plant or livestock agriculture development; 2. topography of the development site and intensive plant or livestock agriculture development; 3. activities and management practices of the intensive plant or livestock agriculture development (where known) and identification of activities which may result in conflict; 4. measures proposed to reduce potential impacts; and 5. any other details as required by Council

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11i.6 Assessment criteria

A performance-based approach will be adopted in the assessment of development applications. Applications will be assessed according to the extent to which the outcomes specified in the left-hand column of the following table will be satisfied or achieved by the design, construction or operation of the proposal.

The design guidelines specified in the right-hand column indicate design and best practice solutions by which the required outcomes can be met. They do not preclude other solutions that may be suitable under particular local circumstances. All proposals will be considered on merit.

This section is structured in the following way:

A	Separation distances to rural industries
B	Separation distances to intensive livestock or plant agriculture
C	Separation distances to environmental assets
D	Separation distances for specific land uses
E	Separation distances to wastewater treatment plants
F	Bushfire asset protection
G	Heritage buffers
H	Buffer to rail & busy roads
I	Separation distances to electricity transmission lines

Outcomes to be achieved

Design guidelines

A. Separation distances from rural industries

NB This section does not apply to intensive livestock agriculture – see instead section B below.

- Appropriate separation distances are to apply to maintain a suitable buffer between rural industries and other land uses

- In determining appropriate separation distances, Council will have regard to any relevant references and standards, including those listed in the 'Supplementary Guidance' at the end of this Part.
- Appropriate minimum distances from rural industries to other land uses may include:
 - A minimum of 500 metres from any residential zone, residential dwelling or sensitive land use such as a hospital, child care centre, education facility or similar land use
 - A minimum of 500 metres from rural dwellings or tourist and visitor accommodation

Larger minimum buffers may be required for potentially hazardous or offensive rural industries

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Outcomes to be achieved

Design guidelines

- Property management practices to apply alternative or specialised management actions in locations where conflict potential is to apply may be required instead of, or in addition to, minimum separation distances (for example, crop spraying practice near residences).

B. Separation distances to intensive livestock or plant agriculture

- The design, use and ongoing operation of the proposed development will not adversely affect the continued operation of any adjoining or nearby intensive plant or livestock agriculture development.

- In determining appropriate separation distances, Council will have regard to any relevant references and standards, including those listed in the 'Supplementary Guidance' at the end of this Part
- Consideration of separation distances to beef cattle feedlots should be made in accordance with Appendix B of *National Guidelines for Beef Cattle Feedlots in Australia*, by Meat and Livestock Australia Ltd, or any update, downloadable at <https://publications.mla.com.au/login/redirectFrame>

Outcomes to be achieved

Design guidelines

C. Separation distances to environmental assets

- Minimum separation distances are to apply to maintain a buffer between development and environmental assets, including:
 - A minimum buffer of 50 metres is required between native vegetation and:
 - residential or urban development
 - development with the potential to cause adverse impacts including rural tourist accommodation, intensive agriculture, rural industries and livestock operations.
 - A minimum buffer of 50 metres is required between streams and waterways and:
 - residential or urban development
 - development with the potential to cause adverse impacts including rural tourist accommodation, intensive agriculture, rural industries and livestock operations.

- In determining appropriate separation distances, Council will have regard to any relevant industry references and standards

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Outcomes to be achieved

Design guidelines

- A minimum buffer of 100 metres is required between wetlands and:
 - residential or urban development
 - development with the potential to cause adverse impacts including tourist and visitor accommodation, intensive plant or livestock agriculture, or rural industry
- Separation distances may be determined on a site specific basis where criteria outlined in **section 11i.7 Variations of assessment criteria** are met

D. Separation distances for specific land uses

- Minimum separation distances are to apply to maintain a buffer between development and specific land uses, including:

Waste facilities	residential areas/urban development, rural dwellings, rural tourist accommodation, or similar land uses.	300m
Animal boarding or training establishments	residential areas/urban development, rural dwellings, rural tourist accommodation, or similar land uses	500m
Helipads	Residential zones, dwellings or rural tourist accommodation not associated with the development, child care centres, education facilities, hospitals or similar land uses	500m
Extractive industries (if blasting is involved)	residential areas/urban development, rural dwellings, rural tourist accommodation, or similar land uses	1000m of residential zone 1000m of dwelling
Effluent re-use areas	Other land uses	Site specific determination

- For **Extractive industries**: additional buffers may be required along access roads. In addition to any other guideline, minimum setbacks for extractive operations are 10m from adjoining property boundaries, 30m from a public or Crown road.
- Separation distances may be determined on a site specific basis where criteria outlined in section **11i.7 Variations of assessment criteria** are met

E. Separation distances to wastewater treatment plants

- This section applies to land in the vicinity of the Scone, Aberdeen, Merriwa or Murrurundi Wastewater Treatment Plants as shown on Maps 1 to 4 below.
- A minimum buffer as specified on Maps 1 to 4 below shall apply to sensitive land uses (ie dwellings, schools, child care facilities, tourist and visitor accommodation and hospitals)
- Council shall not approve any increase in residential density on land over that which exists at present on buffer areas

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Outcomes to be achieved

Design guidelines

around Wastewater Treatment Plants as marked on **Maps 1 to 4** below, unless it is satisfied that:

- it is proposed on an existing vacant lot
- the likely adverse impacts of the proposed development will not impact the existing and continued operations of the Wastewater Treatment Plant
- the likely adverse impact of the development on the existing and continued operations of the Wastewater Treatment Plant is minimal
- the development is sited to maximise the distance between the development and the Wastewater Treatment Plant to minimise potential land use conflict
- the development is suitably located to minimise any views of the Wastewater Treatment Plant to avoid any likely adverse visual impact
- the development has employed measures that will mitigate the effects from the relevant Wastewater Treatment Plant
- the intensity of development is such that it would reasonably be anticipated for the subject site.

F. Bushfire asset protection

Land use buffers may be required in conjunction with bush fire asset protection.

- Buffers comply with the requirements set out in section **10b Bushfire risk**.

G. Heritage buffers

- Protection of heritage items may require limitation of development within the curtilage of the item.
 - The development considers the requirements in **Parts 9 Heritage and 3 Subdivision**, particularly relating to curtilages.
- Separation distances for heritage items are determined on a site specific basis taking into account relevant matters, including the heritage significance of the item.
 - A site specific heritage study and associated report is likely to be required. Refer to parts **9 Heritage and 3 Subdivision**.

H. Buffer to rail & busy roads

- The development addresses the provisions of the *Department of Planning's publication 'Development Near Rail Corridors and Busy Roads – Interim Guideline' 2008* (or its updated version) and any other relevant guidelines.
- The development considers the requirements in section **13f Scone Bypass**

I. Separation distances to electricity transmission lines

- The development provides suitable buffers to electricity transmission lines to ensure the safety and security of the transmission network is not affected by the development, and



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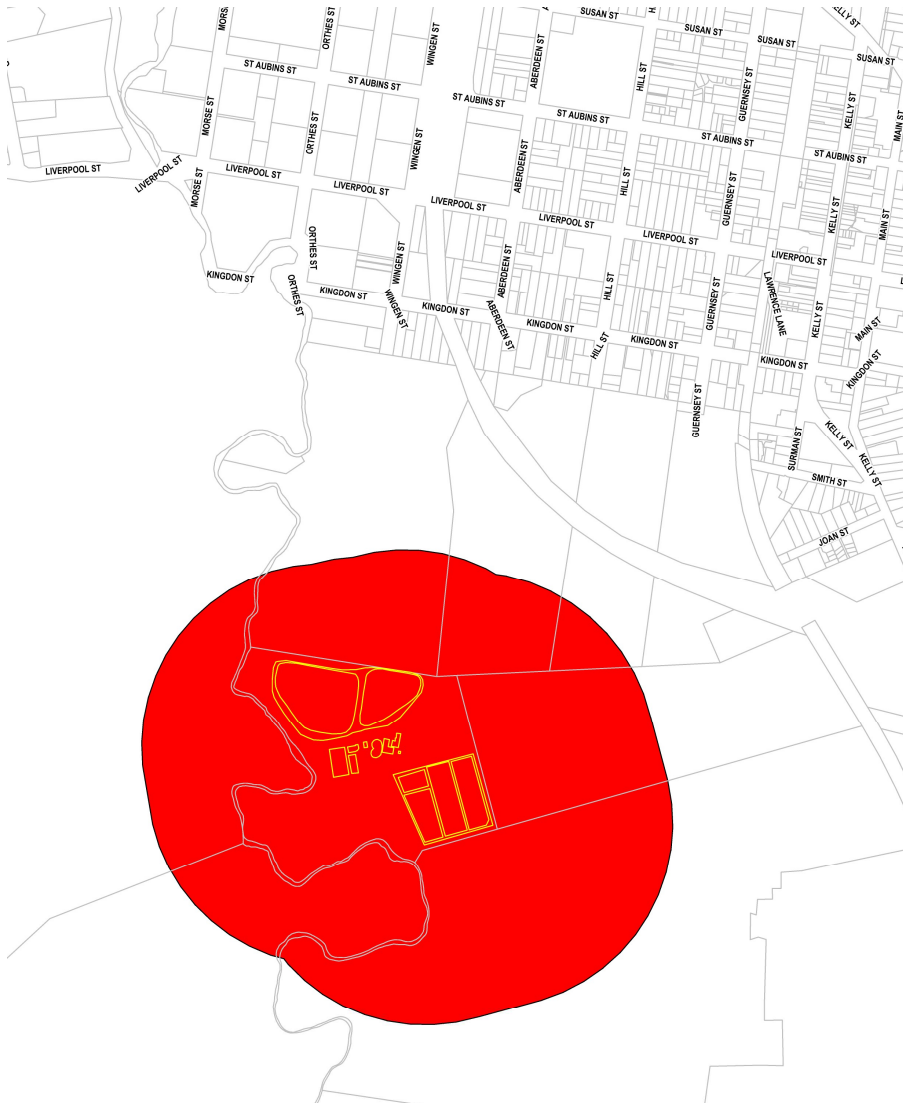
Design guidelines

no adverse impacts from the transmission line affect the development.

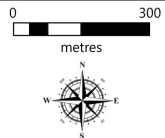
- Development complies with safety separation distances identified by the owner of the transmission line, and any guidelines that apply in relation to the erection of structures or land use in the vicinity of the line.
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Map 1 Scone wastewater treatment plant buffer

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- Legend**
- Sewer Plant
 - Land Parcel
 - Sewage Plant Buffer



**Upper Hunter
Development Control Plan 2022
Scone Treatment Plant Buffer**

Filename: UHSC_DCP_SconeT_Plant_Mar2022
Date: 2/3/2022



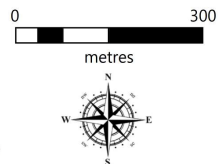


Map 2 Aberdeen wastewater treatment plant buffer



Legend

- Sewer Plant
- Land Parcel
- Sewage Plant Buffer



**Upper Hunter
Development Control Plan 2022
Aberdeen Treatment Plant Buffer**

Filename: UHSC_DCP_Aberdeen_T_Plant_Mar2022
Date: 2/3/2022

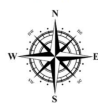




Map 3 Merriwa wastewater treatment plant buffer



- Legend**
- Sewer Plant
 - Land Parcel
 - Sewage Plant Buffer



Upper Hunter
Development Control Plan 2022
Merriwa Treatment Plant Buffer

Filename: UHSC_DCP_MerriwaT_Plant_Mar2022
Date: 2/3/2022

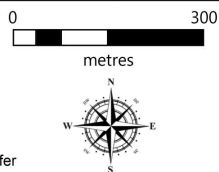




Map 4 Murrurundi wastewater treatment plant buffer



- Legend**
- Sewer Plant
 - Land Parcel
 - Sewage Plant Buffer



**Upper Hunter
Development Control Plan 2022
Murrurundi Treatment Plant Buffer**

Filename: UHSC_DCP_MurrurundiT_Plant_Mar2022
Date: 2/3/2022





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11i.7 Variations of assessment criteria

The minimum separation distance requirements outlined in clause **11i6 Assessment criteria** will only be varied where it has been demonstrated that they are not appropriate for the site, and the following criteria are met:

- documentary evidence is provided that the minimum standards are unnecessary or inappropriate in the particular circumstances of the case
- relevant State or national guidelines or standards are complied with.

11i.8 Supplementary guidance

The following documents or reference materials provide further advice or information that is relevant to this section.

- NSW Department of Primary Industries, 2018: *Buffer Zones to Reduce Land Use Conflict with Agriculture - An Interim Guideline November 2018, Primefact 1624, First edition*
- Department of Planning, 2008, *Development Near Rail Corridors and Busy Roads – Interim Guideline*
- NSW Environment Protection Authority, 2017: *Noise Policy for Industry 2017*. [https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017))
- Appendix B of *National Guidelines for Beef Cattle Feedlots in Australia*, by Meat and Livestock Australia Ltd, or any update, downloadable at <https://publications.mla.com.au/login/redirectFrame>
- NSW Department of Primary Industries also has guidelines, manuals and standards for a range of agricultural activities and practices which should be referred to – see the reference list at the end of **Part 7 Rural development**
- NSW Department of Environment and Conservation, 2004, *Use of Effluent by Irrigation* www.environment.nsw.gov.au/resources/water/effguide.pdf