

FACT SHEET

– Development in Odour Buffer Areas



(02) 4677 1100
wollondilly.nsw.gov.au



The purpose of this fact sheet is to provide information on how the potential odour impacts will be assessed for proposed development within an Odour Buffer Area.

Odour is an unfortunate by-product of activities we rely on for fresh, local and affordable food such as poultry. However odour can also have a significant effect on people's quality of life. Special consideration is required for development proposed in close proximity to an odorous activity to minimise the potential for land use conflict while protecting the operation of these activities.

What is an Odour Buffer Area?

An area identified as being affected by odour from an existing activity such as a poultry farm.

This fact sheet only applies to land located within the mapped area on the Odour Buffer Area Map which forms part of the *Wollondilly Local Environmental Plan 2011*.

Clause 7.6 of the Wollondilly Local Environmental Plan (WLEP 2011)

Clause 7.6 of the WLEP 2011 relates to development within a designated Odour Buffer Area. The buffer area is identified on a map.

The Clause seeks to protect existing land uses where odour emissions may occur from the potential land use conflict with new development. Particularly where the land uses could be incompatible.

The WLEP 2011 is legislation and Council, as the consent authority, is required to consider Clause 7.6 for any development application on land within the Odour Buffer Area.

A more detailed explanation of Clause 7.6 is provided at the end of this fact sheet.

East Tahmoor Odour Buffer Area

At present there is only one Odour Buffer Area identified within the WLEP 2011 which is located in East Tahmoor.

The Odour Buffer Area is an area potentially affected by odour from the poultry operations on adjoining land.

What happens if my land is in the Odour Buffer Area?

Being located within the Odour Buffer Area is only relevant if you need development consent for development on your land.

Any proposed development within the Odour Buffer Area should not impact on the operation of the odour causing activity. For example, land use conflict can arise when residential development occurs in close proximity to a poultry farm.

Proposed development will need to establish **what** the potential impact is and **how** it will be mitigated.

How do I know if my land is within a designated Odour Buffer Area?

- Visit Council's web site and check the Planning Fact Sheets link.
- Call or visit Council and ask to speak with the Duty Planner; a Duty Planner is available Monday to Friday between 8am and 12pm and can advise if a property is located within the Odour Buffer Area.
- Check the Odour Buffer Area Map which forms part of the *Wollondilly Local Environmental Plan 2011*; The WLEP 2011 and the accompanying maps are available on the NSW Legislation website; www.legislation.nsw.gov.au
- NSW Planning Portal; Search for planning information about your property on the NSW Government Department of Planning & Environment's Planning Portal; www.planningportal.nsw.gov.au. Check the "local Provisions" which apply to your property for the Odour Buffer Area.

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- Apply for a Planning Certificate (Section 149) from Council.

Information required for development applications in the Odour Buffer Area

It is the applicant's responsibility to provide adequate information with a development application so that an assessment can be made of the proposed development's suitability against the objectives of the designated Odour Buffer Area.

All development applications should address the impact of odour in terms of the following:

- An explanation on how the proposed development complies with clause 7.6 of the Wollondilly Local Environmental Plan 2011, *Development within a designated buffer area*.
- Whether the proposed development is compatible with current and proposed land uses.
- The likely impact from odour on health and quality of life considering topography and climatic conditions.
- Whether any measures are able to limit the impact of odour to an acceptable level inside a building and within important outdoor spaces. Measures may include building design and layout features and landscaping.

An odour assessment will be required for development applications that propose development which is likely to be sensitive to odour. This includes, but is not limited to, subdivision for new housing, new houses and child care centres.

You should seek advice from Council's planning section on whether an odour assessment is required for a proposed development prior to lodging a development application.

What is an odour assessment?

An odour assessment is a study prepared by a suitably qualified professional, usually an environmental consultant, which predicts and assesses potential odour impacts from or on new development proposals. It will consider how compatible a proposed development would be to a nearby odour causing activity. The study will also recommend the most appropriate measures for dealing with the potential odour impact.

An odour assessment should be prepared in accordance with the *Technical Framework - Assessment and management of odour from stationary sources in NSW, November 2007* prepared by the Department of Environment and Conservation NSW. This document is available on the NSW Environment Protection Authority's (EPA) website.

Potential types of conditions if development consent is granted

Development consent for development in an Odour Buffer Area may include conditions requiring measures to reduce the impact of odour to be implemented.

Such measures may include but are not limited to:

- Continuous dense landscaping on the boundary of the property to assist in screening from odour causing activities;
- Orienting buildings away from odorous sources;
- Designing natural air flow through buildings or incorporating appropriate ventilation or an air conditioning system.

A Cautionary Note

- Council has statutory responsibilities under the *NSW Environmental Planning and Assessment Act 1979* and under *Wollondilly Local Environmental Plan 2011* to ensure potential odour impacts are able to be mitigated satisfactorily.

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- An approval for a development where there is odour from an existing odour causing activity may be subject to appeal from those who consider they are impacted by this decision.
- A notable appeal (in another local government area) resulted in development approval being overturned for a subdivision because the proposed development was incompatible with existing development nearby. The reasons the appeal was granted were as follows:
 - *the social effect and the economic effect of the development in the locality;*
 - *the relationship of that development to the development on adjoining land or on other land in the locality; and*
 - *the existing and likely future amenity of the neighbourhood,*

NSW Court of Appeal: Inghams Enterprises Pty Ltd v Kira Holdings Pty Ltd.

Exempt and Complying Development

- The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) provides guidelines for the undertaking of minor development which does not require an application for development (exempt) and for a range of other development which complies with a set of standards (complying).
- Exempt development can generally be undertaken within an Odour Buffer Area if certain standards are met and development complies with requirements outlined in the Codes SEPP.
- Certain types of complying development cannot be undertaken on land identified

as being within an Odour Buffer Area. This information is included on the 149 Planning Certificate for your land.

Background to Odour Buffer Area

An odour study was undertaken for the East Tahmoor Precinct as part of the *Picton Tahmoor Thirlmere New Urban Land Planning Proposal*. This odour study formed the basis for the placement of the Odour Buffer Area and may assist in understanding the background to the odour issue. The document is subject to copyright but can be made available for viewing at the Council office.

If you wish to view this document kindly submit a *Government Information (Public Access) Act 2009 (GIPAA)* form. Informal Access Application Forms are available on Council's website

Further enquiries

Call or visit Council and ask to speak to the duty planner who is available from 8 am to 12 noon Monday to Friday.

Address: Frank McKay Building 62-64, Menangle Street, Picton.

Phone: 02 4677 1100

All correspondence: PO Box 21 Picton NSW 2571

Email: council@wollondilly.nsw.gov.au

Fax: 02 4677 2339

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What does the Wollondilly Local Environmental Plan 2011 say about the Odour Buffer Area?

Clause 7.6 deals with development within a designated buffer area.

What does the Clause 7.6 say?

- (1) The objective of this clause is to protect the operational environment of activities where odour emissions may occur.
- (2) This clause applies to land identified as “Odour Buffer Area” on the [Odour Buffer Area Map](#).
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following:
 - (a) the impact that any odour associated with any poultry operation on adjoining land (***the poultry operation***) would have on the proposed development,
 - (b) any proposed measures incorporated into the proposed development that would limit the impact of odour emissions associated with the poultry operation,
 - (c) whether the proposed development would adversely affect the operational environment of the poultry operation.

What does it mean?

- The clause seeks to ensure current land uses, for example poultry related operations, can continue to operate without being affected by potential land use conflict from new development that may be affected by odour from the existing activity.
- The Odour Buffer Area Map identifies land affected by this clause.
- Council cannot approve a development application for land within the Odour Buffer Area without considering the following:
- (a) Will the proposed development be affected by odour from an existing nearby land use which gives off odour, i.e. the existing poultry operation?
 - (b) Whether the proposed development includes any measures to reduce the potential impact of odour? For example, landscaping or building orientation.
 - (c) Will the proposed development have a negative impact on how the existing poultry business operates?