

Applications for the Development of a Dwelling or other Residential Uses on Land Affected by the Development Constraints Overlays of the Planning Scheme

Date of Council Resolution

These guidelines were adopted by Council on 14 December 2005, and take effect on 23 January 2006, in accordance with section 2.3(2) of the Planning Scheme. The guidelines were amended by Council on 31 January 2017 and took effect on 13 February 2017.

Purpose of the Guideline

This document is intended to provide guidelines for the lodgement and assessment of development applications for the purpose of a dwelling or other residential use on land affected by the Development Constraints Overlays of the planning scheme, particularly—

- land affected by key resource areas, haul routes and existing mines (section 11.4.5);
- buffers to highways and regional transport corridors (section 11.4.8);
- defence facilities (section 11.4.9);
- motorsports buffers (section 11.4.10);
- wastewater treatment buffers (section 11.4.11); and
- rail corridor noise impact management (section 11.4.16).

Council's Implementation Guidelines are intended to apply a standard approach to the interpretation and implementation of the relevant aspects of the Planning Scheme. They offer a degree of certainty and formality to applicants, Council and the community. Where an applicant is proposing a variation to the guidelines the onus is on the applicant to demonstrate the facts and circumstances to support the variation.

Discretion to be Applied

Notwithstanding the actual provisions contained in the guidelines, care must be exercised in their application in order to consider—

- the specific impacts on individual cases, including adjoining lands; and
- whether non-compliance, by a marginal amount, with a specific numerical standard would affect the overall intent of the guidelines.

Guidelines

1. When do the Implementation Guidelines apply?

- (1) This Implementation Guideline applies when a development application is made for a dwelling or other form of residential use within a Development Constraints Overlay in the vicinity of one or more of the following sites/areas—

Amberley Air Base; New Chum – Swanbank Key Resource Area (KRA); Rosewood Wastewater Centre; Bundamba Wastewater Centre; Goodna Wastewater Centre; Jeebropilly-Ebenezer KRA; Ipswich Motorsport Precinct; Tivoli Raceway; Purga Rifle Range; Oakleigh, Rosewood, Mt Marrow KRA; Mt Mort and Bremer View KRA; Purga KRA; Flinders-Peak Crossing KRA; Hills Terrace, Sapling Pocket, Summerville and Kholo Sands KRA's; and highways, regional transport and rail corridors.

(2) Dwellings

- (a) A Dwelling is defined in the Planning Scheme as—

“(1) “Dwelling” means a building or part of a building used as a self contained residence which must include—

- (a) food preparation facilities;
- (b) bath or shower; and
- (c) closet pan and wash basin.

(2) It includes out-buildings and works normal to a dwelling.”

- (b) The term includes, but is not limited to Caretaker Residential, Display Housing, a Dual Occupancy, Multiple Residential and Single Residential. For the purposes of these Implementation Guidelines, other forms of residential use include, but are not limited to Institutional Residential and Temporary Accommodation.

- (c) For clarification, the Implementation Guidelines do not apply to the erection of a dwelling or development of a residential use where the dwelling or other residential use are to be located upon an existing allotment which is partially affected by a Development Constraints Overlay and the dwelling or residential use are wholly located outside the Development Constraints Overlay (see Figure 1).

(3) Implications of Previous Approvals and Uses

- (i) For further clarification, should a lot containing an existing dwelling become vacant (e.g. a building is lost through fire or is demolished or removed), construction of a replacement dwelling in the general vicinity of the curtilage of the previous dwelling is not considered to constitute a Material Change of Use. Accordingly, where a dwelling unit is to be constructed in the above circumstances, the erection of the dwelling will not require development approval other than for Building Work.

If it is intended to erect a replacement dwelling on a different part of the site, where the dwelling is not within the vicinity of the curtilage of the previous dwelling and the dwelling is still within the Development Constraints Overlay, such development will be considered to constitute a Material Change of Use and a development application as specified in the Assessment Table for the Zone/Overlay will be required.

These Implementation Guidelines will apply to the assessment and determination of such an application.

- (ii) Furthermore, where a lot has previously been approved by Council and a condition of the relevant development approval required the construction of a dwelling within a certain timeframe, the construction of a dwelling in accordance with the conditions of the development approval is also not considered to constitute a Material Change of Use where the construction of the dwelling at the time of the approval of the reconfiguration was permitted development (e.g. the erection of a Country Dwelling in the Rural Zone under the provisions of the former Moreton Shire Planning Scheme).

Where the subsequent erection of the dwelling, despite the approval to create the lot, required a further planning approval under the scheme in force at the time of the approval to create the lot (e.g. the erection of a Country Dwelling in the Non Urban Zone under the provisions of the former Moreton Shire Planning Scheme), the erection of the new dwelling is subject to development approval as prescribed in the Assessment Table for the Zone/Overlay in which the subject land is currently included.

2. Supporting Information

(1) Pre-lodgement meeting

Where a residential use is proposed on land affected by a Development Constraints Overlay, the Applicant is encouraged to have a pre-lodgement meeting with the organisation whose operations are the subject of the Development Constraints Overlay. For a list of the organisations responsible for operations within the Development Constraints Overlay and their addresses see Appendix 1.

(2) Letter of Comment

At the time of lodging an application, the Applicant should submit a letter of comment from the relevant organisation whose operation is the subject of the Development Constraints Overlay. If no contact has been made with the relevant organisation, or the organisation has refused to provide a letter of comment, this should be stated in writing by the Applicant at the time of making the application.

(3) Supporting Reports and Plans

- (i) An application for a residential use on land affected by a Development Constraints Overlay shall be accompanied by Plans drawn at a suitable scale showing the proposed development relative to the property boundaries. Floor plans and elevations of the proposed development drawn at a suitable scale should also be submitted. The plans should clearly show all factors being relied upon to support the application such as topography, the extent of vegetation (existing or proposed), screening devices, noise attenuation measures and the orientation of internal areas and wall openings relative to the buffered operations.



- (ii) An application shall also be accompanied by relevant supporting technical reports relating to matters such as noise, air quality (dust, fumes or odour), light and risk management. Such reports should outline the levels of impacts created by the buffered operation upon the residential amenity of the proposed development, giving consideration to the operational characteristics of the buffered activity including processes, emissions, hours of operation and attenuation/abatement measures employed by the activity.
- (iii) The report/s should further outline required measures to be implemented in the proposed development to reduce the impacts on residential amenity to an acceptable level, including construction materials (e.g. thickened glass, masonry external walls, insulation, double glazing), siting (e.g. orientation to reduce exposure of sensitive areas of the development to the buffered activity), noise screening (e.g. mounding and fencing), and landscaping.

3. Assessment of an Application

(1) Referral

In cases where a letter of comment as referred to in Guideline 2(2) is not provided by the applicant from the organisation/s responsible for the buffered activity, the application will be referred to the relevant organisation(s) for comment.

(2) Design and siting issues

In assessing a development application for a residential use on land affected by a Development Constraints Overlay the following matters will be taken into consideration, where relevant (See Figure 2)—

- (i) Separation between the proposed use and the buffered activity

The distance between the proposed development and the buffered activity should be maximised. In relation to separation distances, consideration will be given to the location of activities likely to impact upon residential amenity, including haul routes, relative to the proposed development (see Figure 2).
- (ii) Topography

Topographical features such as ridgelines should be utilised, wherever possible, in the separation of the buffered activity and the proposed development (see Figure 2).

(iii) Prevailing Winds

The proposed development should be located within the lot so as to minimise its downwind exposure to the buffered activity. Development of lots downwind (prevailing wind direction) of buffered operations where wind influenced impacts (e.g. noise, dust, odour) result from the buffered activity, are discouraged, except where the size/shape of the allotment is suitable to allow placement of the proposed development in a location which is not directly downwind (prevailing wind direction) of the buffered operations (see Figure 2).

(iv) Intervening Vegetation

Where vegetation exists between the intended location of the proposed development and the buffered activity, the existing vegetation should be retained and where necessary supplemented to provide an appropriate screen to light, dust and visual impacts (see Figure 2).

Where no vegetation exists and the planting or ongoing maintenance of vegetation would reduce impacts, planting of vegetation may be required.

(v) Building Design, Construction and Materials

In designing and determining the orientation of a proposed building, consideration should be given to the location of habitable rooms on the opposite side of the building from the buffered activity, with non habitable areas such as garages and laundries being placed on the exposed side of the building. Particularly, where a development is potentially noise affected by 24 hour operations, bedrooms should be placed on the non exposed side of the building/development.

Where a development is potentially affected by noise, sound absorptive materials should be used in the construction along with other measures such as insulation and sealing of windows (such as double glazing) and doors. Openings should generally be orientated away from the noise source.

Where a development is located within the Amberley Airbase Defence Facilities Overlay, sound proofing measures in accordance with the Australian Standard 2021-2000 – Acoustics – Aircraft Noise Intrusion – Building, Siting and Construction should be implemented in the design of the building.

Conditions or advice may be imposed in regard to any of the above matters to ensure that an appropriate level of amenity is achieved.



(3) Written Acknowledgment

- (i) Where an acceptable level of residential amenity may be achieved, and Council elects to approve an application, a written statement from the property owner/applicant acknowledging the potential impacts of the buffered operation/activity on the residential amenity of the development being proposed will generally be required. However, it is strongly encouraged that such an undertaking be submitted at the time of the making of the application. Copies of this acknowledgment will be placed on the development and property files.

- (ii) A suggested wording for such an undertaking is—

"I/We, (name), being the registered owner/s / being the applicant(s) with respect to the development of the property situated at (street address) and described as (lot on Registered Plan description), hereby acknowledge that the proposed (describe the proposal e.g. detached house) on the above referenced property may have its residential amenity adversely impacted upon by virtue of its location within the (state name of overlay) Development Constraints Overlay. I/We further acknowledge that approval of my/our development should not preclude or overly restrict the operation or development of the buffered use."

(4) Notation on Council's Property System and on Planning and Development Certificates

Any approval for dwellings (including a Detached House) or any other residential use within a Development Constraints Overlay shall be 'flagged' on Council's property system. To this end, an advice shall be included in any approval directing the Development Manager to include a memo in the Pathway system recording that written acknowledgment was obtained from the applicant/landowner(s) at the time of development approval regarding the likely impacts on the residential amenity of the approved use. This information is also to be conveyed to intending purchasers by way of Planning and Development Certificates.



Appendix 1: Contact Addresses

Amberley Air Base Purga Rifle Range	Erwin Wegner Executive Officer Land Use Assessment Department of Defence BP-1-B107 CANBERRA ACT 2600 Ph: (02) 6266 8124 Fax: (02) 6266 8192		& Ebenezer Mining Company Pty Ltd Msf 861 Coopers Road WILLOWBANK QLD 4306
Flinders-Peak Crossing KRA	Department of Natural Resources and Mines	Jeebropilly Mine	Department of Natural Resources and Mines Attention: Jan Domagala PO Box 1475 COORPAROO QLD 4151
Hills Terrace, Sapling Pocket, Summerville & Kholo Sands KRA's	Attention: Jan Domagala PO Box 1475 COORPAROO QLD 4151		& Jeebropilly Collieries PO Box 47 IPSWICH QLD 4305
Mt Mort-Bremer View KRA		Mt Marrow Mine	Department of Natural Resources and Mines Attention: Jan Domagala PO Box 1475 COORPAROO QLD 4151
New Chum –Swanbank KRA			& Mt. Marrow Blue Metal Quarries Pty Ltd PO Box 21 GOODNA QLD 4300
Purga KRA		Oakleigh Mine	Department of Natural Resources and Mines Attention: Jan Domagala PO Box 1475 COORPAROO QLD 4151
Bundamba Wastewater Treatment Centre	Ipswich Water C/- Ipswich City Council PO Box 191 IPSWICH QLD 4305		& Tetard Holdings Pty Ltd PO Box 47 IPSWICH QLD 4305
Goodna Wastewater Treatment Centre		Tivoli Raceway	Auto-Cycle Union of Queensland PO Box 2072 NORTH IPSWICH QLD 4305
Rosewood Wastewater Treatment Centre		Highways & Regional Transport Buffers	Area Engineer – Development Control Department of Main Roads PO Box 70 SPRING HILL QLD 4004 Ph: 3834 8463
Ipswich Motorsport Precinct (Willowbank)	Ipswich Motorsport Precinct Management Group Inc. 25 Coopers Rd WILLOWBANK QLD 4306 & Willowbank Raceway Corporation P.O. Box 536 MT GRAVATT QLD 4122 & Willowbank Speedway Pty Ltd Coopers Road WILLOWBANK QLD 4306 & Willowbank Race Circuit Pty Ltd PO Box 100 AMBERLEY QLD 4306 & Ipswich Kart Club Incorporated PO Box 577 BOOVAL QLD 4304 & The Ipswich West Moreton Auto Club PO Box 112 IPSWICH QLD 4305		& Regional Transport Planning Adviser Queensland Transport Floor 1, 8 Bunya Street EAGLE FARM QLD 4009 Ph: 3268 7358
Ebenezer Mine	Department of Natural Resources and Mines Attention: Jan Domagala PO Box 1475 COORPAROO QLD 4151	Rail Corridors Noise Impact Management	Regional Transport Planning Adviser Queensland Transport Floor 1, 8 Bunya Street EAGLE FARM QLD 4009 Ph: 3268 7358 (includes Queensland Rail)



Figure 1: Locations of Development where the Implementation Guidelines Apply

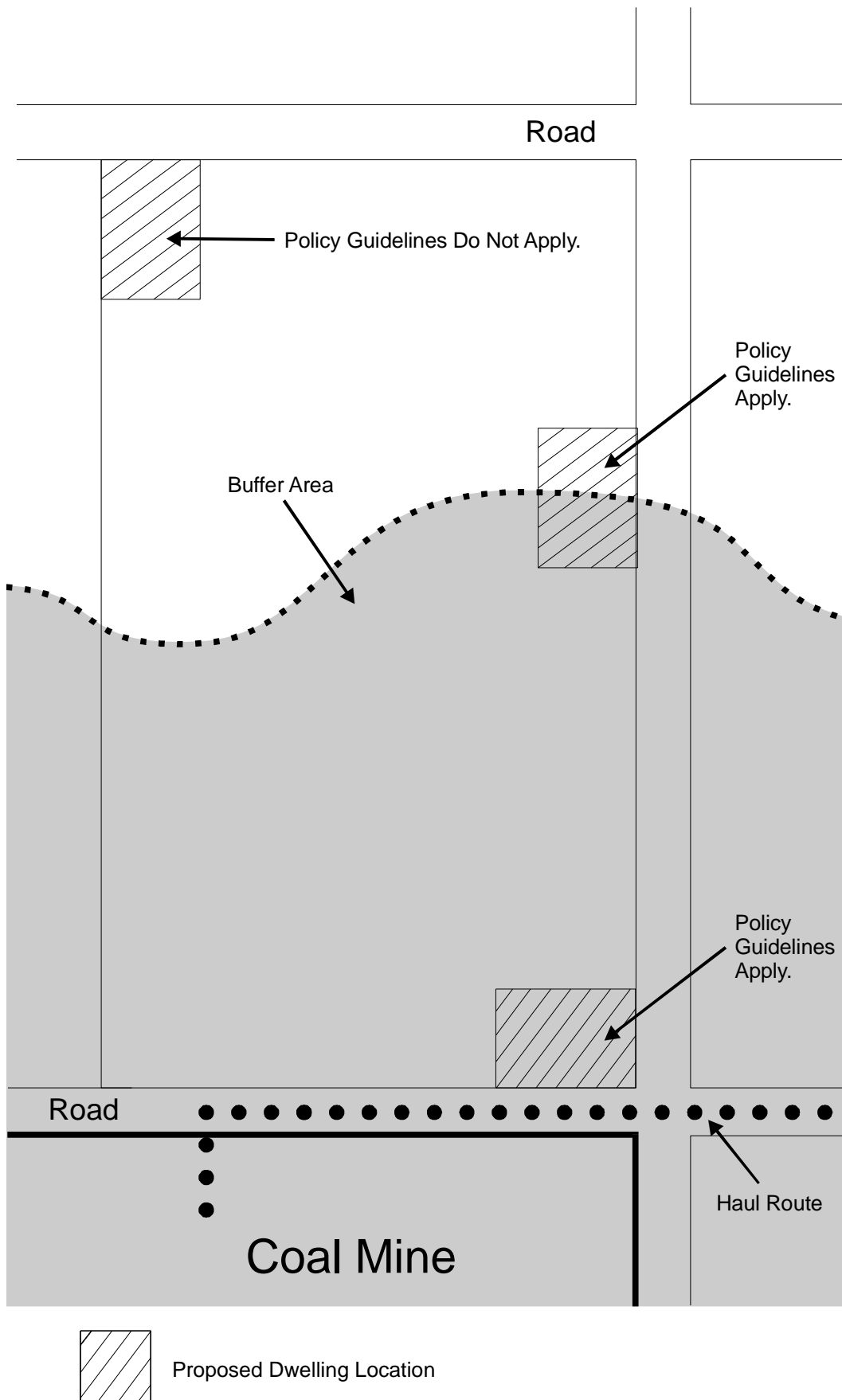
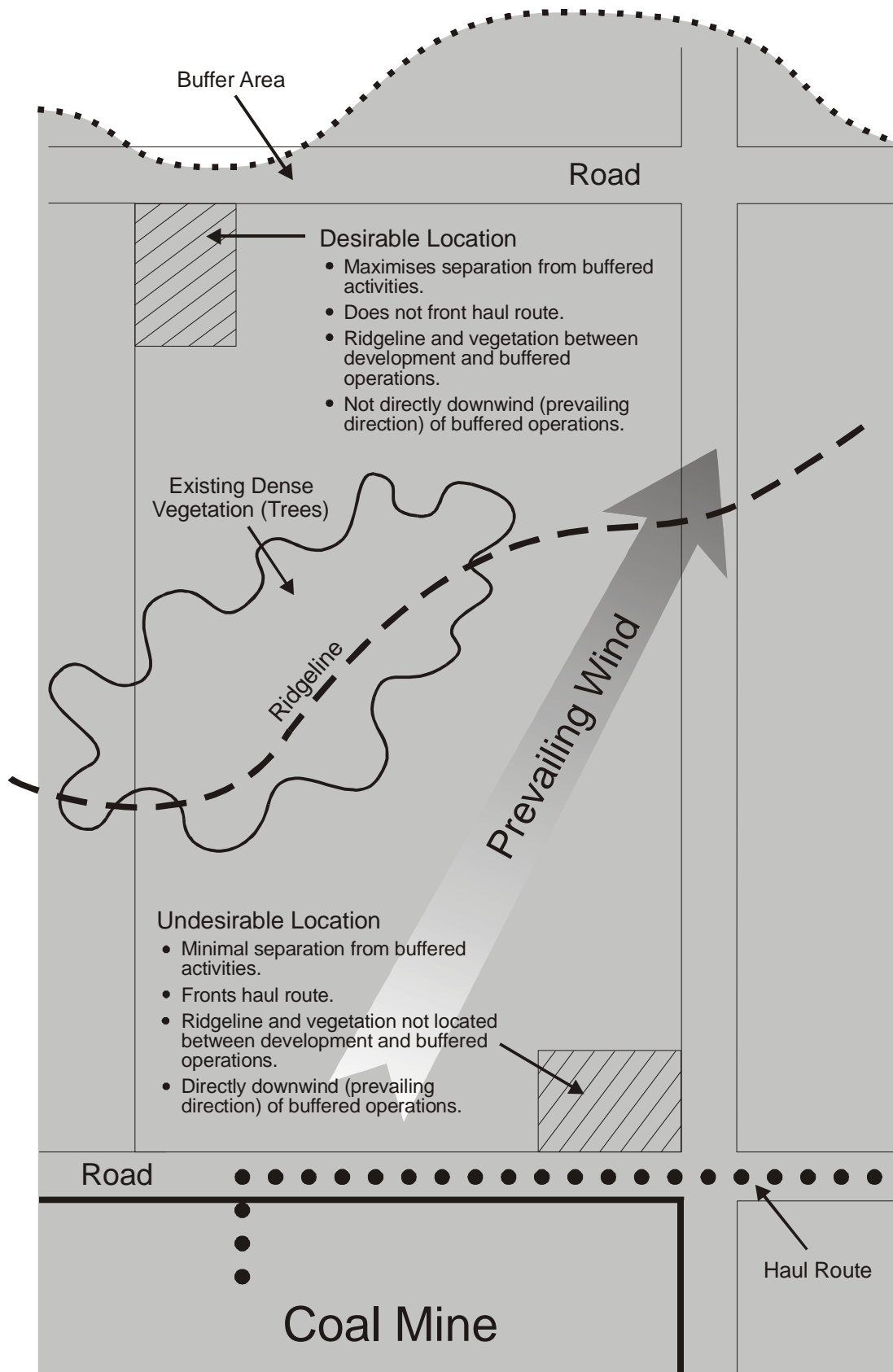


Figure 2: Desirable and Undesirable Locations of Development



Proposed Dwelling Location

