

MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

Councillor Glen Dunkley returned to the meeting at 6:25pm.

ITEM NO. 2

FILE NO: 18/159927
EDRMS NO: PSC2017-00019

DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN (AMENDMENT NO.8) - AMENDED AIRCRAFT NOISE PLANNING MAP

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Exhibit a draft amendment to the Aircraft Noise Planning Map in the Port Stephens Development Control Plan 2014 to reflect Australian Noise Exposure Forecast 2025 (only) **(ATTACHMENT 1)**.
 - 2) Exhibit the Amendment for 28 days in accordance with the *Environmental Planning and Assessment Regulation 2000* (NSW).
-

ORDINARY COUNCIL MEETING - 28 AUGUST 2018 MOTION

263	Councillor Steve Tucker Councillor Ken Jordan It was resolved that Council: 1) Exhibit a draft amendment to the Aircraft Noise Planning Map in the Port Stephens Development Control Plan 2014 to reflect Australian Noise Exposure Forecast 2025 (only) (ATTACHMENT 1). 2) Exhibit the Amendment for 28 days in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (NSW).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to seek approval to place the draft Port Stephens Development Control Plan (Amendment No. 8) – Amended Aircraft Noise Planning Map (**ATTACHMENT 1**) on public exhibition for a minimum period of 28 days.

The amendment makes changes to the Port Stephens Development Control Plan 2014 (DCP) Chapter B7 Williamtown RAAF Base – Aircraft Noise and Safety to reflect the Aircraft Noise Exposure Forecast 2025 (2025 ANEF) (only).

The preparation of the proposed amendment follows a resolution of Council on 13 February 2018 to amend the Aircraft Noise Planning Area (ANPA) in the DCP to reflect the 2025 ANEF (only) in response to a Notice of Motion (**ATTACHMENT 2**).

The draft amendment replaces the ANPA (**ATTACHMENT 3**) with the 2025 ANEF (**ATTACHMENT 4**) and makes necessary consequential amendments to the relevant development controls in the DCP to refer only to the ANEF 2025.

The purpose of providing development controls for aircraft noise in the DCP is to ensure that it is adequately taken into consideration in the preparation and assessment of development applications.

Council currently takes a conservative approach by adopting an ANPA which includes the:

- 2025 ANEF (identifying the noise created by the flight paths of the future Joint Strike Fighter aircraft); and
- Former 2012 ANEF (identifying the noise created by the flight paths of the existing Hornet aircraft).

This facilitates the consideration of noise from both aircraft during development assessment as they have different flight paths, as shown in the comparison between (**ATTACHMENT 3**) and (**ATTACHMENT 4**). However under the Australian Standard 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction, it is established convention that there will only be one current ANEF for a given airport at any one time, which has been promulgated as the 2025 ANEF.

The Joint Strike Fighter will be gradually phased in to eventually replace the existing Hornet at RAAF Base Williamtown. It is likely that the noise impact from the Hornet will progressively become less relevant as the number of Hornets is reduced.

The Commonwealth Department of Defence has advised that the first two Joint Strike Fighter aircraft are scheduled to arrive at the Williamtown RAAF Base in December 2018. The timeframe for phased replacement of the Hornets requires confirmation.

A report will be prepared for consideration by Council following the exhibition of the proposed amendment to the DCP.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal financial and resource implications in placing the proposed amendment to the DCP on exhibition.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

While there are planes still flying that underpin the ANEF 2012, Council has an obligation to assess that aircraft noise, and potentially a duty of care when issuing potential purchasers of the land with planning certificate (See *Port Stephens Shire Council v Booth & Ors*; *Port Stephens Shire Council v Gibson & Anor* [2005] NSWCA 323).

Given it is known that certain properties are currently affected by aircraft noise under ANEF 2012, and may be affected for some time, in adopting an amendment to the Aircraft Noise Planning Area Map, Council would need to consider insurance and liability risks. The legal, policy and risk implications of adopting the proposed amendment will be addressed in the report to Council following the exhibition period.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the public and the Department of Defence are not aware of the proposed amendment to the DCP.	Low	Place the draft DCP on exhibition for a period of 28 days in accordance with the provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> (NSW) and seek comment	Yes

MINUTES ORDINARY COUNCIL - 28 AUGUST 2018

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
		from the Department of Defence.	

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social, economic or environmental implications associated with the exhibition of the draft amendment.

The social, economic and environmental implications of the proposed amendment to the DCP will be reviewed and addressed in a report to Council following the exhibition period.

CONSULTATION

Internal

Internal consultation with the Development Assessment and Compliance Section will be undertaken during the exhibition of the proposed amendment to the DCP.

External

The proposed amendment to the DCP is required to be publicly exhibited for at least 28 days under clause 18 of the *Environmental Planning and Assessment Regulation 2000*.

The draft amendment to the DCP will be forwarded to the Commonwealth Department of Defence for comment during public exhibition.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Draft DCP.
- 2) Notice of Motion 13 February 2018.
- 3) Aircraft Noise Planning Area.
- 4) 2025 Australian Noise Exposure Forecast.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

B

GENERAL PROVISIONS

B General Provisions

The Parts listed below apply to all **land-use types** to which this Plan applies.

B General Provisions			
No	Part	This Part applies to development that:	Page
B1	Tree Management	is to remove or prune trees or other vegetation within non-rural areas	B-15
B2	Natural Resources	- is located on land or is within 500m of land that contains items of environmental significance, such as; threatened species or communities, listed migratory species, wildlife corridors, wetlands or riparian corridors and has the potential to impact biodiversity; or - is seeking to use biodiversity offsets; or - is located on land containing noxious weeds; or - is located on land identified as koala habitat	B-20
B3	Environmental Management	- is located on land that contains acid sulfate soils; or - has the potential to produce air pollution (such as dust or odour); or - has the potential to produce adverse offensive noise; or - is defined as or involves earthworks	B-24
B4	Drainage and Water Quality	- increases impervious surfaces; or - requires connection to public drainage; or - involves a controlled activity within 40m of waterfront land	B-26
B5	Flooding	is situated within the flood planning area or at/or below the flood planning level	B-34
B6	Essential Services	is not connected to essential services, being water, electricity, sewerage, stormwater drainage and suitable vehicular access	B-38
B7	Williamstown RAAF Base - Aircraft Noise and Safety	is situated within the 2025 ANEF aircraft noise planning area, bird strike zone, extraneous lighting area or the Williamstown RAAF Base Obstacle Limitations or Operations Surface Map and Height Trigger Map	B-39
B8	Heritage	is situated on land that contains a heritage item or within a heritage conservation area	B-49
B9	Road Network and Parking	has the potential to impact on the existing road network or creates demand for on-site parking	B-51
B10	Social Impact	is deemed to have a significant social impact	B-60

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

B7 Williamtown RAAF Base – Aircraft Noise and Safety

Application		
This Part applies to development that is situated within the 2025 ANEF aircraft noise planning area, bird strike zone, extraneous lighting area or the Williamtown RAAF Base Obstacle Limitations or Operations Surface Map and Height Trigger Map		
Objectives		
B7.A	Site Acceptability	- To ensure development satisfies the requirements of PSLEP 2013 clause 7.5 - To ensure appropriate consideration is given to land burdened by aircraft noise
Requirements		
B7.1	When development is located within the 2025 ANEF Aircraft Noise Planning Area (ANPA), which is identified by Figure BM (p. B-44) it is classified into one of the following classifications through referencing Figure BJ (p. B-41) - Acceptable – no design measures required to reduce aircraft noise, or - Conditionally acceptable – design measures required, or - An acoustic report is required for the following: - to support development that is classified as conditionally acceptable - to support subdivision of land and subsequent permissible development types by referencing Figure BJ (p. B-41) and Figure BK (p. B-42) - Unacceptable – development is generally unacceptable. However, details submitted with a development application that demonstrate the following will be considered on a merit-based approach: Development on a vacant pre-existing lot within the ANEF 25-30 noise contours that satisfies AS 2021 – Acoustics – Aircraft noise intrusion – Building siting and construction indoor noise requirements²⁰ - Replacement of a pre-existing dwelling in any of the ANEF noise contours satisfies the AS 2021 – Acoustics – Aircraft noise intrusion – Building siting and construction indoor noise requirements²⁰ Development on land zoned B7 Business Park and adjacent to the Williamtown (Newcastle) Airport Note: Part D15 - DAREZ provides site specific requirements for land zoned B7 Business Park and adjacent to the Williamtown Airport	
Objective		
B7.B	Indoor Noise	To ensure acceptable levels of indoor noise in accordance with the relevant Australian Standards
Requirements		
B7.2	Development must satisfy the maximum internal sound levels specified in Figure BK (p. B-42) by providing an acoustic report	
B7.3	Noise attenuation levels that comply with Figure BK (p. B-42) are not considered to be reasonable or practicable for a dwelling when seeking to achieve noise reduction greater than:	

B-15

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

	• 35 dB(A) for sleeping areas • 30 dB(A) for habitable spaces	
Objective		
B7.C	Alterations & Additions	To facilitate alterations and additions of existing development within the 2025 ANEF ANPA
Requirements		
B7.4	Additions and/or alterations less than 40% of gross floor area of an existing building must be constructed to the same indoor sound levels as the existing building	
B7.5	Additions and/or alterations greater than 40% gross floor area of an existing building requires noise attenuation measures consistent to meet the indoor noise levels listed in Figure BK (p. B-42)	
Objective		
B7.D	Bird Strike	To ensure that the operational needs of the Williamtown RAAF Base are considered
Requirement		
B7.6	When development is located within the bird strike zone, which is identified by Figure BN (p. B-45), the Department of Defence is notified and provided with a period of 14 days to provide a submission. After a period of 14 days, no response is deemed as a non-objection. • Group A – The following development types are avoided within 13km from airport runways - Putrescible waste disposal sites • Group B – The following development types are avoided within 3km of an airport runway or provide measures that prevent food sources attracting wildlife within 8km of an airport runway - Commercial fish processing - Artificial water bodies - Bird sanctuaries and fauna reserves - Sewer treatment facilities - Aquaculture - Turf farming - Animal farming that attracts birds/bats - Fruit farming - Fruit processing plants • Group C – The following development types within 3km of an airport runway should include measures to manage waste disposal - Race tracks - Sports grounds - Fair grounds - Outdoor theatres - Dine-in restaurants	
Objective		
B7.7	Referral Requirements	To ensure that the operational needs of the Williamtown RAAF Base are considered
Requirements		

B-16

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

B7.8	When development deemed to be noise sensitive development is located within the 2025 ANEF ANPA , which is identified by Figure BM (p. B-44), the Department of Defence is notified and provided with a period of 14 days to provide a submission. After a period of 14 days, no response is deemed as a non-objection. Note: Figure AA: Notification Requirements (p. A-12) details general notification requirements to be administered by Council Officers
B7.9	When development seeks to penetrate the RAAF Base Williamtown Obstacle Limitations or Operations Surface or Procedures for Air Navigation Systems Operations Surface as identified by Figure BO (p. B-46) the Department of Defence is notified and provided with an opportunity for comment. Note: Development that does not seek to penetrate these surfaces has complied with the Commonwealth Department of Defence requirements of PSLEP 2013 clause 7.4 Airspace Operations Note: PSLEP 2013 clause 7.4 requires the consent authority to be provided with the Commonwealth's consideration of the Limitation or Operations Surface
B7.10	When development is proposed within the extraneous lighting boundaries as identified by Figure BP (p. B-47) and Figure BQ (p. B-48) the Department of Defence is notified and provided with a period of 14 days to provide a submission. After a period of 14 days, no response is deemed as a non-objection. Note: Figure AA: Notification Requirements (p. A-12) details general notification requirements to be administered by Council Officers

Figure BJ: Building Site Acceptability based on **ANEF** Zone

Development Type	Acceptable	Conditionally Acceptable	Unacceptable
	ANEF Zone		
residential accommodation - caravan parks	<20	20 – 25	25>
tourist & visitor accommodation	<25	25 – 30	30>
educational establishments	<20	20 – 25	25>
- respite day care centres - health services facilities	<20	20 – 25	25>
- places of public worship - entertainment facility - information and education facility	<20	20 – 30	30>
commercial premises	<25	25 – 35	35>
- general industry - light industry	<30	30 – 40	40>
heavy industry	Acceptable in any ANEF Zone		

B-17

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

Figure BK: Indoor Design Sound Levels

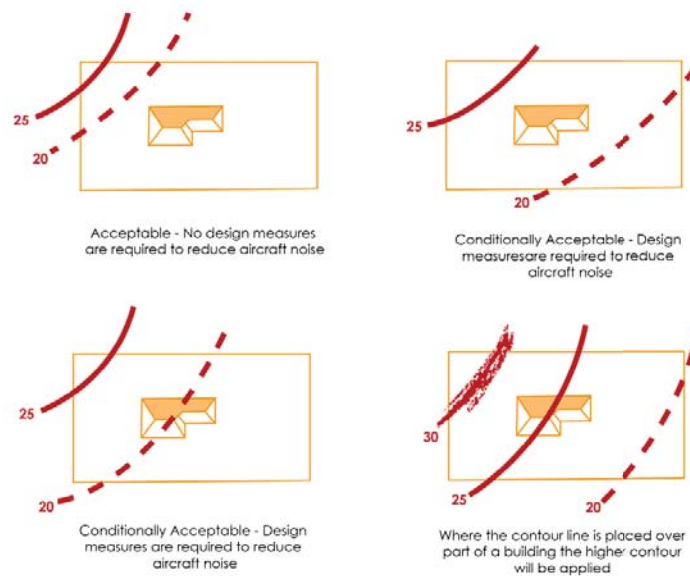
Development type	Indoor Design Average Maximum Sound Level <i>dB(A)</i>
residential accommodation & caravan parks	
• sleeping areas & dedicated lounges	50
• habitable room other than sleeping areas & dedicated lounges	55
• bathrooms, toilets & laundries	60
tourist and visitor accommodation	
• relaxing & sleeping	55
• social activities	70
• service activities	75
educational establishments	
• libraries & study areas	50
• teaching & assembly areas	55
• workshop areas & gymnasias	75
respite day care centres & health facilities	
• wards, theatres, treatment & consulting rooms	50
• laboratories	65
• service areas	75
public buildings	
• places of public worship	50
• entertainment facility	40
• information & education facility	50
commercial buildings, offices & retail premises	
• private offices & conference rooms	55
• drafting & open offices	65
• typing & data processing	70
• shops, supermarkets & showrooms	75
industrial	
• inspection, analysis & precision work	75
• light machinery, assembly & bench work	80
• heavy machinery, warehouse & maintenance	85

B-18

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

Figure BL: Illustration of Building Site Acceptability based on ANEF Zone



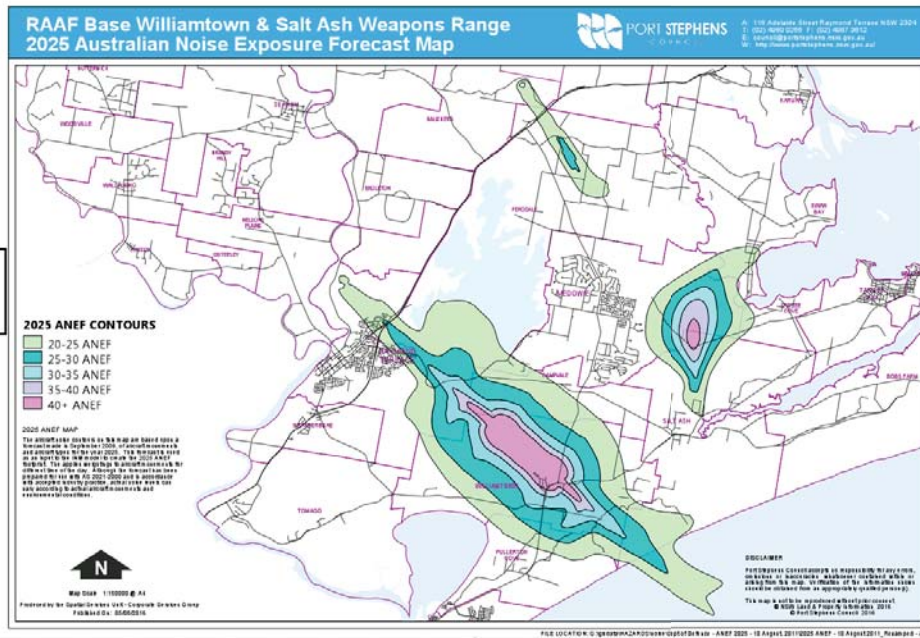
B-19

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

Figure BM:
2025 ANEF
shown on the
RAAF Base
Williamtown &
Salt Ash
Weapons
Range 2025
Australian
Noise
Exposure
Forecast Map

[NOTE: THIS IS THE
MAP PROPOSED TO
BE INSERTED INTO
THE DCP]

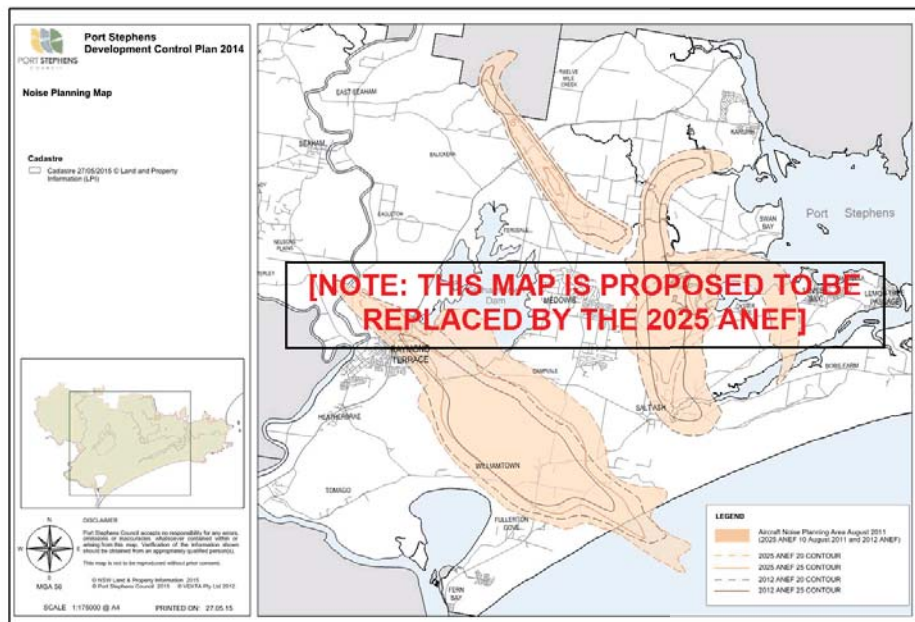


B-20

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

Figure B8:
Aircraft Noise
Planning Map



B-21

Port Stephens Development Control Plan 2014

Bird Strike Map

Catchment

Category 26/09/2014 © Land and Property Information (LPI)

BIRD STRIKE LEGEND

Bird Strike Group A
Potential waste disposal sites should be avoided within 5km of airport runways.

Bird Strike Group B
Commercial and processing
Agricultural waste facilities
Bird excrement and faeces removal
Dwelling treatment facilities
Recreation
Tourism
Other activities with potential to attract birds

Bird Strike Group C
Rural
Sports grounds
Farm grounds
Outdoor recreation
Other (e.g. recreation)
Within 5km of airport runways should include measures to manage waste disposal

DISCLAIMER
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SCALE 1:100,000 @ A4

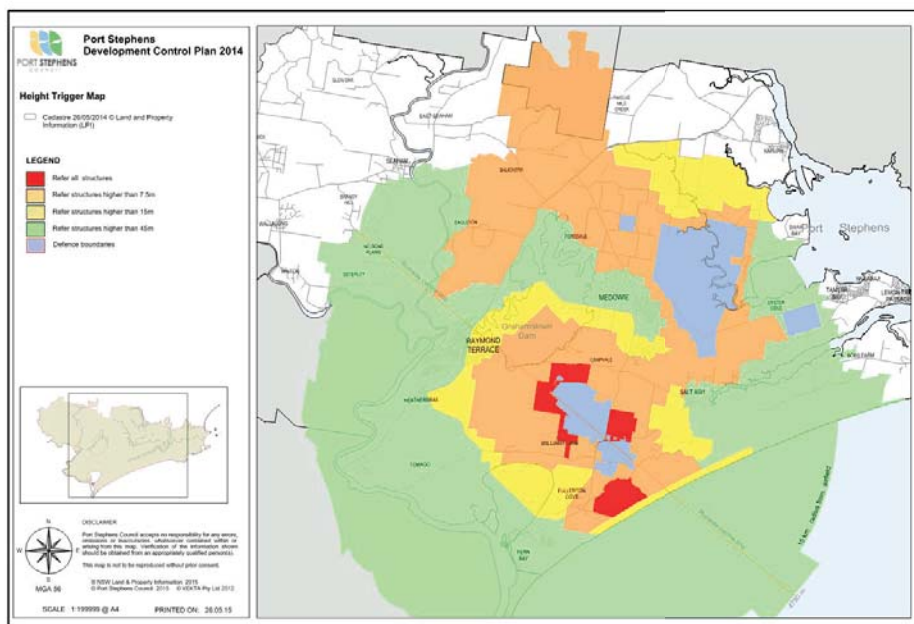
PRINTED ON: 20.05.15

PORT STEPHENS COUNCIL

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

Figure B0:
RAAF Base
Williamtown
Obstacle
Limitation or
Operations
Surface Map
and Height
Trigger Map

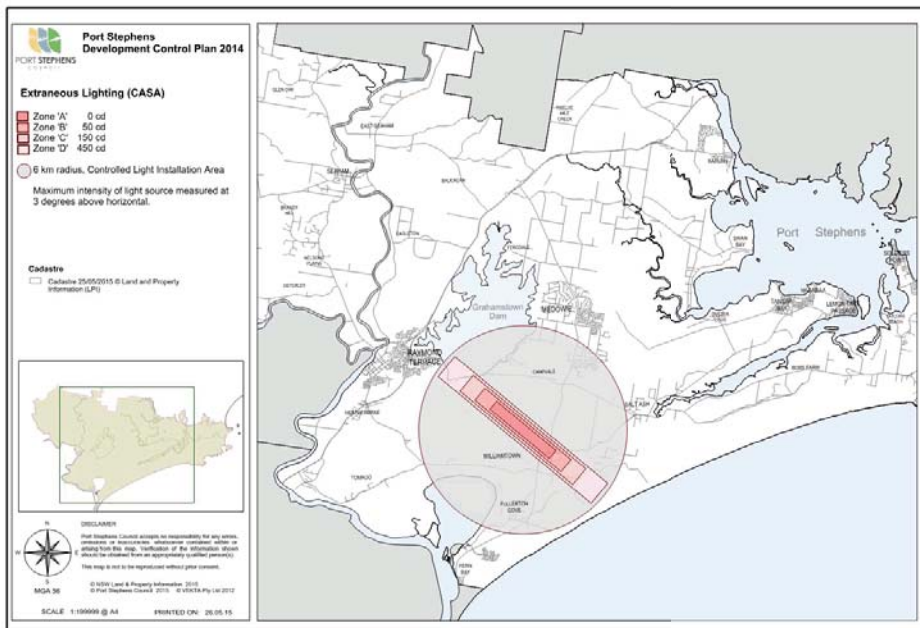


B-23

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

Figure BP:
Extraneous
Lighting Map 1

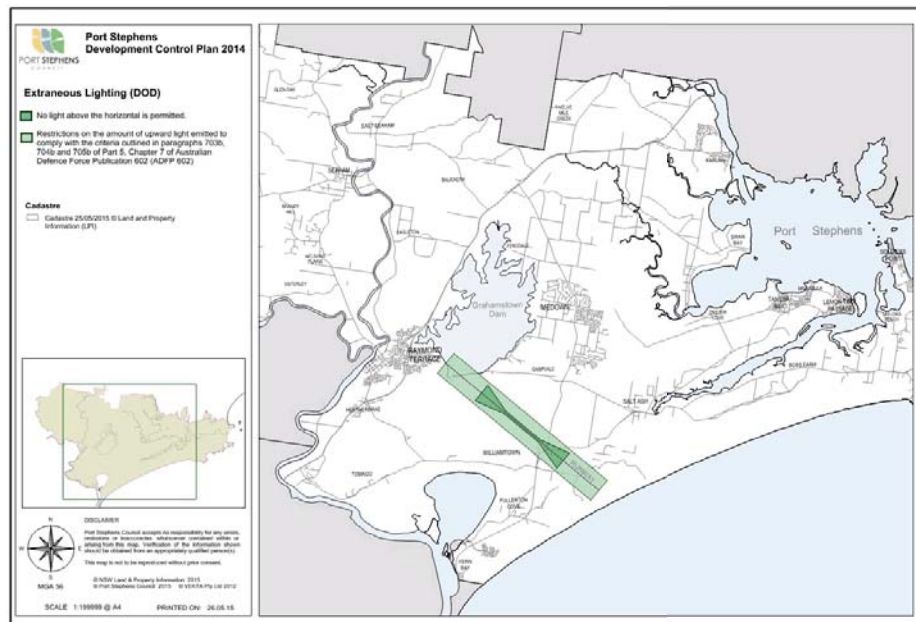


B-24

B7

WILLIAMTOWN RAAF BASE – AIRCRAFT NOISE AND SAFETY

Figure BQ:
Extraneous
Lighting Map



B-25

E1

GLOSSARY

E1 Glossary

1% Annual Exceedance Probability (AEP) means the 1% flood, since its **Annual Exceedance Probability** is 1%, or as having a return period of 100 years. This term is also commonly referred to as the 100-year flood

1st, 2nd & 3rd order water courses means a watercourse order as classified under the Strahler System of ordering watercourses. They can be determined by the width of the Core Riparian Zone (**CRZ**) as follows:

Water course description	CRZ width
Any first order watercourse where there is a defined channel where water flows intermittently	10m
Any permanently flowing first order watercourse or any second order watercourse where there is a defined channel where water flows intermittently or permanently	20m
Any third order or greater watercourse and where there is a defined channel where water flows intermittently or permanently. Includes estuaries, wetland and any parts of rivers influenced by tidal waters	20-40m

2025 ANEF means the area of land subject to aircraft noise related **development** controls. It comprises all properties that are wholly or partly within the **ANEF** 20 contour on the RAAF Base Williamtown & Salt Ash Weapons Range 2025 Australian Noise Exposure Forecast Map and includes land that is within **ANEF** contours of 20 and greater.

Aboriginal Heritage Impact Permit (AHIP) means the statutory instrument that the NSW Office of Environment and Heritage issues under section 90 of the *National Parks and Wildlife Act 1974* to manage harm or potential harm to Aboriginal objects and places

arborist report means a technical report prepared by a **qualified arborist** that adequately assesses the health of a tree or other vegetation

access audit means an audit to establish how well a building performs in relation to access and ease of use by a wide range of potential users, including people with physical mobility and sensory impairments

access boundary means the boundary from which formal access to the site is achieved

Acid Sulfate Soils (ASS) means naturally occurring sediments and soils containing iron sulfides (principally pyrite) and their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation)

Note: **acid sulfate soils** has the same meaning under the **PSLEP 2013**

acid sulfate soil management plan means a management plan prepared in accordance with the **NSW ASS Manual**

acoustic report means a report carried out to detail the noise or vibration intrusion related to aircraft, railway, restaurants, childcare centres, industrial buildings and the like

active street frontage means a building for which all premises on the ground floor:

CHECKLISTS

Checklists

The following reference tables, which are provided at the start of each Part, are replicated here to serve as checklists for applicants. Unlike the reference tables at the start of each Part, these check lists do not serve as a part of statutory Plan.

No	Part	This Part applies to development that:	Page	Tick
Section B General Provisions				
B1	Tree Management	is to remove or prune trees or other vegetation within non-rural areas	B-15	
B2	Natural Resources	- is located on land or is within 500m of land that contains items of environmental significance, such as; threatened species or communities, listed migratory species, wildlife corridors, wetlands or riparian corridors and has the potential to impact biodiversity; or - is seeking to use biodiversity offsets; or - is located on land containing noxious weeds; or - is located on land identified as koala habitat	B-20	
B3	Environmental Management	- is located on land that contains acid sulfate soils; or - has the potential to produce air pollution, such as dust or odour; or - has the potential to produce adverse offensive noise; or - is defined as or involves earthworks	B-24	
B4	Drainage and Water Quality	- increases impervious surfaces; or - requires connection to public drainage; or - involves a controlled activity within 40m of waterfront land	B-26	
B5	Flooding	is situated within the flood planning area or at/or below the flood planning level	B-34	
B6	Essential Services	is not connected to essential services, being water, electricity, sewerage, stormwater drainage and suitable vehicular access	B-38	
B7	Williamtown RAAF Base – Aircraft Noise and Safety	is situated within the 2025 ANEF aircraft noise planning area, bird strike zone, extraneous lighting or the Williamtown RAAF Base Obstacle Limitations or Operations Surface Map and Height Trigger Map	B-39	
B8	Heritage	is situated on land that contains a heritage item or within a heritage conservation area	B-49	
B9	Road Network and Parking	has the potential to impact on the existing road network or creates demand for on-site parking	B-51	
B10	Social Impact	is deemed to have a significant social impact	B-60	
Section C Development Types				
C1	Subdivision	is defined as subdivision	C-62	
C2	Commercial	is defined as commercial premises	C-67	

NOTICES OF MOTION

MINUTES ORDINARY COUNCIL - 13 FEBRUARY 2018

Councillor Jaimie Abbott left the meeting at 7:19pm in Open Council.

NOTICE OF MOTION**ITEM NO. 1****FILE NO: 18/24094****EDRMS NO: PSC2006-0038****AIRCRAFT NOISE PLANNING MAP****COUNCILLOR: PAUL LE MOTTEE****THAT COUNCIL:**

- 1) Amend the Aircraft Noise Planning Map in DCP 2014 to reflect ANEF 2025.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
MOTION**

025	Councillor Paul Le Mottee Councillor Chris Doohan It was resolved that Council amend the Aircraft Noise Planning Map in DCP 2014 to reflect ANEF 2025.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Glen Dunkley, Paul Le Mottee, John Neil, Sarah Smith and Steve Tucker.

Those against the Motion: Cr Giacomo Arnott.

**BACKGROUND REPORT OF: JEFFREY BRETAG – STRATEGIC PLANNING
COORDINATOR****BACKGROUND**

The Commonwealth Department of Defence prepares the Australian Noise Exposure Forecast (ANEF) contour map for the Williamstown RAAF base and surrounds.

Under the Australian Standard AS 2021-2015 *Acoustics – Aircraft noise intrusion – Building siting and construction*, only one ANEF contour map can apply for the purposes of the Standard.

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In Port Stephens, the Department of Defence has prepared Australian Noise Exposure Forecast 2025 (ANEF 2025), which reflects the predicted operation of the new F-35 Joint Strike Fighter aircraft from Williamstown RAAF base.

It is understood the new F-35 Joint Strike Fighter planes will be phased in over time to replace the older F-18 Hornets at the Williamstown RAAF base. The timeframe for the introduction of the F-35s and the replacement of the F-18 Hornets is not known.

Currently there are no F-35 planes flying from the RAAF Base. All current aircraft noise from the RAAF base is consistent with previous ANEF 2012, which reflects the operation of the existing F-18 Hornet aircraft.

Because the F-18 Hornets will continue to fly until they are phased out, and the timing of their replacement is uncertain, Council has taken a conservative approach to planning for aircraft noise.

Under the Port Stephens Aircraft Noise Policy, the Aircraft Noise Planning Area Map (**Attachment 1**) includes noise contours from both:

- ANEF 2025 (F-35 Joint Strike Fighters).
- ANEF 2012 (F-18 Hornets).

The Aircraft Noise Planning Area Map guides the following Council functions:

- Consideration of planning proposals (rezoning requests).
- Assessment of development applications.
- Information management (including planning certificates issued under section 149 of the *Environmental Planning and Assessment Act 1979*).

The Aircraft Noise Planning Area Map serves a number of purposes for Council, for example, in the Port Stephens Development Control Plan 2014 (DCP), specific development objectives and controls apply within the Aircraft Noise Planning Area identified on the Aircraft Noise Planning Area Map.

Any amendment to only the DCP will not change the Council policy position under the Port Stephens Aircraft Noise Policy.

A conservative approach to aircraft noise presents some challenges for development, such as potentially increased costs for sites only subject to ANEF 2012.

However, while there are planes still flying in accordance with ANEF 2012, Council has an obligation to assess that aircraft noise, and potentially a duty of care when issuing potential purchasers of the land with section 149 planning certificates (See *Port Stephens Shire Council v Booth & Ors*; *Port Stephens Shire Council v Gibson & Anor* [2005] NSWCA 323).

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A less conservative approach may lead to exposure from legal challenge given it is known that certain properties are currently affected by aircraft noise under ANEF 2012, and may be affected for some time. In making any amendment to the Aircraft Noise Planning Area Map, Council would need to consider insurance and liability risks.

If the F-18 Hornets cease to fly, and are replaced entirely by the F-35 Joint Strike Fighters, Council will be able to refer only to ANEF 2025 when assessing aircraft noise.

Port Stephens Aircraft Noise Policy is reviewed every two years. The current Policy will be reviewed in 2018 and reported to Council in February 2019.

ATTACHMENTS

- 1) Aircraft Noise Planning Area Map.

