



STATE ENVIRONMENTAL PLANNING POLICY (PRECINCTS –  
REGIONAL) 2021

## Introduction of Williamtown Special Activation Precinct

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Discussion Paper

December 2022



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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

We wish to acknowledge the Worimi people, the traditional owners of the Port Stephens area. We recognise and respect their cultural heritage, beliefs and relationship with the land, which continue to be important to the Worimi people living today and recognise the strength, resilience and capacity of Worimi people in this land.

# Contents

Acknowledgment of Country .....	3
Contents .....	4
Have your say .....	5
1. Key Changes and updates .....	5
2. Purpose of this Discussion Paper.....	7
3. The Special Activation Precinct Program .....	8
3.1 Jobs and economic development in Regional NSW.....	8
3.2 The Special Activation Precinct program .....	9
3.3 The Special Activation Precinct planning framework.....	11
3.4 SSD Application – Unique Approach to Williamtown Special Activation Precinct .....	12
3.5 The application process .....	12
4. Proposed addition to the Precincts - Regional SEPP – Williamtown.....	13
4.1 Area to which the Precincts - Regional SEPP applies.....	13
4.2 Land Use Zoning .....	13
4.3 Planning Framework.....	21
4.4 Infrastructure contributions.....	32
4.5 Delivery Plans.....	33
4.6 Additional uses permitted without consent .....	33
4. Effect on the Port Stephens LEP.....	34
Appendix 1 – Exempt Development .....	37
Appendix 2 – List of State and local heritage items .....	39
Appendix 3 - Exhibition Maps .....	40

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# Have your say

During April-June, the Department exhibited the draft master plan for the Williamstown Special Activation Precinct (the Precinct) and the proposed addition of the Williamstown Special Activation Precinct to *State Environmental Planning Policy (Precincts – Regional) 2021* (Precincts - Regional SEPP) and inclusion of the Williamstown Special Activation Precinct as an identified site under *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).

A total of 46 submissions were received to the exhibition from the community, businesses, government agencies and other stakeholders. The Department has considered those submissions and integrated changes into the Structure Plan boundary and the revised draft master plan.

Your feedback is invited on this Discussion Paper for the Precincts - Regional SEPP, proposed amendments to Planning Systems SEPP and the Williamstown Special Activation Precinct revised draft Master Plan (**revised draft Master Plan**).

The Department will publish all individual submissions and a consultation summary report once it has assessed and analysed the submissions.

You can view the Discussion Paper for the revised draft Master Plan and supporting documents at <https://www.planning.nsw.gov.au/Plans-for-your-area/Special-Activation-Precincts/Williamstown-Special-Activation-Precinct>

## To make a submission online please follow the steps below:

- 1) Read our Privacy Statement and decide whether to include your personal information in your submission.
- 2) Fill in the online submission form. Your submission can either be typed or uploaded as a PDF and should include:
  - a) The name of the proposal (Precincts - Regional SEPP, Planning Systems SEPP and Williamstown Special Activation Precinct draft Master Plan or a combination),
  - b) A brief statement on whether you support or object to the proposal, and
  - c) The reasons why you support or object to the proposal.
- 3) Ensure you disclose reportable political donations. Anyone lodging submissions must declare reportable political donations (including donations of \$1,000 or more) made in the previous two years.
- 4) Agree to our online statement and lodge your submission.

You may also lodge your submission via post by sending it to:

Executive Director

Regions, Industry and Key Sites

Department of Planning and Environment

Locked Bag 5022, Parramatta NSW 2124

All submissions will be made public in line with our objective to promote an open and transparent planning system. If you do not want your name or other personal identifying details published, please state this clearly at the top of your submission.

To find out more, please visit [www.planningportal.nsw.gov.au/WilliamstownSAP](http://www.planningportal.nsw.gov.au/WilliamstownSAP)

# 1. Key Changes and updates

The boundary of the Precinct has changed since the exhibition in April-June 2022, which has necessitated a number of changes to the statutory planning framework for the Precincts-Regional SEPP.

- **Land application boundary** – the boundary of the Precinct has been reduced and that change is reflected in an amended land application map – refer to **Figure 1**
- **Additional permitted uses** – in response to the amended boundary of the Precinct and in response to the submissions, centre-based child care facilities, Resource recovery facility, Service Station, Vehicle repair station and Vehicle body repair workshop will be permitted with consent in the REZ land. Previously the additional permitted uses were only enabled north of Cabbage Tree Road. With the extent of the Precinct being reduced these uses will be limited to the remaining areas of REZ land with further guidance required as part of the Delivery Plan to further guide the location of some of these uses to ensure that they are appropriately sited
- **Specialised retail outlets** – the approach to specialised retail outlets has been reconsidered following reflection of submissions which raised concern enabling this land use could diminish the role of existing centres i.e. Heatherbrae.
- **Zoning Maps** - The land zoning map has been amended to reflect the amended boundary and additional REZ land in the southeast of the Precinct and C2 land in the central core. All other land-use zones remain unchanged. Refer to **Figure 2**.
- **Wildlife hazard mapping** is no longer required with the Precinct being wholly located within 3km of RAAF Base Williamstown and Newcastle Airport.
- **Designated development** – It was previously proposed to amend the *Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)* to identify that the following uses would no longer be designated development under Schedule 3 of the Regulation so that they can be undertaken as complying development.
  - o breweries and distilleries,
  - o ceramic and glass industries,
  - o chemical industries and works,
  - o petroleum works, and
  - o contaminated soil treatment works (storage purposes only).

The proposed amendment to the EP&A Regulation would only apply to land located within the Precinct with the preferred location for the majority of these uses in the “western catchment”. With the extent of the Precinct being reduced to remove all REZ land in what was the “western catchment” and no preferred location for these uses in the revised extent of the Precinct, it was appropriate to no longer pursue enabling breweries and distilleries, ceramic and glass industries, chemical industries and works and petroleum works.

The Department is seeking to switch-off designated development for the purposes of contaminated soil treatment works (storage purposes only), as outlined in the previous Discussion Paper exhibited.

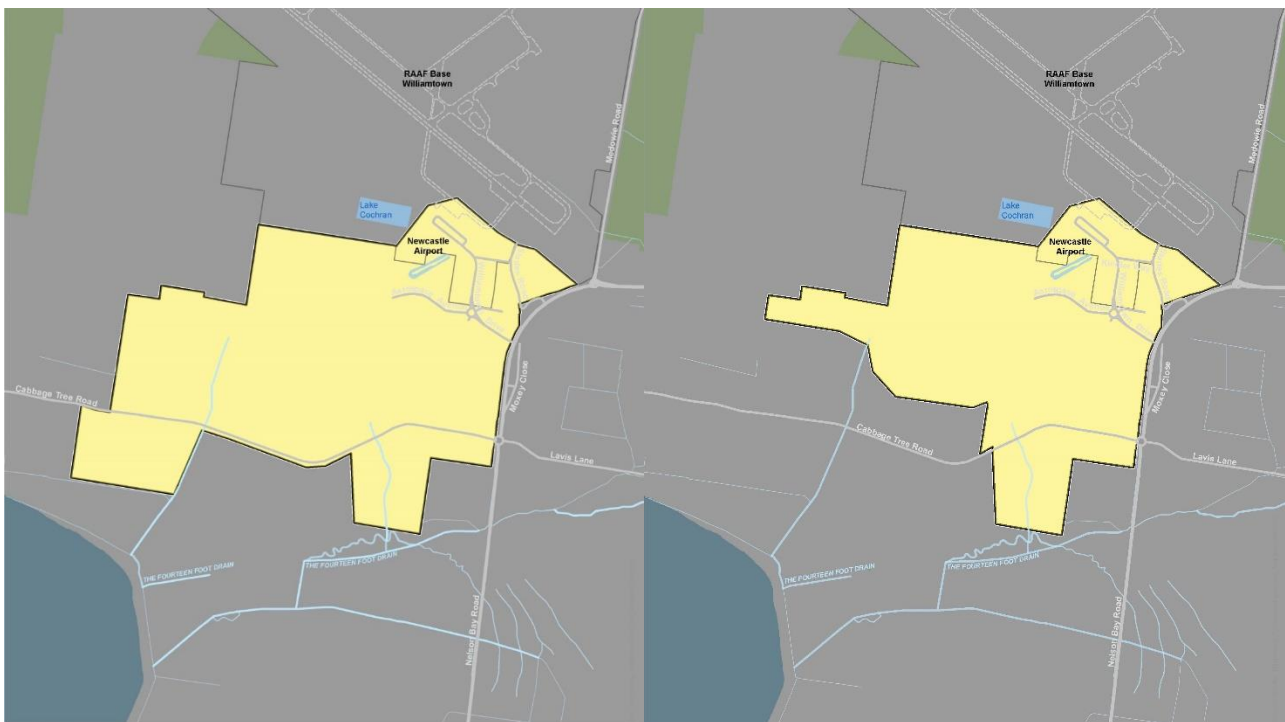
- **Local Heritage Mapping** - The EP&A Regulation identifies certain high-impact development (e.g. likely to generate pollution) or development that is located in or near an environmentally sensitive area (e.g. a wetland) as ‘designated development’.
- **Revised Heritage Mapping** – The Precinct contains two (2) local heritage items (St Saviour’s

Anglican Church (I108) and Devon House(I109)). Both items are listed under Schedule 5 of the *Port Stephens Local Environmental Plan 2013 (Port Stephens LEP)*. Due the extent of the Precinct reducing in what was previously the “western catchment” only a portion of the rear of I109 – Devon House is within the Precinct. The intent is to amend the Port Stephens LEP Heritage Map Sheet (6400\_COM\_HER\_004\_080\_20131218) to reduce the extent of the mapped heritage area to only include the portion of the site that sits outside of the Precinct.

- **Planning Systems SEPP amendment** – The *State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)* is proposed to be amended. The extent of the changes and relevant justification were provided as part of the Discussion Paper supporting the exhibition of the draft Master Plan in April-June 2022.

Minor changes are proposed to boundary (reflect of the new Precinct boundary) and the capital investment value (**CIV**) threshold for development carried out by or on behalf of Regional Growth NSW Development Corporation (**Development Corporation**) to be assessed as State Significant development (**SSD**) under Schedule 2 of *State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)*, has been raised from \$30 million to \$100 million.

The increase in the CIV threshold was necessary to accurately reflect the likely costs associated with the SSD that has resulted from more detailed design and costings prepared by the technical consultant group; and to ensure future subdivision work by the Development Corporation of a small to medium scale would not be considered SSD and could rely on the streamlined planning pathways for subdivision in the Precinct.



**Figure 1** - Williamtown Land Application Map As exhibited April-June 2022 (left) and Williamtown Land Application Map as revised for exhibition of revised draft Master Plan (right).





**Figure 2** - Williamstown Proposed Land Zoning Map as exhibited April-June 2022 (left) and Williamstown Proposed Land Zoning Map as revised for exhibition of revised draft Master Plan (right).

## 2. Purpose of this Discussion Paper

This Discussion Paper aims to describe and provide justification for, proposed amendments to the *State Environmental Planning Policy (Precincts – Regional) 2021* (**Precincts - Regional SEPP**) and *State Environmental Planning Policy (Planning Systems) 2021* (**Planning Systems SEPP**). The changes will identify the proposed 'Williamstown Activation Precinct' and include provisions for lands within that Precinct under each of the environmental planning instruments. The Williamstown Special Activation Precinct (**Precinct**) is identified in **Figure 3**.

The proposed addition to the Precincts - Regional SEPP will remove the Precinct from the application of the *Port Stephens Local Environmental Plan 2013* (**Port Stephens LEP**) that apply to land within the Precinct. It is intended that the Precincts - Regional SEPP will become the primary environmental planning instrument for all land within the Precinct. The Precincts - Regional SEPP will establish new land use zones, new controls relating to exempt, complying and local development and introduce streamlined development application processes for land within the Precinct.

Technical investigations have been carried out to support planning of the Precinct. With the extent of the Structure Plan boundary being revised to reduce the over all extent of the Precinct These technical reports have been updated where necessary to respond to these changes.

The amended technical investigations support the preparation of the revised draft Master Plan, as well as upfront technical assessments to support a streamlined approval pathway. These investigations demonstrate the need for a unique planning pathway for the Precinct. This is due to:

- Significant constraints include flooding, biodiversity, Aboriginal and European heritage, Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) and non-PFAS contamination, Tomago drinking water catchment, bushfire and significant earth forming activities to limit flooding and drainage impacts on the surrounding land,
- The need for upfront consideration of the aforementioned constraints through an application for State significant development (**SSD**) under Schedule 2 of the Planning Systems SEPP,



- The national, State and regional significance of the Precinct, and
- The need to appropriately plan for a diverse range of land use types throughout the Precinct.

This Discussion Paper describes amendments to two (2) environmental planning instruments, which are described separately in this Discussion Paper, namely:

- A proposed amendment to the **Precincts - Regional SEPP. Chapter 3** describes the proposed new Schedule for the Precinct, which will include:
  - Identification of the Precinct, to which the Precincts - Regional SEPP will apply;
  - Provision for exempt and complying development;
  - Provision for a streamlined development application process that utilises upfront evidence and design guidance to enable shorter timeframes for assessment.
- A proposed amendment to the **Planning Systems SEPP**. The objectives, intent and justification for the proposed amendments to the Planning Systems SEPP remain unchanged from that which was exhibited in April-June 2022. The extent of the identified site is to be refined to the extent of the Precinct boundary and the CIV for consideration as SSD is to be increased to \$100 million (previously \$30 million).

The proposed amendments to the Planning Systems SEPP, include:

- An amendment to Schedule 2 of the Planning Systems SEPP. This schedule identifies the type of SSD where the Minister is the consent authority. The proposed amendment will also revise the SSD site map to define the boundaries of the Precinct.
- Development on land identified as being within the Precinct on the SSD Sites Map is considered to be SSD if the development:
  - is carried out by or on behalf of Regional Growth NSW Development Corporation, and
  - involves a subdivision resulting in—
    - lots that may be further subdivided, or
    - public domain areas, or
  - the creation of roads, and
  - has a capital investment value of more than \$100 million

Due to the limited extent of the proposed amendments to the Planning Systems SEPP, further detailed justification for the proposed amendments is not warranted and the previous justification in the Discussion Paper that supported the exhibition of the draft Master Plan in April-June 2022 remains current and effective.

## 3. The Special Activation Precinct Program

### 3.1 Jobs and economic development in Regional NSW

The NSW Government is committed to supporting economic development and job creation in regional NSW. Regional NSW has one of Australia's largest and most diverse regional economies, with an array of industries including agriculture, energy and resources, and strong tourism, service and manufacturing sectors.

The purpose of the special activation precincts program is to create streamlined planning pathways, underpinned by extensive environmental and infrastructure investigations which inform the master planning process with the goal of securing investment in catalyst infrastructure and stimulate economic growth.

The creation of the special activation precincts program aligns with the existing Department's Regional Plans and the Department of Premier and Cabinet's regional economic development strategies, which set the strategic vision and economic mechanisms for each functional economic region across NSW.

## 3.2 The Special Activation Precinct program

### 3.2.1 What is a Special Activation Precinct?

Special activation precincts are existing or proposed employment precincts in regional NSW that have been identified by the NSW Government as having growth potential, and where planning and investment will be prioritised.

The special activation precinct program is an important part of the NSW Government's 20-Year economic vision for regional NSW and will be delivered through the \$4.2 billion Snowy Hydro Legacy Fund.

The special activation precinct consists of five core components:

	<p><b>Government-led studies</b></p> <p>The Department conducts technical studies to inform the development of master plans and to ensure that land uses, and development occurs in the right locations for each precinct. This up-front planning takes the burden away from investors wanting to grow or start up a business in the precincts.</p>
	<p><b>Streamlined planning</b></p> <p>Once the master plan and other supporting planning instruments are endorsed, this will provide investors with streamlined planning and environmental approvals. This may include providing for land uses that suit complying development or approval exemptions.</p>
	<p><b>Government-led development</b></p> <p>Regional Growth NSW Development Corporation (<b>Development Corporation</b>) will support orderly development, sensitive to market drivers, landowners and infrastructure delivery and will lead and coordinate the delivery, through delivery plans according to the master plan.</p>
	<p><b>Infrastructure investment</b></p> <p>The government will upgrade existing, or invest in new, or upgrade roads, water, power, digital connectivity and social infrastructure for each precinct, removing barriers for investors to establish and grow.</p>
	<p><b>Business Concierge</b></p> <p>The Development Corporation offers targeted business concierge services to attract investment and support businesses to establish and grow in each precinct.</p>

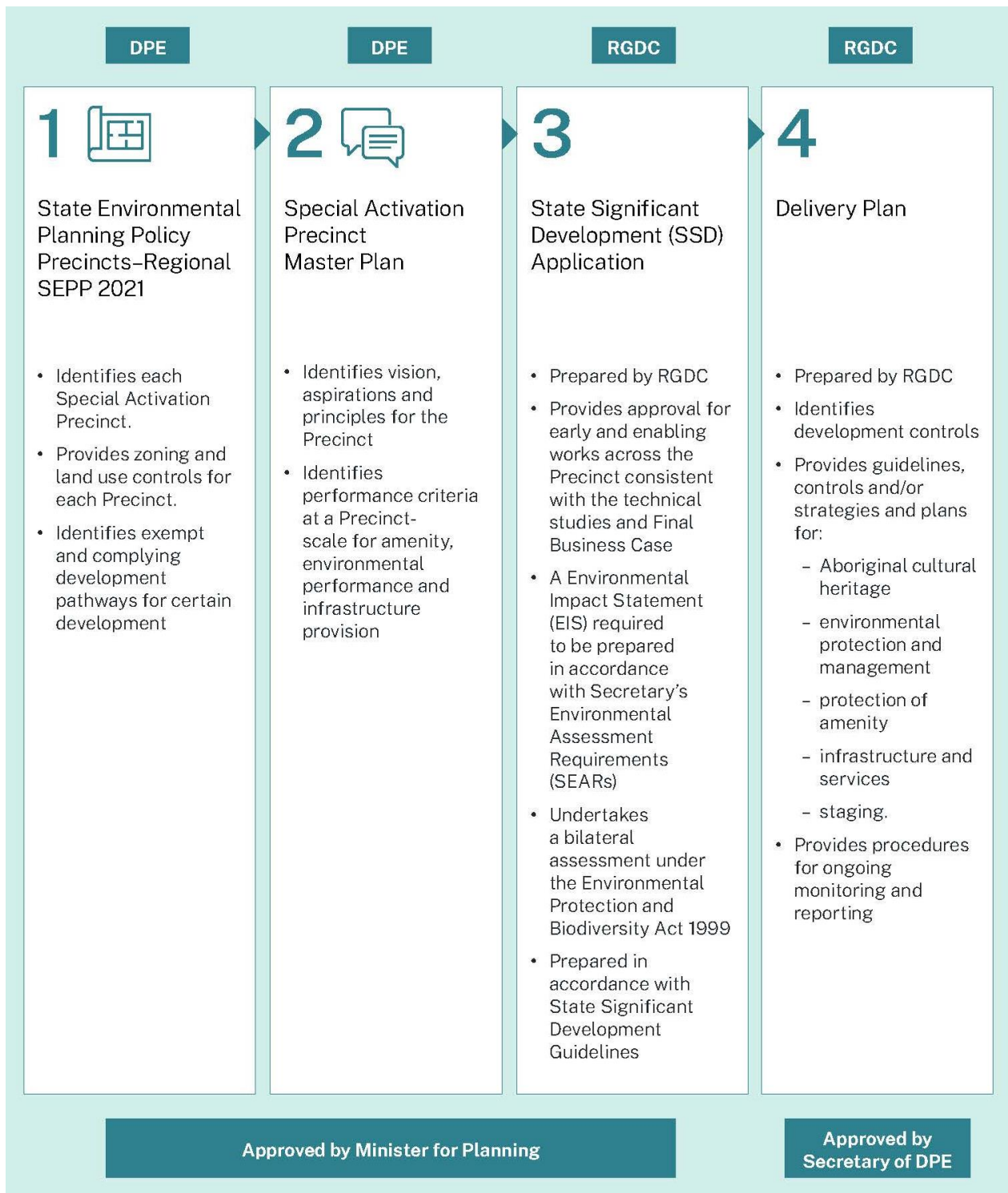
### 3.2.2 The key agencies involved in the Special Activation Precinct Program

The special activation precinct program is a collaboration between the following key agencies:

- The **Department of Regional NSW (DRNSW)** is the lead agency for the special activation precincts program, part of the \$4.2 billion Snowy Hydro Legacy Fund. Overseeing the funding, planning and development of each precinct, DRNSW works closely with the Department and the Development Corporation to create a master plan, identify and invest in common user enabling infrastructure, and provide ongoing concierge services to help investors establish and grow in regional NSW.
- The **Department** is responsible for the planning of special activation precincts in regional NSW. The Department leads the master planning process, including community and stakeholder engagement, the technical studies required to inform the preparation of a structure plan and development of the simplified planning framework for each Precinct.
- The **Development Corporation** is established under the *Growth Centres (Development Corporations) Act 1974* to lead the delivery and implementation of the NSW Government's special activation precincts program. The Development Corporation is working with all levels of Government, the private sector and the community to secure economic development and investment attraction opportunities to these unique areas. The Development Corporation is a one-stop shop to support investors and will develop enabling infrastructure, support the attraction and facilitation of investment in the special activation precincts, provide support on planning and environmental approval processes, and create strategic partnerships to foster education, training and collaboration opportunities.

### 3.3 The Special Activation Precinct planning framework

These are key parts of the special activation precinct planning framework as they relate to Williamtown:



**Figure 3 - Planning framework.**

### 3.4 SSD Application – Unique Approach to Williamstown Special Activation Precinct

The standard approach to planning applied across the existing precincts within the special activation precincts program would not be suitable for the Precinct. A unique approach was needed to be considered given the significant number of constraints that limit the goal of streamlined planning via the complying development planning pathway.

It is proposed that the Development Corporation will prepare and lodge an SSD application in parallel with the preparation of the Delivery Plan for the Precinct.

The SSD would complement the preparation of the Delivery Plan through the assessment and consideration of site, transport, infrastructure and urban design planning as part of an early works application (stage 1) and a concept application that would apply to the whole of the Precinct and serve to provide design guidance for future stages of development.

The need for this unique approach within the special activation precinct program responds to the extensive site constraints in the Precinct that require upfront consideration, assessment and ongoing monitoring (refer to Chapter 3.3.3 of the Discussion Paper). Furthermore, the SSD proposal reflects the strategic significance of the site in the national, regional and local context.

### 3.5 The application process

The Precincts - Regional SEPP provides for many forms of development to be complying development within each special activation precinct.

Any application for development in a special activation precinct must be accompanied by an Activation Precinct Certificate. Certificates are determined within 30 days by the Development Corporation (or the Planning Secretary in certain situations) and will generally be issued if development is consistent with the respective master plan and delivery plan.

New amendments to the process for assessment and determination of applications for an Activation Precinct Certificate have come into force to enable the issuing authority to effectively 'stop the clock' on an application for an Activation Certificate and additional powers to modify an Activation Precinct Certificate post-issuance.

The Activation Precinct Certificate process creates a strategic gateway to ensure that development is consistent with the provisions and intent of the Master Plan and Delivery Plan before development proceeds as an application for complying development or a development application.

The Precincts - Regional SEPP will also:

1. Identify exempt and complying development for the Precinct; and
2. Provide for a streamlined development application process that benefits from preliminary investigations, studies and design guidance enable shorter timeframes for assessment and decision making (referred to as an *activated* development application).

In accordance with the EP&A Regulation (Sections 31 and 126) each application for a complying development certificate or development application on land to which the Precincts-Regional SEPP applies, other than applications by public authorities (apart from the Development Corporation), must be accompanied by an Activation Precinct Certificate.

Where the Development Corporation is the applicant (other than for subdivision if the Development Corporation is not the applicant for development consent), the issuing authority is the Planning Secretary.

## 4. Proposed addition to the Precincts - Regional SEPP – Williamtown

### 4.1 Area to which the Precincts - Regional SEPP applies

It is proposed to amend the Precincts - Regional SEPP to introduce a new schedule for the Precinct. The new schedule will set out controls that are specific to the Precinct.

The Precincts - Regional SEPP will replicate a limited number of provisions of the Port Stephens LEP that currently apply to land within the Precinct. As a consequence, the Precincts - Regional SEPP will assume the primary function for regulating development in the Precinct. Some provisions within the Port Stephens LEP will continue to apply to land within the Precinct and these are outlined later in this Discussion Paper.

The land identified as the Precinct is shown in **Figure 4**. The Precinct The Special Activation Precinct boundary has been reduced from 395ha to 283ha. This is a reduction of 112ha from that previously exhibited in April-June 2022.

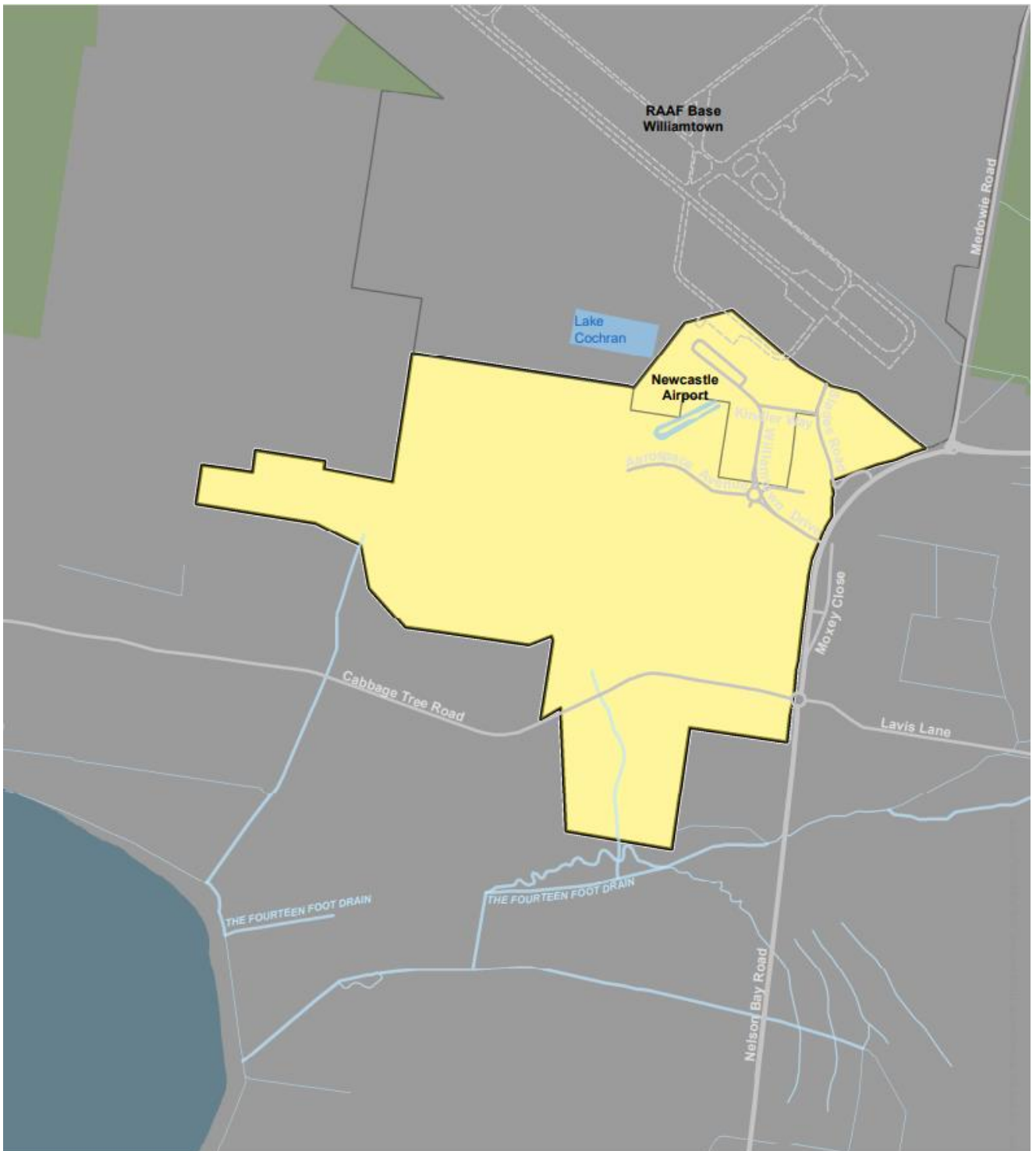
The Precinct includes the RAAF Base, Newcastle Airport, the Defence and Aerospace Related Employment Zone (**DAREZ**), rural and agricultural land, residential dwellings, commercial and light industry.

### 4.2 Land Use Zoning

#### 4.2.1 Intent of the land use zoning strategy

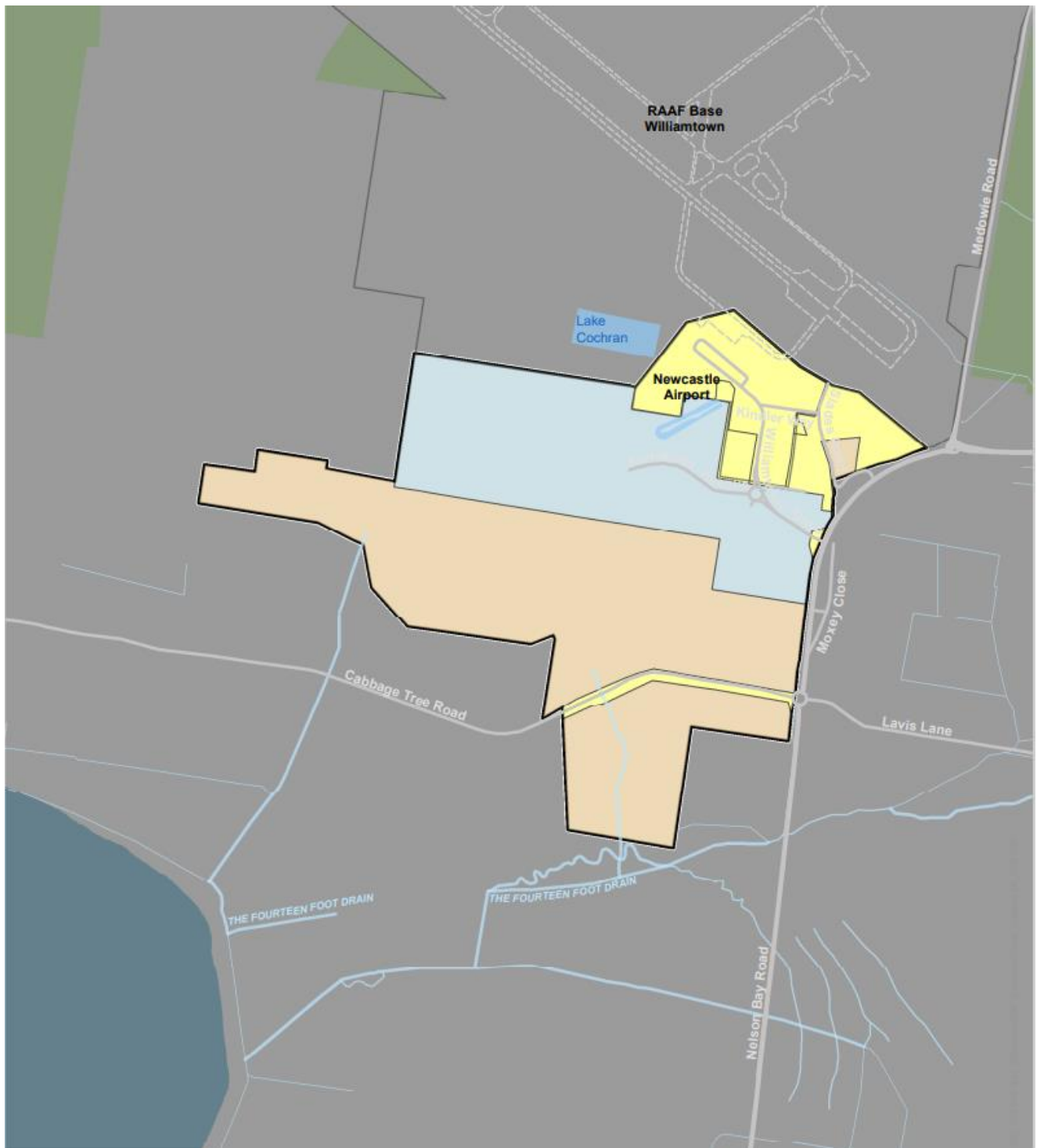
Currently, land within the Precinct is primarily used for business/commercial and agricultural purposes and is zoned for a mix of commercial, rural, defence, infrastructure, transport facilities and public utility related uses in **Figure 5**.





**Figure 4** - Land Application Map – Williamtown Special Activation Precinct.





**Figure 5** - Current Land-Use Zoning for land within the Precinct boundary.

#### 4.2.2 The land-use strategy for the Precinct:

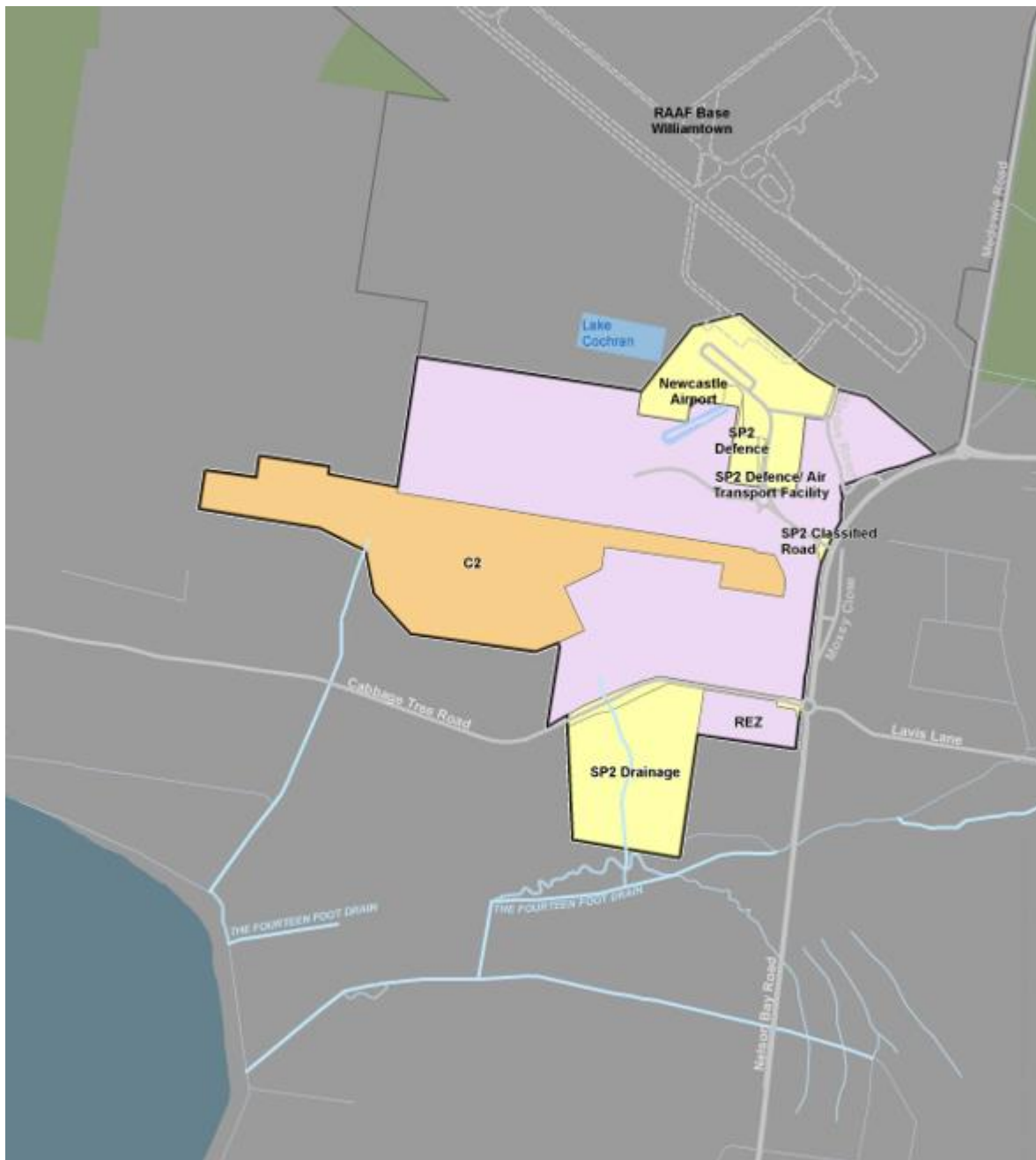
The proposed land use zoning for the Precinct is provided in **Figure 6** and will comprise the following land use zones.

- A new **Regional Enterprise Zone** which will facilitate the development of industrial and employment activity connected with the defence and aerospace industries, whilst also permitting ancillary development to occur within all sub-precincts in the Master Plan. This zone covers the core developable component of the Precinct.
- A new **C2 Environmental Conservation Zone** which will protect, manage and restore areas of high ecological value, water supply catchments, natural waterways and prevent development that could destroy or damage those values. Passive recreation will also be supported in this zone to promote wellness across the precinct.
- Existing **SP2 Infrastructure Zones** under Port Stephens LEP will be reflected in the new land use zoning to ensure the continued operation of the Williamstown Airport within the boundaries of the Precinct. In addition, it is proposed that an additional SP2 zoned land to the south of Cabbage Tree Road will be required for infrastructure purposes to manage flooding and stormwater from the Precinct.

The intent of each zone is described in **Table 1**.

**Table 1: Intent of the zones within the Special Activation Precinct**

Zone	Objective of the zone
<b>REZ Regional Enterprise Zone</b>	<ul style="list-style-type: none"> <li>- To attract industries that would contribute to and benefit from being close to major airport and defence networks.</li> <li>- To accommodate a wide range of industry and employment uses</li> <li>- To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.</li> <li>- To encourage the development of industry leading aerospace and research and development.</li> <li>- To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.</li> <li>- To provide opportunities for regional economic development and employment.</li> <li>- To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.</li> </ul>
<b>C2 Environmental Conservation</b>	<ul style="list-style-type: none"> <li>- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.</li> <li>- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.</li> </ul>
<b>SP2 Infrastructure</b>	<ul style="list-style-type: none"> <li>- To provide for infrastructure and related uses.</li> <li>- To prevent development that is not compatible with or that may detract from the provision of infrastructure.</li> </ul>



**Figure 6** - Proposed land use zoning within the Precinct boundary..

### 4.2.3 Land Use Tables

The following are draft objectives and permitted and prohibited uses for each of the zones within the Precinct.

## REZ Regional Enterprise Zone

The objective of the REZ Regional Enterprise zone will be:

- a) To attract industries that would contribute to and benefit from being close to major airport and defence networks.
- b) To accommodate a wide range of industry and employment uses
- c) To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.
- d) To encourage the development of industry leading aerospace and research and development.
- e) To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.
- f) To provide opportunities for regional economic development and employment.
- g) To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.

### 1. Permitted without consent

Environmental protection works, Flood mitigation works and Roads.

### 2. Permitted with consent

Air transport facilities, Airstrip, Car parks, Commercial premises, Community facilities, Depots, Electricity generating works, Emergency services facilities, Entertainment facilities, Environmental facilities, Flood mitigation works, Freight transport facilities, Function centres, General industries, Health consulting rooms, Helipad, Hotel or Motel accommodation, Industrial retail outlets, Industrial training facilities, Information and education facilities, Light industries, Medical centres, Passenger transport facilities, Places of public worship, Public administration building, Recreation areas, Recreation facilities (indoor), Research stations, Serviced apartments, Sewage reticulation systems, Signage, Storage premises, Transport depots, Truck depots, Veterinary hospitals, Warehouse or distribution centres, Water recycling facilities, Water supply systems, Wholesale supplies.

### 3. Prohibited

Funeral homes, Cellar door premises, Specialised retail premises, Timber yards, Home industry. Any other development not specified in item 2 or 3.

## C2 Environmental Conservation

The objectives of the C2 Environmental Conservation zone will be:

- a) To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- b) To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

### 1. Permitted without consent

Environmental protection works, Roads

### 2. Permitted with consent

Business identification signs, Community facilities, Emergency services facilities, Environmental facilities, Flood mitigation works, Information and education facilities, Recreation areas, Research stations, Water reticulation systems.

### 3. Prohibited

Any development not specified in item 2 or 3.

## SP2 Infrastructure

The objectives of the SP2 Infrastructure zone will be:

- a) To provide for infrastructure and related uses.
- b) To prevent development that is not compatible with or that may detract from the provision of infrastructure.

### 1. Permitted without consent

Environmental protection works, Roads.

### 2. Permitted with consent

Flood mitigation, The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose. This would include Defence, Public utility undertaking and air transport facility.

### 3. Prohibited

Any development not specified in item 2 or 3.

## 4.2.4 Explanation of certain inclusions and exclusions in the Regional Enterprise Zone

### Regional Enterprise Zone

The focus of the Regional Enterprise Zone is to provide for uses that will create a high performing enterprise precinct that leverages the strength of the region's existing industries, its strategic location and its access to existing air transport and defence facilities. Key uses that will be permitted in the zone in line with this vision include **commercial, research and development, training, light industrial and manufacturing**.

**Light and general industrial uses** will be permitted in the zone.

**Hazardous and offensive industries** Hazardous and offensive industries (including hazardous and offensive storage establishments) are prohibited land uses within the Precinct. These are types of industries and storage establishments that cannot comply with the conditions of their NSW Environmental Protection Authority (EPA) licence, and present a risk to life, property and the environment. Hazardous industrial developments generally aren't approved in NSW.

**Potentially hazardous development and potentially offensive industries** are developments that can comply with their license and conditions of consent, to appropriately manage any risks. *State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)* (formerly SEPP 33 – Hazardous and Offensive Development), will continue to apply to any development which falls under the policy's definition of '*potentially hazardous industry*' or '*potentially offensive industry*' within the special activation precincts and together with the Precincts - Regional SEPP and the Master Plan provides the processes for identifying and managing risk.

**Business, commercial and retail uses** will complement and support the primary uses listed above.

These sub-precincts will be hubs for the people who work in the precinct to utilise and may contain services like offices, retail, cafes, restaurants and supporting amenities and services.

**Training facilities** will be permitted within this zone to complement the primary uses previously described and will be strategically located within identified sub-precincts. The Precinct aims to support the operation of businesses at the forefront of adopting digital technologies and advanced manufacturing. Providing the opportunity for associated training facilities to guarantee the right skills can be developed locally to achieve this is vital.

**Centre-based child care facilities** will be permitted with development consent. Development for the purpose of centre-based child care facilities will not be permitted as a form of complying development. Whilst childcare centres are not a key land use outcome within the zone, the additional employment-generating land-uses being located within the zone warrants the provision of child care facilities to service the needs of the forecasted workforce. The location of a centre based child care centre is likely to be in the south-east portion of the Precinct where the aeronautical constraints are not as acute and achieving internal noise outcomes can satisfy *AS 2021:2015 Acoustics - Aircraft noise intrusion - Building siting and construction*.

The specific location of centre-based child care facilities acknowledges the sensitive nature of these uses concerning noise and vibration, air pollution and the history of soil contamination within the Precinct. Accordingly, widespread development for centre-based child care facilities would not be suitable or encouraged, and any proposal for a child care facility will require a thorough assessment that takes into account the specific nature of the site, such detailed assessment is not suitable under the complying development certificate pathway in the Precinct.

Any development application for “*centre-based child care facilities*” on land in the Regional Enterprise zone will be subject to the provisions of Chapter 3 of *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)*.

**Educational establishments (schools)** will not be permitted in this zone as they are better suited to other zones and centres in the Port Stephens local government area (LGA).

**Sensitive uses such as hospitals and residences** will not be permitted within this zone. These uses are not considered to be compatible with noise and vibration, air pollution, the history of soil contamination and permissible industrial uses in the zone and are potentially better located in other zones in the Port Stephens LGA.

**Residential accommodation** in all its forms will not be permitted within this zone. Residential accommodation is not considered to be compatible with existing air transport and defence facilities and some of the permissible industrial uses in the zone.

**Tourist and visitor accommodation** will largely not be permitted within the zone (with the exception of serviced apartments and hotel and motel accommodation). These uses are generally not considered to be appropriate or desirable in the zone for the same reason that all forms of residential accommodation are excluded from this zone. The exception of serviced apartments and hotel and motel accommodation acknowledges the need for temporary accommodation to service the air transport and Defence facilities.



## 4.3 Planning Framework

### 4.3.1 Activation Precinct Certificate

Most development will follow a streamlined process that involves obtaining an Activation Precinct Certificate. Activation Precinct Certificates are required for all development except for uses that have been identified as exempt development (see Chapter 3.3.4 of this Discussion Paper) or where the development is to be carried out by a public authority (other than the Development Corporation).

The issuing authority must determine an application for an Activation Precinct Certificate within 30 days of receipt of a complete application. If the issuing authority is of the opinion that the development is not consistent with the master plan and delivery plan for the land, the issuing authority is to allow the applicant to modify the application to ensure that it is consistent. New provisions have also been introduced to enable the issuing authority to effectively 'stop the clock' for the assessment of an application for an Activation Precinct Certificate where additional information is required.

The purpose of an Activation Precinct Certificate is to ensure that development is consistent with the Precincts - Regional SEPP, the Master Plan and the Delivery Plan. The Development Corporation will be responsible for issuing Activation Precinct Certificates unless they are the applicant (other than for subdivision if the Development Corporation is not the applicant for development consent), in which case the Planning Secretary will be the issuing authority.

An Activation Precinct Certificate remains in force for 3 years after it is issued.

Once an Activation Precinct Certificate has been issued, relevant approvals must still be obtained. The pathways for approval are:

- For complying development the issuing of a complying development certificate (from the relevant council or an accredited certifier)
- For other development that requires consent or SSD - the granting of development consent

**Note:** Approval under Part 5 of the Environmental Planning and Assessment Act 1979, by a Public Authority does not require the issuing of an Activation Precinct Certificate.

### 4.3.2 Complying Development

A key objective for all special activation precincts is to create a streamlined planning pathway for specific types of uses, where the planning and environmental risks can be managed strategically through the Master Plan.

Many industrial and employment uses that would require a development application under the current planning framework, are intended to be undertaken as complying development in the Precinct. Complying development will not be advertised and will not require an environmental impacts statement or statement of environmental effects.

The planning framework seeks to provide a comparable level of impact assessment through the following:

- **Upfront strategic assessment:** planning studies that inform the Master Plan and include measurable criteria for environmental performance and land use controls designed to minimise land use conflict.
- **Development controls:** specific development controls for particular development on land within the Activation Precinct are required to be detailed in the Delivery Plan pursuant to the Precincts - Regional SEPP.



- **Environmentally sensitive areas:** Areas of high ecological and heritage value, including areas of high biodiversity value and areas of Aboriginal cultural heritage and European heritage will be mapped on an Environmentally Sensitive Areas Map and Aboriginal Cultural Heritage and Non-Aboriginal Heritage Map and excluded from exempt and complying development. Development in these areas will therefore require a development application under Part 4 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**). This approach recognises that development assessment in these areas should be subject to a site-specific impact assessment and public notification prior to determination.

#### 4.3.3 Constraints with Complying Development in the Williamstown Special

Complying development is a combined planning and construction approval for straightforward development that can be determined through a streamlined assessment by a council or an accredited certifier. In order to be complying development, there can be no further environmental assessment or ongoing monitoring once a complying development certificate has been issued. In addition, conditions of development consent for complying development are not flexible or site specific and are generic. The Precinct includes a number of constraints including:

- **Environmental Constraints:**
  - Endangered ecological communities under both *Biodiversity Conservation Act 2016* (**BC Act**) and *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**).
  - Species listed as potentially being at risk of serious and irreversible impact (**SAII**) include the Swift Parrot, Curlew Sandpiper and Sand Doubletail. The Swift Parrot is listed as critically endangered under the EPBC Act.
  - The Precinct drains to the Hunter Estuary Wetlands Ramsar site, comprised of the Kooragang component of the Hunter Wetlands National Park and Shortland Wetlands (now called the Hunter Wetlands Centre Australia).
- **Noise and vibration and air quality impacts** associated with the operations of the RAAF Base and Newcastle Airport.
  - With the Precinct boundary being further refined most of the Precinct is now identified within an Aircraft Noise Exposure Forecast (**ANEF**) contour greater than 25. In accordance with *AS 2021:2015 Acoustics - Aircraft noise intrusion - Building siting and construction*, sensitive development should not be permitted on land that is in an ANEF contour exceeding 30.
- **Existing airspace restrictions** associated with the RAAF Base and Newcastle Airport apply to the Precinct and any restrictions would not be altered through the planning process.
- **Climate Change:**
  - The climate change risk assessment has highlighted the complex nature of the Precinct, with many of the risks resulting in high or extreme impacts unless adequate mitigation measures are implemented.
- **Flooding and Hunter Water Catchment:**
  - A significant portion of the development footprint is located within the 1:100 year flood area.
  - A portion of the site is located within the Hunter Water drinking catchment which includes

the critical Tomago sand beds providing drinking water to the Lower Hunter.

- **Aboriginal and European Heritage:**

- The site contains areas of high indigenous cultural significance, with high potential for significant Aboriginal cultural sites throughout the project area which are impossible to identify without a complete survey and test excavation.
- Two recognised sites of local historic heritage significance identified under Schedule 3 to the Port Stephens LEP are located within the Precinct (“Devon House” (Item – 109) and St Saviour’s Anglican Church, including WWI memorial plaque (Item – 108)). Furthermore, Precinct is adjoined by the Commonwealth Heritage Listed RAAF Base Williamstown Group and the locally listed Sabre jet fighter aircraft (Item – 110).

- **Land contamination:**

- The Precinct contains areas of identified Per-and poly-fluoroalkyl substances (**PFAS**) and non-PFAS contaminated groundwater, surface water and soil, which require ongoing management and monitoring.

- **Bushfire:**

- The Precinct contains mapped areas of bushfire prone land. Development for some forms development is not suitable on bushfire-prone land.

Due to the number of constraints in the Precinct, a complying development pathway will not be suitable for the majority of the land within the Precinct.

Accordingly, the Department is proposing to amend Schedule 2 of the Planning Systems SEPP to include the Precinct as an ‘identified site’. The proposed amendments to the Planning Systems SEPP and characterisation of development that would trigger assessment as an SSD.

#### 4.3.4 Exempt Development

Some types of low impact land uses will be identified as exempt development and will not require any planning or building approval, where they meet the development standards outlined in the Precincts - Regional SEPP.

The exempt development provisions in **Schedule 3** of the Precincts - Regional SEPP will apply to the Williamstown SAP.

The list of proposed additional exempt development for the Precinct is contained in **Appendix 1** to this Discussion Paper.

#### ***State Environmental Planning Policy (Exempt and Complying Development Codes) 2008***

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (**Codes SEPP**) does not apply in the Precinct, with the exception of the following exempt development provisions:

- Clause 2.6C & 2.6D (Automatic teller machines);
- Clause 2.9 & 2.10 (Awnings, blinds and canopies);
- Clause 2.13 & 2.14 (Barbecues and other outdoor cooking structures);
- Clause 2.20A & 2.20B (Change of use of premises);
- Clause 2.23, 2.23A & 2.24 (Container recycling equipment);
- Clause 2.27 & 2.28 (Driveways and hard stand spaces);
- Clause 2.29 & 2.30 (Earthworks, retaining walls and structural support);
- Clause 2.30A & 2.30B (Evaporative cooling units (roof mounted));
- Clause 2.37 & 2.38 (Fences - business and industrial zones);

- Clause 2.40A & 2.40B (Footpaths—outdoor dining);
- Clause 2.46A & 2.46B (Hot water systems);
- Clause 2.47 & 2.48 (Landscaping structures);
- Clause 2.51 & 2.52 (Minor building alterations - internal);
- Clause 2.54A & 2.54B (Mobile food and drink outlets);
- Clause 2.55 & 2.56 (Pathways and paving);
- Clause 2.61 & 2.62 (Privacy screens);
- Clause 2.63 & 2.64 (Rainwater tanks (above ground));
- Clause 2.65 & 2.66 (Rainwater tanks (below ground));
- Clause 2.71 & 2.72 (Shade structures of canvas, fabric, mesh or the like);
- Clause 2.72A & 2.72B (Shipping containers - temporary installation and use for storage purposes following a bush fire);
- Clause 2.72C & 2.72D (Shipping containers and portable offices – temporary installation and use for existing commercial and industrial purposes);
- Clause 2.75 & 2.76 (Subdivision);
- Clause 2.77 & 2.78 (Sculptures and artworks);
- Clause 2.78E & 2.78F (Waste storage containers);
- Clause 2.98 & 2.99 (Internal signs);
- Clause 2.100 & 2.101 (Community notice and public information signs);
- Clause 2.102 & 2.103 (Temporary event signs);
- Clause 2.104 & 2.105 (Real estate signs);
- Clause 2.109 & 2.110 (Scaffolding, hoardings and temporary construction site fences);
- Clause 2.111 & 2.112 (Temporary builders' structures);
- Clause 2.119 & 2.120 (Tents, marquees or booths for community events);
- Clause 2.121 & 2.122 (Stages or platforms for private functions); and
- Clause 2.123 & 2.124 (Stages or platforms for community events).

#### 4.3.5 Designated Development

The EP&A Regulation identifies certain high-impact development (e.g. likely to generate pollution) or development that is located in or near an environmentally sensitive area (e.g. a wetland) as 'designated development'. These types of development require a proponent to obtain industry-specific Secretary's Environmental Assessment Requirements (**SEARs**) from the Department, prepare an Environmental Impact Statement. The development must also be publicly exhibited for a minimum of 28 days. These types of development under lister under Part 2, Schedule 3 of the EP&A Regulation.

The potential impacts associated with certain types of high-impact developments that were likely to occur in the Precinct were identified and assessed upfront in the Precinct technical studies. The technical studies identified the preferred location of the following types of high-impact uses in the western portion of the Precinct.

- breweries and distilleries,
- ceramic and glass industries,
- chemical industries and works, and
- petroleum works,

With the Precinct being refined to remove the potential location of these uses on REZ land, the Department is no longer seeking to enable these type of uses as complying development i.e. "switching off" designated development for the above types of development is no longer being pursued.

The Department is seeking to "switch-off" designated development for the purposes of

contaminated soil treatment works (storage purposes only). There are no limitations on the location of this land use with the Precinct and with the likely need for contaminated soil to be stored (temporarily) in the Precinct pending treatment for either PFAS or Non-PFAS contaminated soil, there continues to be a sound justification for streamlining this form of development outside of designated development.

The switching off of designated development for this land use does not remove the requirement to obtain an EPA licence as required under the *Protection of the Environment Operations Act 1997* and be subject to the relevant controls under Chapter 3 Hazardous and offensive development Chapter 4 Remediation of land under the Resilience and Hazards SEPP.

#### 4.3.6 Other licences and approvals

Processes, approvals and licenses required under the *Protection of the Environment Operations Act 1997*, the BC Act, the *Roads Act 1993* and the EPBC Act will continue to apply to the Precinct.

Note: Chapter 3 and Chapter 4 of Resilience and Hazards SEPP apply to an application for an Activation Precinct Certificate that relates to complying development in the same way as they apply to an application for development consent.

#### 4.3.7 Environmentally sensitive areas

Environmentally sensitive areas within the Precinct comprising high-value vegetation will be appropriately mapped on an environmentally sensitive areas map and exempt and complying development provisions will not apply to these locations.

The Delivery Plan will provide details of any areas of environmental significance within the Precinct and appropriate land-use controls to regulate development in these areas to protect their integrity.

#### 4.3.8 Protection of Aboriginal cultural heritage

Aboriginal cultural heritage sites within the Precinct will be managed in consultation with local Aboriginal representatives. All areas of high potential for additional artefacts and/or burials are to be mapped on the Aboriginal Cultural Heritage and Non-Aboriginal Heritage Map. Refer to Appendix 3. All Aboriginal Places declared by the Minister for Environment and Heritage that have special significance to Aboriginal people and other significant Aboriginal sites and objects will continue to be mapped under the Aboriginal Heritage Information Management System (AHIMS).

The Master Plan incorporates Aboriginal planning and design considerations ensuring the Precinct has a sense of place, history and spirit. It is intended that these sites and areas will continue to have similar protection under the Master Plan and Delivery Plan.

#### 4.3.9 Protection of European Heritage

The Port Stephens LEP currently identifies two (2) local heritage items that are located within the Precinct. These items are identified in the below table (Table 1).

**Table 1: Heritage Items**

Suburb	Item Name	Address	Property Description	Significance	Item No.
Williamstown	St Saviour's Anglican Church, including WWI memorial plaque	12 Cabbage Tree Road	Lot 1, DP 607447	Local	I108

Williamstown	“Devon House”, including former Moxey’s slab cottage, dairy, hay shed and slab barn	150 Cabbage Tree Road	Lot 1, DP 832554	Local	I109
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The Precinct will continue to apply the Port Stephens LEP mapping and development controls under clause 5.10. However, in relation to “Devon House”, including former Moxey’s slab cottage, dairy, hay shed and slab barn, a change to the mapping of this item is proposed to ensure that the part of 150 Cabbage Tree Road - Lot 1, DP 832554, that is within the Precinct is no longer mapped as forming part of the heritage item. This will require updated map sheets to be prepared for Heritage Map - Sheet HER\_004.

#### 4.3.10 Biodiversity and vegetation

Work has been undertaken to survey and map the high-value vegetation sites within the Precinct. The mapping of these sites as environmentally sensitive areas will ensure that it is protected from development that might otherwise affect the land. A significant portion of the land that is mapped as environmentally sensitive is located in the central core of the Precinct and zoned C2 Environmental Conservation. The proposed land-uses permitted with consent in the C2 zone will be limited to essential infrastructure, such as roads and services, in circumstances where it cannot be avoided.

A new provision will also be included in the Precincts - Regional SEPP to ensure that the clearing of land within the Precinct is not undertaken on mapped environmentally sensitive areas without development consent.

The Master Plan and Delivery Plan aim to avoid development on land where there is significant vegetation, whilst landscape plans for future development and embellishment of public spaces will aim to increase canopy trees and utilisation of locally endemic species.

#### 4.3.11 Flooding

To ensure that flood-prone land is maintained for the conveyance of floodwater, specific flood mapping and planning controls are to be included in the Master Plan and Delivery Plan.

#### 4.3.12 Hunter Water Drinking Water Catchment

The Precinct and the Lower Hunter rely on underground water supplied by the Tomago Sandbeds which run parallel to the coastline between Newcastle and Port Stephens. To ensure Lower Hunter’s water resources are protected the Drinking Water Catchment Map currently contained within Port Stephens LEP will be replicated in the Precinct - Regional SEPP.

A portion of the Precinct is located in the Hunter Water drinking water catchment. Hunter Water Corporation (HWC) will continue to be consulted with prior to an Activation Precinct Certificate being issued as is currently required for a development application or building application under Section 51 of the Hunter Water Act 1991 (HW Act).

Furthermore, if approval has been given with respect to any land within the HWC area of operations, the developer may apply to the Corporation for a certificate to the effect that the development complies with the requirements of section 50 of the HW Act (issuing of compliance certificate).

### 4.3.13 Bushfire

Port Stephens Council maintains a map identifying areas of bushfire prone land in the LGA. The Bushfire Prone Land Map is the trigger for the consideration of bush fire protection measures for new development, consistent with Planning for Bush Fire Protection 2019 (NSW Rural Fire Service) and *Australian Standard 3959-2009 – Construction of buildings in bush fire prone areas*.

A bush fire safety authority, issued by the Commissioner of the NSW Rural Fire Service will still be required for subdivision of bush fire prone land within the Precinct in accordance with Section 100B(1) of the *Rural Fires Act 1997*.

Development for special fire protection purposes on land that is mapped as bushfire prone land is not complying development. Instead, such development will require a development application under Part 4 of the EP&A Act. It is likely that this will be limited to an application for a centre-based child care centre, a hotel, motel or other tourist accommodation, such as serviced apartments.

It is proposed to continue to rely on the existing bushfire prone land map for the identification of bushfire risk and application of relevant policies, and not replicate this work in the Precincts - Regional SEPP for the Precinct.

Further consultation is underway with the Rural Fire Service to clarify the approach to identifying bushfire mitigation measures and appropriate controls that apply within the Precinct in accordance with Planning for Bushfire Protection 2019.

### 4.3.14 Airport and Aviation Matters

Planning for development adjacent to the RAAF Base and Newcastle Airport requires development to occur in suitable areas in the Precinct. Strategic considerations include using the close proximity of the RAAF Base and the Newcastle Airport and its supporting infrastructure to:

- leverage economic and employment growth opportunities;
- activate an advanced manufacturing industry in aerospace and defence, including research and development opportunities;
- safeguard airport operations and the future expansion of the Airport (including the Federal Government's commitment towards Newcastle Airport's runway upgrade); and
- appropriately locate future infrastructure and transport corridors to provide access to freight and public transport modes

### 4.3.15 Airport Safeguarding

Development within the Precinct will not compromise the operation of the RAAF Base or the Newcastle Airport.

The National Airports Safeguarding Framework (**NASF**) offers a nationally consistent approach to ensure an appropriate balance is maintained between the social, economic and environmental needs of the community and the effective use of airports.

Applying NASF principles to the Precinct will ensure key issues such as noise, airspace protection, and obstacle limitation surfaces are incorporated into planning controls. Some provisions, such as the identification of noise contours or airspace protection surfaces apply beyond the Precinct.



#### 4.3.16 Australian Noise Exposure Concept / Australian Noise Exposure Forecast

Aircraft noise is a key factor in land use planning for the Precinct. Most of the Precinct is identified within an ANEF contour band greater than 25. A precautionary approach is being applied to the land use planning of noise-sensitive uses around the RAAF Base and Newcastle Airport.

For the Precinct, the NSW Government has adopted a position that no noise-sensitive land uses (new centre based child care facilities, places of public worship) will be permitted in the Australian Noise Exposure Concept/ANEF contour of 25. Other forms of noise-sensitive development that will be prohibited include residential accommodation, hospitals and schools.

This approach is consistent with the technical investigations and *Australian Standard AS2021-2015 Acoustics – Aircraft Noise Intrusion Building Sitting and Construction* which identifies that noise-sensitive development is 'conditionally acceptable' in the ANEF 25-30 contour.

These ANEF Contours provide a means of planning effective noise abatement measures and determining land use compatibility.

Noise impacts are capable of being managed through the implementation of a Noise Management Precinct (NMP), consistent with the *Noise Policy for Industry* (2017).

A NMP is a mechanism for consideration and mitigation from multiple premises within a defined area to be managed as a single site and would allow noise from multiple sites to be managed as a single site by giving the operator of an activity the flexibility to take action to reduce noise in another nearby location, or work with others to take action to reduce noise on their behalf.

While a new noise source always adds to existing noise levels, the NMP approach ensures any nominal increase from a single development is not significant and not detectable by the community. By maintaining the requirement to implement the usual suite of reasonable and feasible mitigation options, there is also potential for noise levels to be reduced over time.

#### 4.3.17 Protection of Airspace Near Airports

The *Airports Act 1996* (Cth) and the *Airports (Protection of Airspace) Regulations 1996* (Cth) establish a framework for the protection of airspace at and around airports. The *Airports Act 1996* defines certain activities resulting in an intrusion into an airport's protected airspace to be a 'controlled activity' and requires that such activities cannot be carried out without approval.

The Commonwealth regulations recognise the need to restrict the height of buildings and other structures (such as cranes) and regulate land uses (such as avoidance of plume generating uses) near airports or under flight paths. This protected airspace is formally known as prescribed airspace.

To ensure the safe operations and future growth of the RAAF Base and Newcastle Airport is not compromised, land use planning and development controls will be implemented in the Precincts - Regional SEPP. Additional mitigation and monitoring controls including obstacle monitoring surveys will be implemented within the Master Plan and Delivery Plan in collaboration with the Department of Defence (Cth) and Newcastle Airport.

#### 4.3.18 Wildlife Management

Wildlife strikes can cause major damage to aircraft and compromise aircraft safety. Whilst the Civil Aviation Safety Authority has well-established safety requirements for wildlife management plans on-airport, wildlife hazards also occur outside the Newcastle Airport.



NASF Guideline C – Managing the Risk of Wildlife Strikes in the Vicinity of Airports provides advice to help protect against wildlife hazards originating off-airport.

A specific provision is to be provided in the Precincts - Regional SEPP and design controls are recommended to be provided in the Master Plan and Delivery Plan to mitigate risks associated with wildlife including birds to airport operation and safety.

#### 4.3.19 Airport Safeguarding

In order to ensure development or activities in the vicinity of the RAAF Base and Newcastle Airport do not negatively impact on-base/airport operations, it will be a requirement in the Precinct that an application for an Activation Precinct Certificate be referred to the Department of Defence (Cth) and other relevant Commonwealth Authorities as required for comment / approval. Potential impacts or development that would trigger a referral include:

- glare from artificial light or reflected sunlight;
- air plumes from stacks, vents or plumes;
- development or construction activities including the use of cranes that extend into prescribed airspace (subject to temporary exemptions operating prior to the commencement of Airport operations);
- development located in the windshear assessment area; and
- uses that incorporate lighting that could cause distraction to pilots.

#### 4.3.20 State Environmental Planning Policies

##### ***State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)***

###### Chapter 2 Infrastructure

Chapter 2 of the Transport and Infrastructure SEPP assists the NSW Government, private infrastructure providers, local councils and the communities they support by simplifying the process for infrastructure developments, like hospitals, roads, railways, emergency services, water supply and electricity delivery.

If a section under Transport and Infrastructure SEPP specifies that land uses are permissible without consent in a 'prescribed zone', that clause will not apply to bespoke zones or where land is not a prescribed zone in the Precinct.

In this context, the Regional Enterprise Zone under the Precincts - Regional SEPP is a bespoke zone and is not a 'prescribed zone' under the Transport and Infrastructure SEPP.

As such, it is recommended that specified provisions continue to apply in the Williamtown Precincts - Regional SEPP, including:

- Data centres
- Electricity generating works
- Emergency services facilities and bushfire hazard reduction
- Research and monitoring stations
- Roads and road infrastructure facilities
- Sewerage systems
- Water supply systems

###### Chapter 3 Educational establishments and child care facilities

The Chapter 3 of the Transport and Infrastructure SEPP aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State. Chapter 3 of the Transport and Infrastructure SEPP apply to land within the Precinct as it relates to centre-based childcare facilities. Such uses will only be permitted in land suitable for sensitive uses and mapped on the Additional Permitted Uses Map.

## ***State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)***

### Chapter 2 Coastal management

Chapter 2 of the Resilience and Hazards SEPP no longer applies to the Precinct following the extent of the Precinct being reduced.

### Chapter 3 Hazardous and offensive development

Chapter 3 of the Resilience and Hazards SEPP applies to an application for an Activation Precinct Certificate that relates to complying development. This requires a preliminary hazard analysis to be prepared, planning circulars to be considered and land use safety requirements prior to an Activation Precinct Certificate for complying development being issued.

Before the Activation Precinct Certificate being issued, the development must be identified as either low, medium or high risk by the Planning Secretary. Potentially hazardous development that is high risk is not to be complying development and will require a development application delegated to the Planning Secretary. Conditions for complying development will include conditions for low and medium risk development which will include fire safety study, emergency plan etc. Development that is low or medium risk will not be required to be publicly exhibited as it will follow the complying development pathway.

The Delivery Plan must detail how hazard audits and compliance reports for potentially hazardous developments will be conducted. Hazard audits must be conducted every 12 months after the commencement of operation and every three years thereafter.

### Chapter 4 Remediation of land

Chapter 4 of the Resilience and Hazards SEPP aims to promote the remediation of contaminated land to reduce the risk of harm to human health or any other aspect of the environment.

Development for the purpose of remediation cannot be complying development and will be required to be conducted as either development without consent or require a development application under chapter 4 of the Resilience and Hazards SEPP. A process for assessing development on contaminated lands is to be outlined in the Master Plan.

## ***State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP)***

### Chapter 3 Advertising and signage

Chapter 3 of the (Industry and Employment SEPP) aims to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high-quality design and finish.

Chapter 3 of the (Industry and Employment SEPP) will not apply to development for signage in the Precinct and therefore a process for assessing developments for advertising signage is to be outlined in the Delivery Plan.

## ***State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)***

## Chapter 2 – Vegetation in non-rural areas

Chapter 2 of the Biodiversity and Conservation SEPP and *Local Land Services Act 2013 (LLS Act)* regulate the clearing of native vegetation in the State. The Biodiversity and Conservation SEPP applies to certain LGAs and zones. As bespoke zones are being used in the Precincts – Regional SEPP, the Vegetation SEPP and LLS Act will not apply to land within the Precinct. To ensure that clearing in environmentally sensitive areas is adequately managed, it is proposed that development consent be obtained before the clearing of land mapped as an environmentally sensitive area.

## Chapter 4 – Koala habitat protection 2021

Chapter 4 of the Biodiversity and Conservation SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Chapter 4 of the Biodiversity and Conservation SEPP applies to each LGA listed in Schedule 2. Port Stephens LGA is listed in Schedule 2 and has an existing approved Koala Plan of Management. The Master Plan aims to be consistent with the objectives of both the Port Stephens Koala Management Plan and Chapter 4 of the Biodiversity and Conservation SEPP.

*Note: Were the land within Precinct to be conferred biodiversity certification under Part 8 of the BC Act, the Chapter 4 of the Biodiversity and Conservation SEPP would no longer apply..*

## **State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)**

Allowing development to be complying development instead of designated development will mean that the State and regionally significant development under the Planning Systems SEPP will not apply to these activities and these activities can be undertaken as complying development. This will allow for a streamlined planning pathway. Development that remains as designated development could trigger the Planning Systems SEPP if the thresholds are met.

As stated previously, it is proposed to amend Schedule 2 to the Planning Systems SEPP to include the Precinct as an 'Identified Site' for relevant forms of SSD. The extent and particulars of a SSD application are still being resolved, however, it is envisioned that the application will include vegetation clearing, remediation, flooding, drainage, road and infrastructure works for the entire Precinct).

The amendment to the Planning Systems SEPP will also amend the SSD site maps to define the boundaries of the Precinct.

### 4.3.21 Savings and Transitional provision

Savings and transitional provisions are proposed for development where a development application has been lodged but not yet determined. This will allow for those development applications to be determined as per the controls that were in force at the time the development application was lodged.

### 4.3.22 Existing Use Rights

Existing use rights will prevail for existing development consents and modifications under section 4.55 of the EP&A Act can still be sought.

The EP&A Act includes protections for uses that have been established with appropriate approvals. These are known as 'existing use rights' and allow existing uses to continue to operate while preventing any further intensification of those same uses.

Alternatively, proponents can choose to seek a new development consent under the Precincts -

Regional SEPP.

## 4.4 Infrastructure contributions

Some infrastructure in the Precinct will be funded through NSW Government's Snowy Hydro Legacy Fund through a combination of NSW Government funding, the proceeds of land sales by the the Development Corporation and through other potential funding mechanisms, such as a special infrastructure contribution.

The *Port Stephens Local Infrastructure Contributions Plan* requires that development make the following contributions:

- All development with a proposed cost of more than \$100,000 and up to and including \$200,000 – 0.5% of the development value; and
- All development with a proposed cost of more than \$200,000 1% of the development value.

This contribution will continue to be payable for development in the Precinct unless otherwise agreed to by Council and the Development Corporation.

Contributions for stormwater, trade waste, potable water and sewer will be collected through Hunter Water and Council.

## 4.5 Delivery Plans

At least one Delivery Plan will be prepared by the Development Corporation and approved by the Planning Secretary. Consistent with the Precincts - Regional SEPP, the Delivery Plan may apply to all land or specified land within each Sub-precinct and will contain specific development controls for particular development. The Delivery Plan is to be consistent with the Master Plan.

Delivery Plans are required to be placed on public exhibition prior to finalisation, by publishing the draft on the Development Corporation website for at least 28 days, and to allow for the community and agencies to make formal submissions on the Delivery Plan. The Development Corporation must consider any submission made and provide the Planning Secretary with a written response to any submissions received before a delivery plan is approved.

## 4.6 Additional uses permitted without consent

A shared cycle and walking track, which forms part of a 'Health Loop' that extends around and through the environmental protection area (C2 Environmental Conservation Zone), will be permitted without consent. Works associated with this shared social infrastructure facility will be subject to assessment under Part 5 of the EP&A Act.

## 4. Effect on the Port Stephens LEP

The Precincts - Regional SEPP will become the primary environmental planning instrument for the Precinct. The intended effect of the proposed addition to the Precincts - Regional SEPP of the Precinct and relevant clauses of the Port Stephens LEP is detailed in **Table 2**.

*Table 2 - Effect of Precincts - Regional SEPP on Port Stephens LEP*

Clause of Port Stephens LEP	Application
<b>2.6 Subdivision—consent requirements</b>	It is proposed to continue to apply this clause.
<b>2.7 Demolition requires development consent</b>	It is proposed to continue to apply this clause.
<b>2.8 Temporary use land</b>	It is proposed to continue to apply this clause.
<b>4.1 Minimum subdivision lot size</b>	It is not intended that a minimum lot size map be replicated in the Precincts - Regional SEPP for the Precinct. It is not considered that a minimum lot size is warranted for the proposed land use zones and reflects the current approach applied to the B7 – Business Park zoned land under Port Stephens LEP.
<b>4.3 Height of buildings</b>	It is proposed that performance criteria in the Delivery Plan would set design standards for the height of buildings within the Precinct to ensure that the height of buildings is appropriate for the context and character of the area and land use structure.
<b>4.4 Floor Space Ratio</b>	It is not intended that a new Floor Space Ratio Map be established in the Precincts - Regional SEPP for the Precinct. It proposed that performance criteria in the Delivery Plan be developed to set design standards to ensure that the objectives of this clause are achieved.
<b>5.1 Relevant acquisition authority</b>	It is proposed to continue to apply this clause.
<b>5.8 Conversion of fire alarms</b>	It is proposed to continue to apply this clause.
<b>5.10 Heritage</b>	<p>It is proposed to continue to apply this clause.</p> <p>The Master Plan and Delivery Plan will include aims to conserve the heritage significance of heritage items, including associated fabric, settings and views. Where appropriate, and subject to approvals, heritage-listed items in the Precinct should be considered for re-use as a community, cultural, education or retail uses to support local</p>

community and identity to ensure the ongoing appreciation and maintenance of these buildings.

The heritage incentive sub-clause (clause 5.10(10)) will not be replicated in the Master Plan or Delivery Plan. It is considered that the extent of permitted uses under the Regional Enterprise Zone are suitably flexible and will enable the adaptive reuse of the heritage items as required.

It is proposed to amend the Port Stephens LEP Heritage Map Sheet (6400\_COM\_HER\_004\_080\_20131218) to reduce the extent of the mapped heritage area to only include the portion of the site that sits outside of the Precinct.

<b>5.11 Bushfire Hazard Reduction</b>	It is proposed to continue to apply this clause.
<b>5.21 Flood Planning</b>	<p>This clause is not proposed to be replicated in the Precincts – Regional SEPP.</p> <p>The Delivery Plan will provide performance criteria to ensure consistency with the <i>Flood Prone Land Policy</i> and principles of the <i>Floodplain Development Manual 2005</i>.</p>
<b>7.1 Acid sulfate soils</b>	<p>This clause is not proposed to be replicated in the Precincts - Regional SEPP.</p> <p>The Master Plan and Delivery Plan for the Precinct will provide appropriate controls and performance criteria to ensure the management of ASS prior to the issue of an Activation Precinct Certificate by the issuing authority.</p>
<b>7.2 Earthworks</b>	This clause is not proposed to be replicated in the Precincts - Regional SEPP.
<b>7.4 Airspace operations</b>	<p>An Obstacle Limitation Surface Map is to be included within the Precincts - Regional SEPP and appropriate objectives and consultation with the relevant Commonwealth body required prior to the issuing of an Activation Precinct Certificate by the issuing authority.</p> <p><i>Note: upon adoption of a new height limitation chart by the Department of Defence this will supersede the Obstacle Limitation Surface Map.</i></p>
<b>7.5 Development in areas subject to aircraft noise</b>	An ANEF Map is proposed to be included within Precincts - Regional SEPP and an appropriate provision is to be included to provide objectives and considerations to be taken into account by the issuing authority prior to the issue of an Activation Precinct Certificate.
<b>7.6 Essential Services</b>	This clause is not proposed to be replicated in the Precincts - Regional SEPP.
<b>7.8 Drinking water catchments</b>	This clause is not proposed to be replicated in the Precincts – Regional SEPP.
<b>7.9 Wetlands</b>	This clause is not proposed to be replicated in the Precincts - Regional SEPP.



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<b>Schedule Exempt Development</b>	<b>2</b>	<b>-</b>	The is clause is not proposed to be replicated in the Precincts Regional SEPP.
<b>Temporary use of Council land, schools and places of public worship</b>		<b>-</b>	A new clause is proposed to enable the temporary use of roads, parks and community buildings for temporary uses i.e. events and fetes where certain requirements are met.

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There will also be consequential amendments to the Port Stephens LEP maps to excise the Precinct from the Port Stephens LEP.

Note: It is intended that where a clause of Port Stephens LEP is to continue to apply to the Precinct any reference in that clause to a development application, development consent or a consent authority is to be read as a reference to an application for an Activation Precinct Certificate, the issuing of an Activation Precinct Certificate or the issuing authority.

## Appendix 1 – Exempt Development

Development purpose	Development standards
Access ramps	Must not interfere with the functioning of existing drainage fixtures or the natural surface flow of water.
Aerials, antennae and communication dishes	Must resist loads in accordance with AS/NZS 1170.0:2002, <i>Structural design actions, Part 0: General Principles</i> and AS/NZS 1170.2:2011, <i>Structural design actions, Part 2: Wind actions</i> . Must be anchored by a concrete slab or footing designed in accordance with AS 3600:2018, <i>Concrete structures</i> .
Air-conditioning units	Must not be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road. Must not reduce the existing fire resistance level of a wall. Must be designed so as not to operate during peak time at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary.
Bollards	Must not reduce any existing means of entry to, or exit from, any such associated development or the lot on which it is situated.
Carports (within the meaning of the Codes SEPP)	Must not have a floor area of more than 100 square metres. Must not involve the construction of a new driveway or gutter crossing unless the consent of the relevant road authority for each opening of a public road required for the development has been obtained under the Roads Act 1993. Must not be located between the building line and the primary road.
Demolition of development that would be exempt development if it were being constructed or installed	If demolition involves the removal of asbestos, that removal must be undertaken in accordance with How To Safely Remove Asbestos: Code of Practice, ISBN 978 0 642 33317 9, published by Safe Work Australia in July 2020.
Emergency work and repairs, consisting of the repair of any damage to a building or structure caused by an event that constitutes a significant and widespread danger to life or property in land in the Activation Precinct in an area declared by an order under the State Emergency and Rescue Management Act 1989, section 33 to be an area where a state of emergency exists	Must be carried out within 6 months of the declaration being made. Must not change the configuration of the floor space of the building or structure being repaired. Must not increase the floor space of the building or structure being repaired.
Minor external non-structural building alteration, including— (a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work, (b) the replacement of	Must not reduce the existing fire resistance level of a wall or roof. If located on bush fire prone land, must be adequately sealed or protected to prevent the entry of embers and must use equivalent or improved quality materials. Must not affect any existing fire resisting components of the building. Must not involve the use of external combustible cladding. Must not affect the means of egress from the building in an emergency.

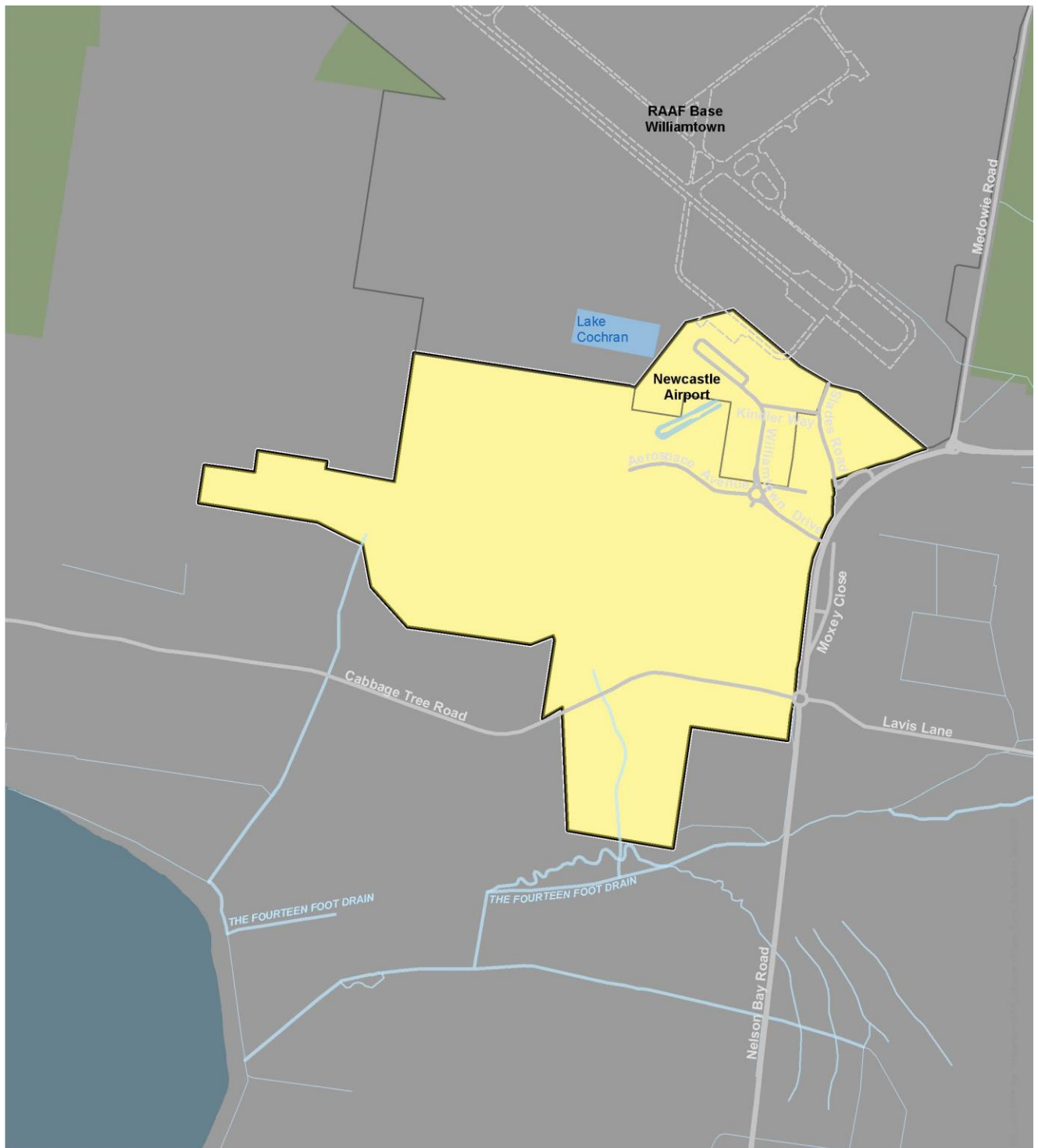
<p>an external window, glazing areas or a door, other than those on bush fire prone land,</p> <p>(c) the repair to or replacement of a non-structural wall or roof cladding,</p> <p>(d) the installation of a security screen or grill to a door or window or a security door,</p> <p>(e) the repair to or replacement of a balustrade,</p> <p>(f) restumping or repairing structure foundations without increasing the height of the structure.</p>	
Rainwater tanks (above ground)	<p>Must not have a capacity of more than 25,000 litres.</p> <p>Must be fitted with a screened rain head designed to ensure self-cleaning and prevent leaf litter entering into the water tank.</p> <p>Must be fitted with a first-flush device incorporating an automatic resetting valve that causes initial run-off rainwater to bypass the tank.</p> <p>Must be constructed or installed with inlets and outlets designed to prevent mosquitoes breeding in it.</p> <p>Must have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property or cause a nuisance to adjoining owners.</p> <p>Must have a sign affixed to it with a statement to the effect that the water in the tank is rainwater.</p> <p>If reticulated water is provided to the lot—must not be interconnected with any system supplying drinking water to the lot unless it complies with the Council's requirements.</p>
Stairway	<p>Must be constructed in accordance with AS 1657:2018, Fixed platforms, walkways, stairways and ladders—Design, construction and installation.</p> <p>If it is located on bush fire prone land and is less than 5m from a dwelling—must be constructed of non-combustible material.</p>
Building identification signs	<p>Must be a business identification sign and must not include advertising of goods or services.</p> <p>Must have the consent in writing of the owner of the land on which the sign is to be located and, if the sign or part of the sign projects over adjoining land, the consent of the owner of the adjoining land.</p> <p>Must be approved under section 138 of the Roads Act 1993, if the sign or part of the sign projects over a public road, including a footway.</p> <p>Must not obstruct or interfere with a traffic sign.</p> <p>Must not be located on or in a heritage item or heritage conservation area.</p> <p>Must not be illuminated or flashing.</p> <p>Must be constructed of non-reflective materials.</p>

## Appendix 2 – List of State and local heritage items

Suburb	Item Name	Address	Property Description	Significance	Item No.
Williamstown	St Saviour's Anglican Church, including WWI memorial plaque	12 Cabbage Tree Road	Lot 1, DP 607447	Local	1
Williamstown	"Devon House", including former Moxey's slab cottage, dairy, hay shed and slab barn	150 Cabbage Tree Road	Lot 1, DP 832554	Local	2

## Appendix 3 - Exhibition Maps

<b>Map Name</b>	<b>Purpose</b>
Land Application Map	Identifies the land to which the proposed SEPP applies
Land Zoning Map	Identifies land-use zoning
Australian Noise Exposure Forecast Map	Identifies aircraft noise exposure for a future year and displayed in ANEF units
Obstacle Limitation Surface Map	Identifies areas where appropriate development controls will be required to protect airspace (noting that additional surfaces will be declared in due course)
Extraneous Lighting Map	Identifies developments to be referred to the relevant Commonwealth Authority for comment that incorporate lighting that could cause a distraction to pilots
Airport Windshear Assessment Trigger Map	Identifies developments to be referred to the relevant Commonwealth Authority for comment that is located in the windshear assessment area
Drinking Water Catchment Map	Identifies land within the Drinking Water Catchment on the Drinking Water Catchment Map.
Environmentally Sensitive Areas Map	Identifies highly sensitive environmental areas
Aboriginal Cultural Heritage and Non-Aboriginal Heritage Map	Identifies areas of Aboriginal cultural heritage and non-aboriginal heritage.



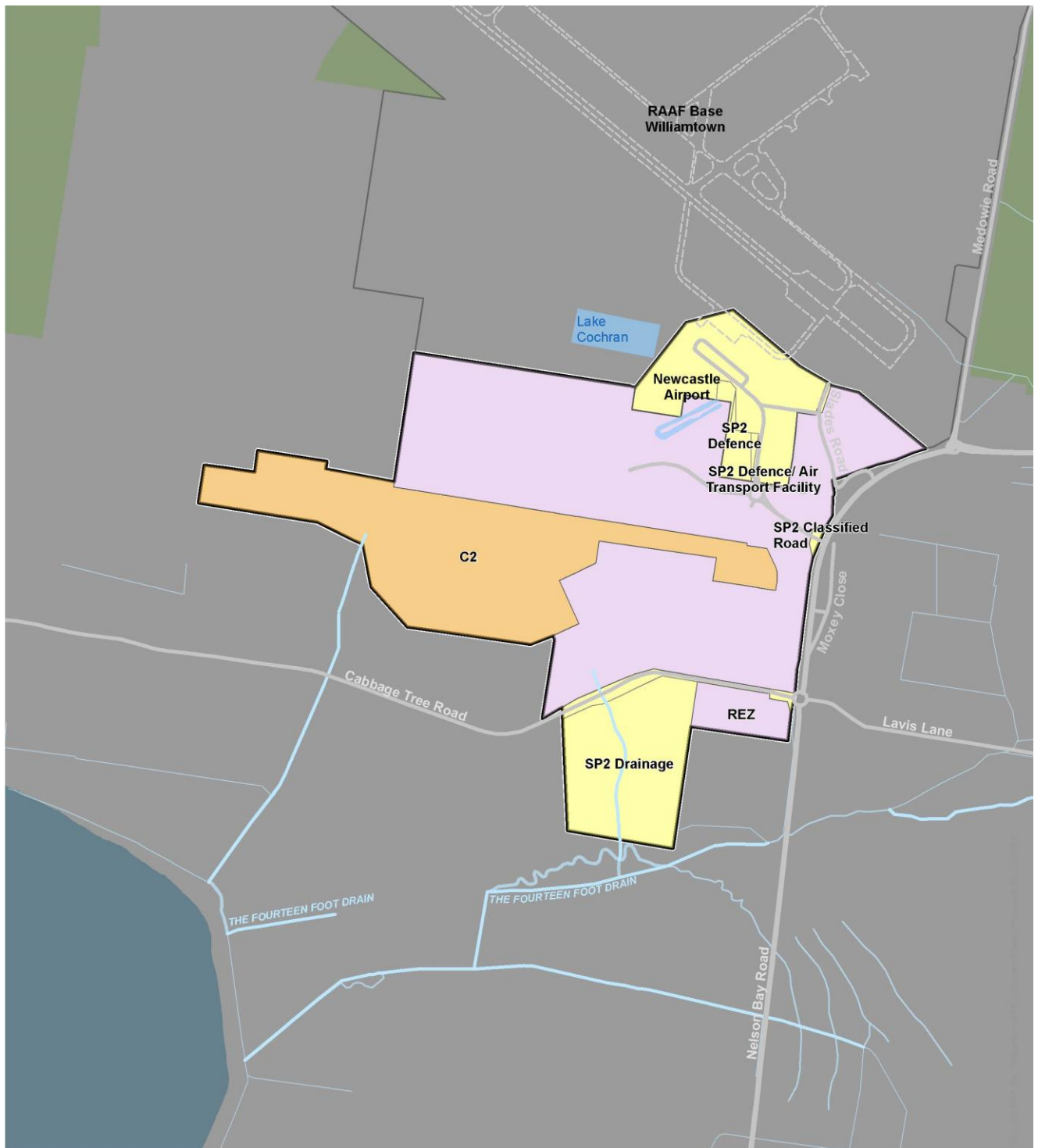
### Land Application Map

- Roads
- Runway and Taxi ways
- Waterway
- Williamstown SAP Boundary
- RAAF Base Williamtown and Newcastle Airport
- Hunter Wetlands National Park
- Tilligerry State Conservation Area
- Waterbody
- Land Application



Intended Map Size: A4  
 Publication Date: 30/11/2022  
 Coordinate System: GDA 1994 MGA Zone 56





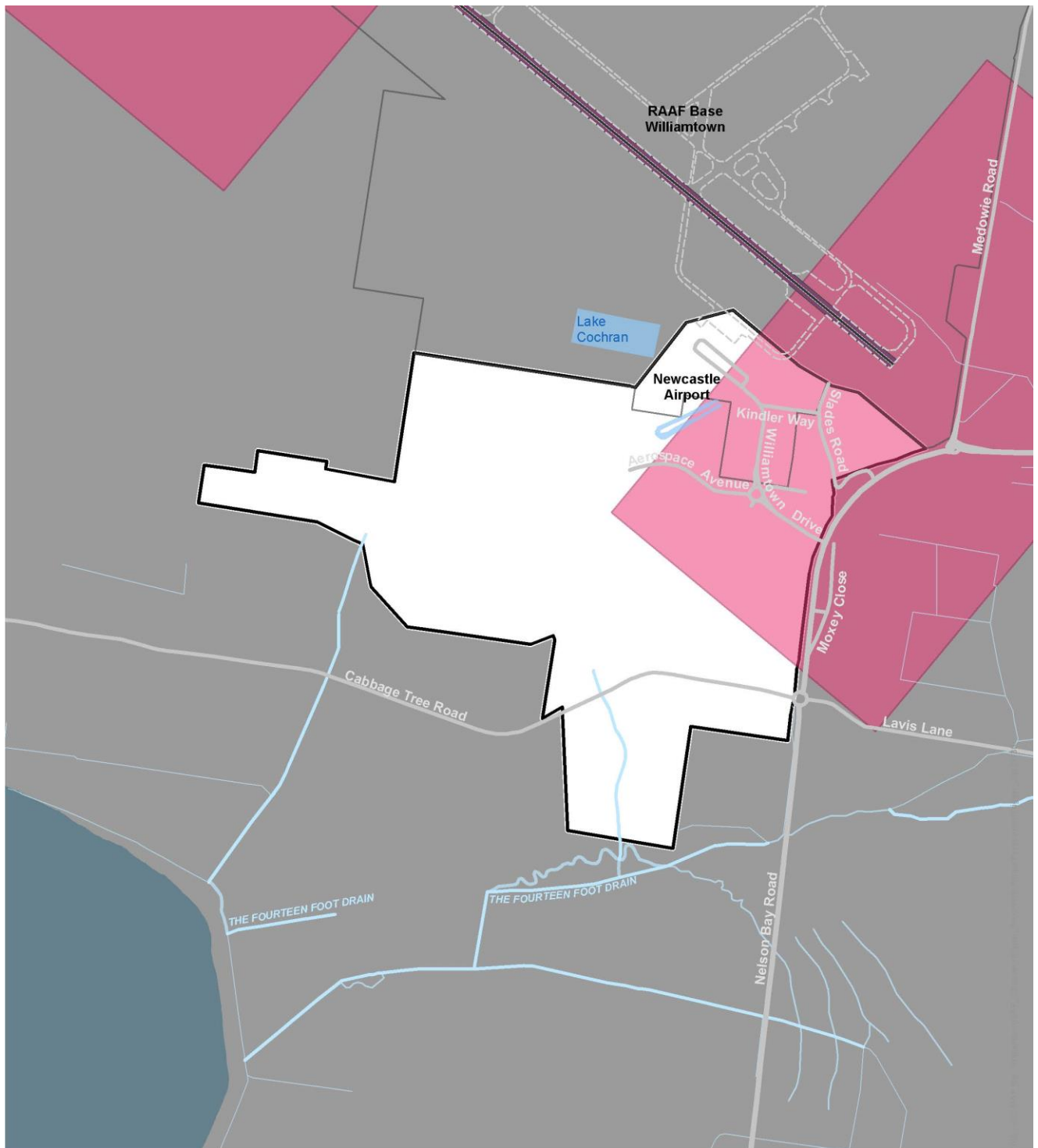
### Proposed Land Zoning

- Roads
- Runway and Taxi ways
- Waterway
- Williamstown SAP Boundary
- RAAF Base Williamtown and Newcastle Airport
- Hunter Wetlands National Park
- Tilligerry State Conservation Area
- Waterbody

- C2 - Environmental Conservation
- REZ - Regional Employment Zone
- SP2 - Infrastructure



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 Publication Date: 1/12/2022  
 Coordinate System: GDA 1994 MGA Zone 56



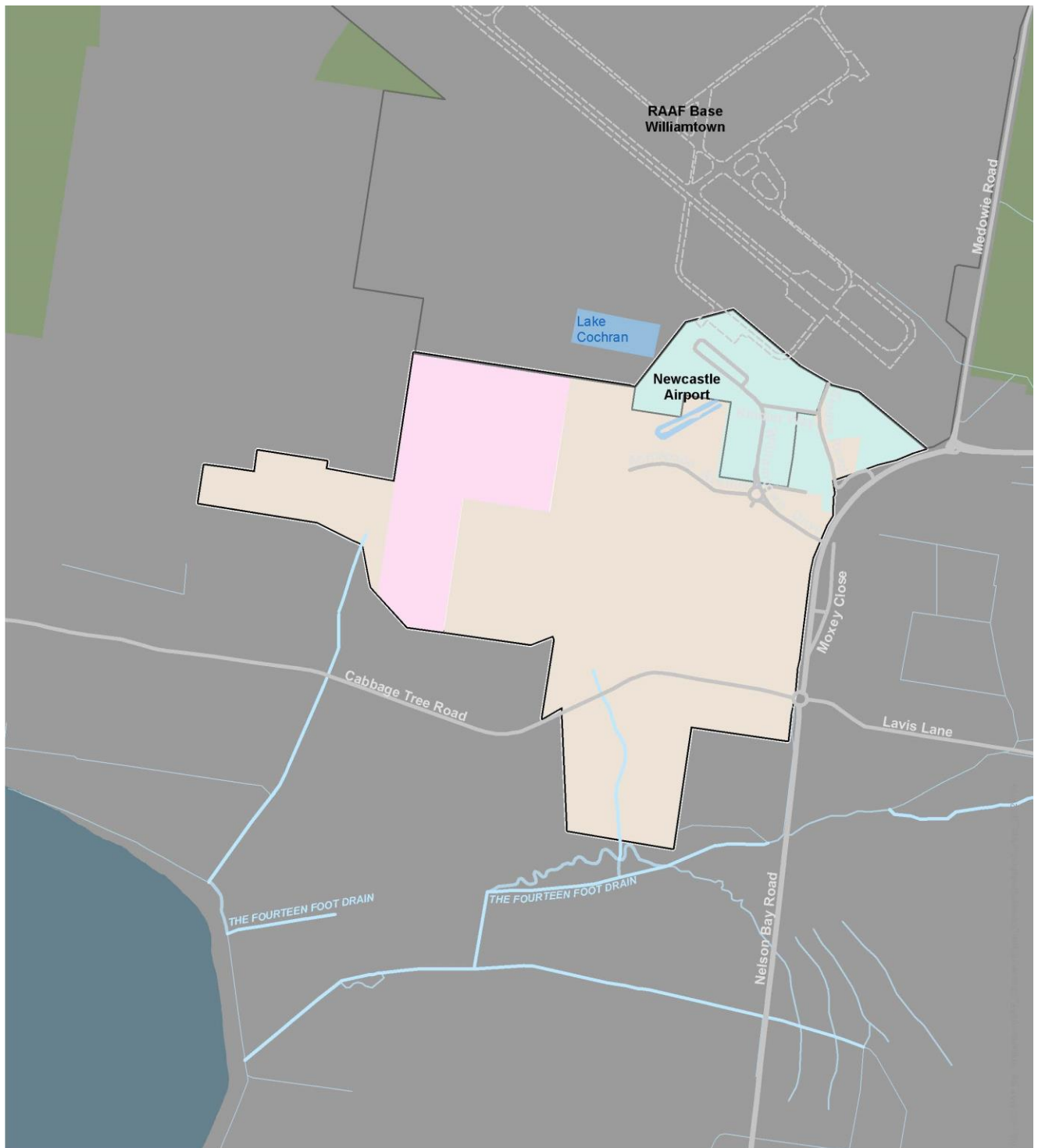
### Airport Windshear Assessment Trigger

- Roads
- Runway and Taxi ways
- Waterway
- ▬ Williamstown SAP Boundary
- ▬ RAAF Base Williamstown and Newcastle Airport
- ▬ Hunter Wetlands National Park
- ▬ Waterbody

- Windshear - Runway centreline
- ▬ Runway
- ▬ Trigger area



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 Publication Date: 30/11/2022  
 Coordinate System: GDA 1994 MGA Zone 56



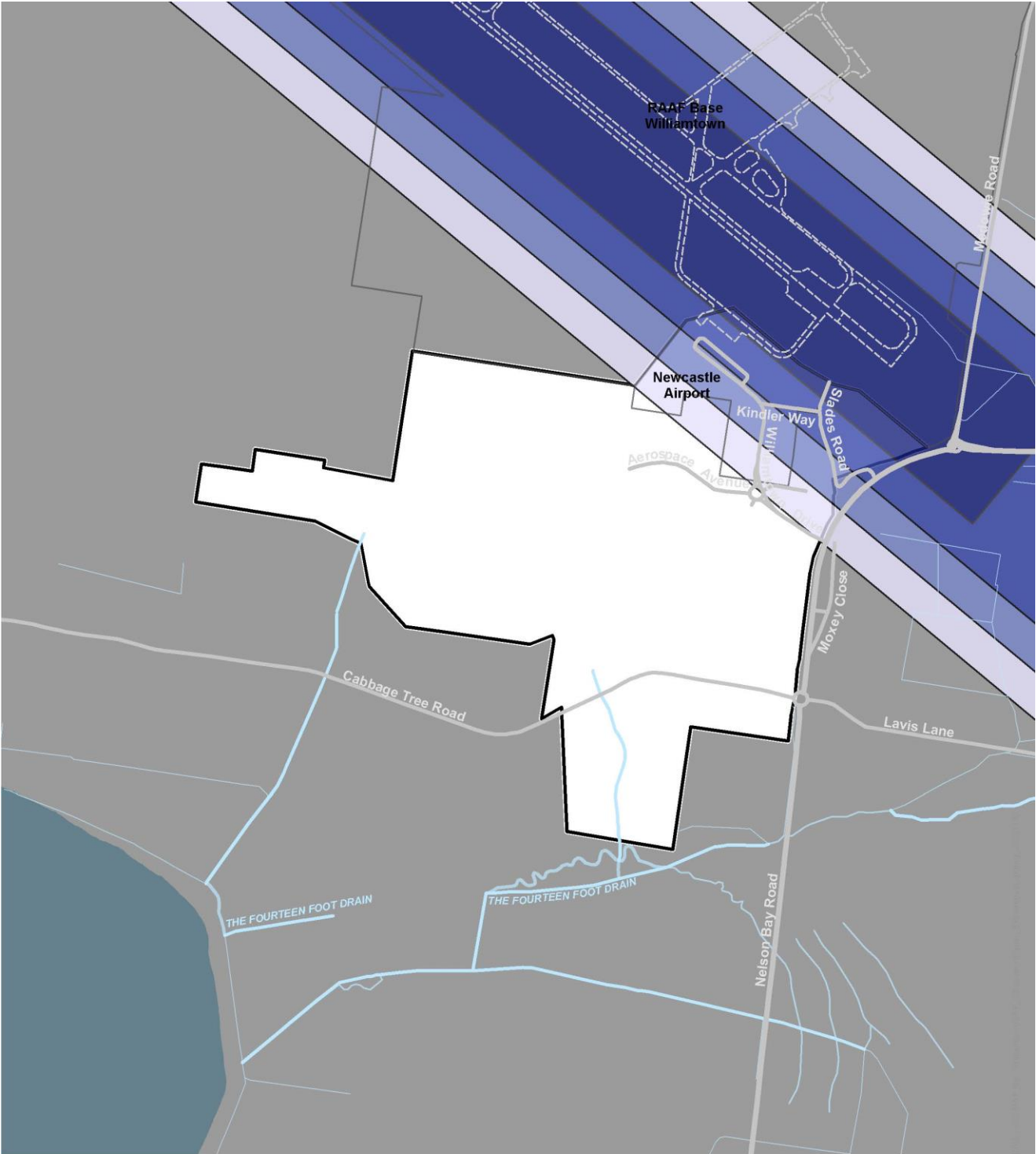
### Obstacle Limitation Surface

- Roads
- Runway and Taxi ways
- Waterway
- ▬ Williamstown SAP Boundary
- ▬ RAAF Base Williamtown and Newcastle Airport
- Hunter Wetlands National Park
- Tilligerry State Conservation Area

- Waterbody
- Height Trigger**
- Commonwealth (Defence) Owned Land
- Refer all structures
- Refer structures higher than 7.5m



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**Extraneous Lighting**

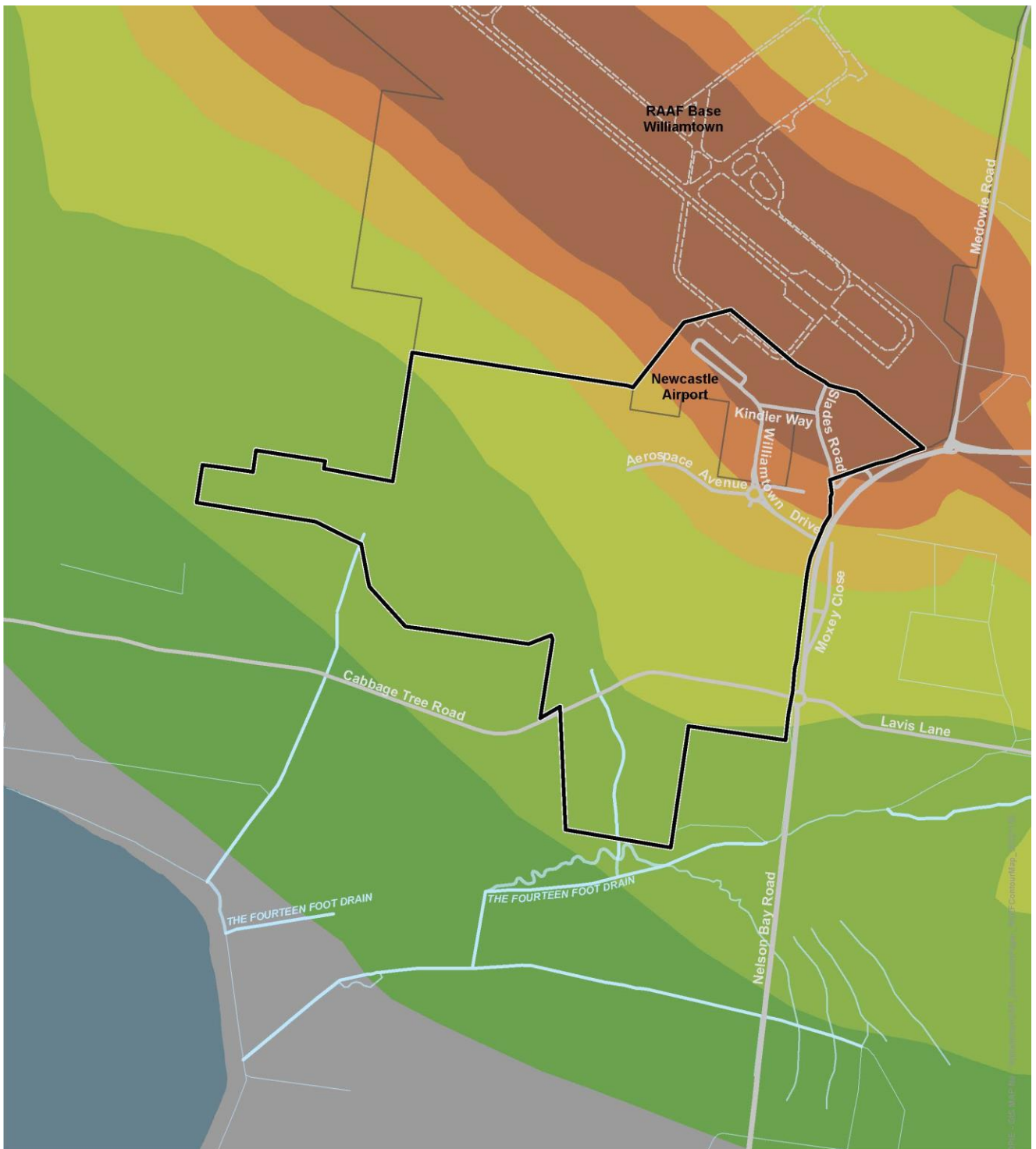
- Roads
- - - Runway and Taxi ways
- Waterway
- RAAF Base Williamstown and Newcastle Airport
- Williamstown SAP Boundary
- Hunter Wetlands National Park

**Civil Aviation Safety Authority (CASA)**

- Zone 'A' 0 cd
- Zone 'B' 50 cd
- Zone 'C' 150 cd
- Zone 'D' 450 cd

0 125 250 500 m  
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Publication Date: 30/11/2022  
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**ANEF Contour Map**

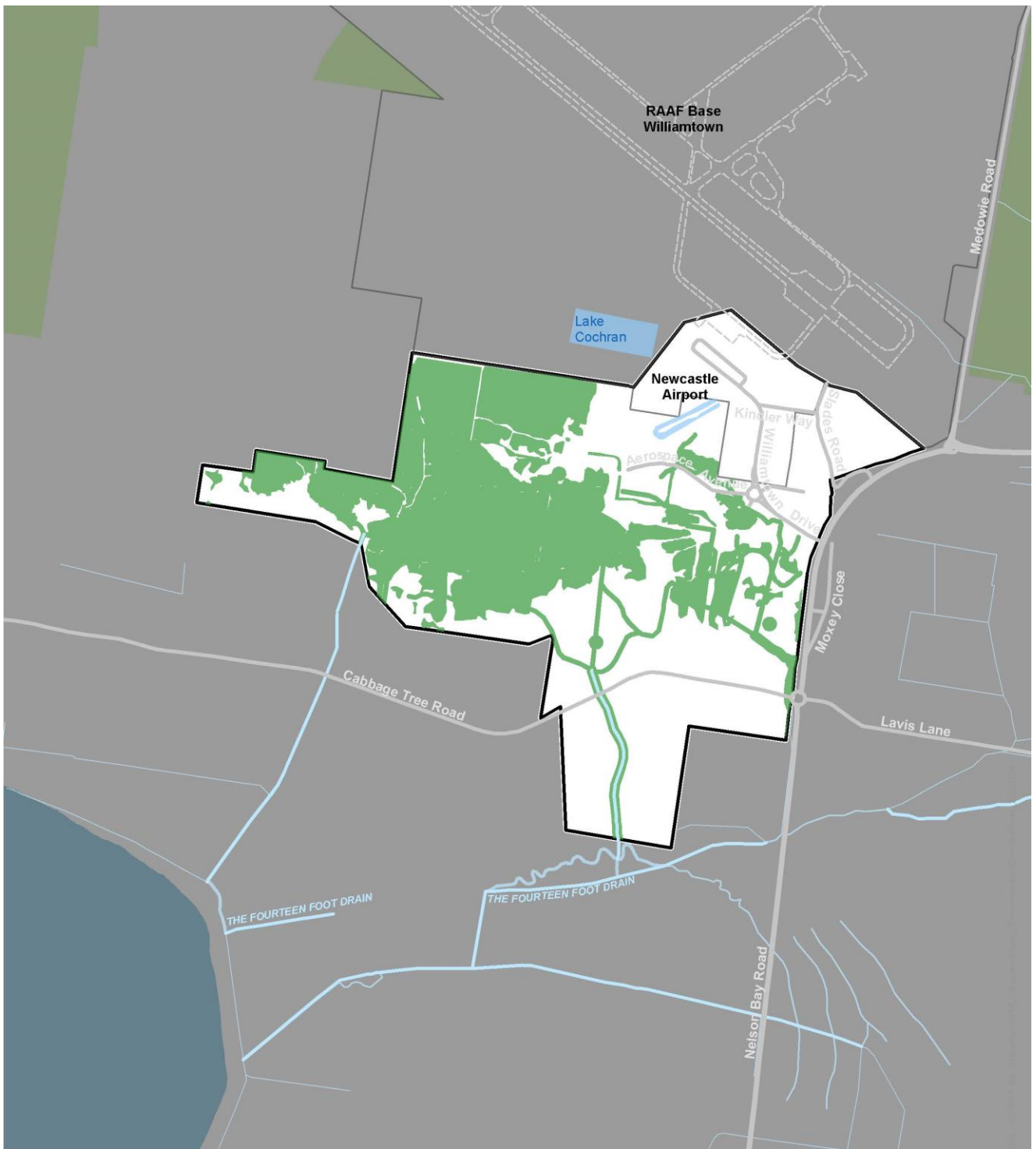
- Roads
- Runway and Taxi ways
- Waterway
- Williamstown SAP Boundary
- RAAF Base Williamtown and Newcastle Airport
- Hunter Wetlands National Park

**ANEF Contour**

- 20 ANEF
- 25 ANEF
- 30 ANEF
- 35 ANEF
- 40 ANEF
- 45 ANEF



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### Environmentally Sensitive Areas

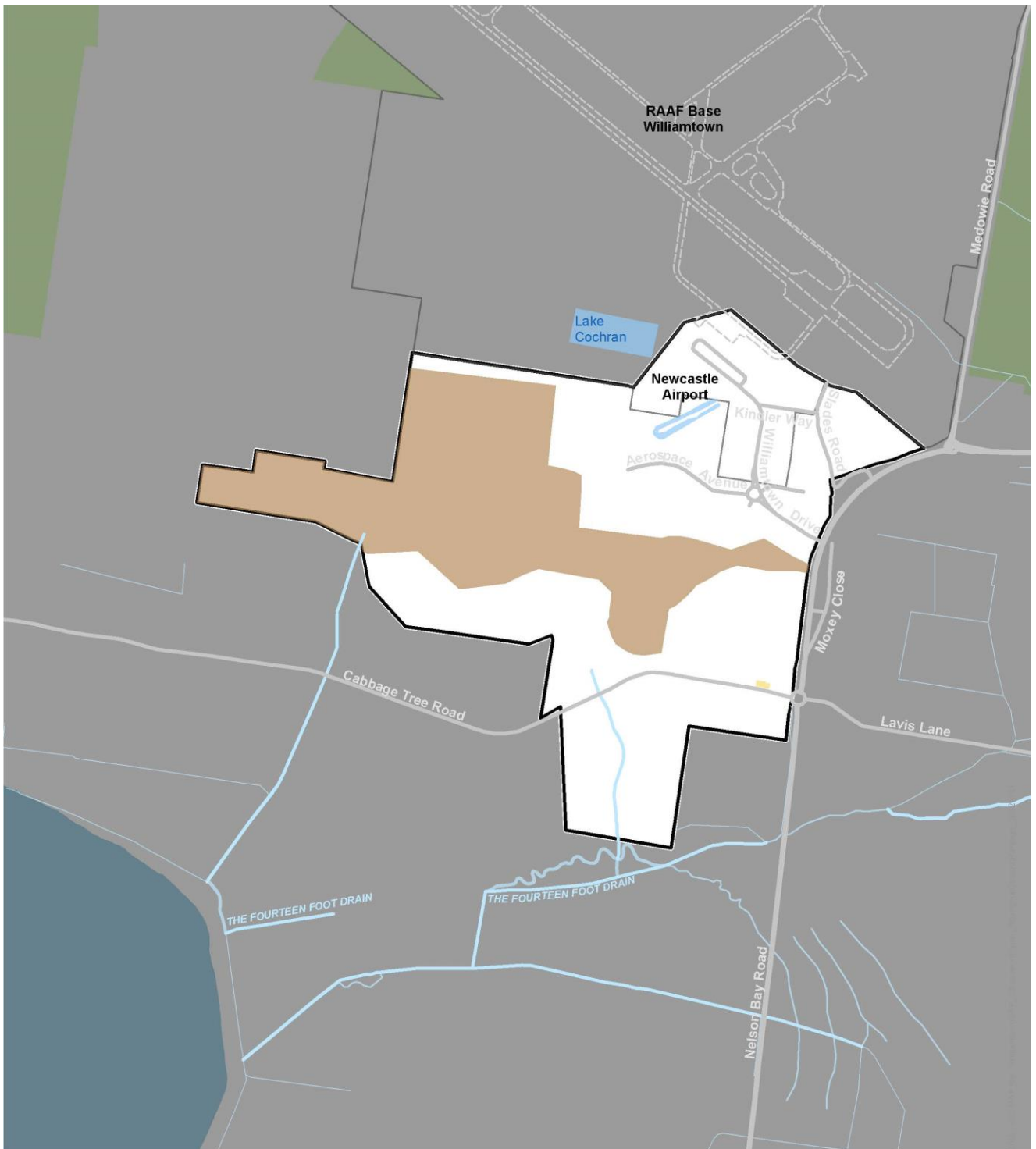
- Roads
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High Biodiversity Values



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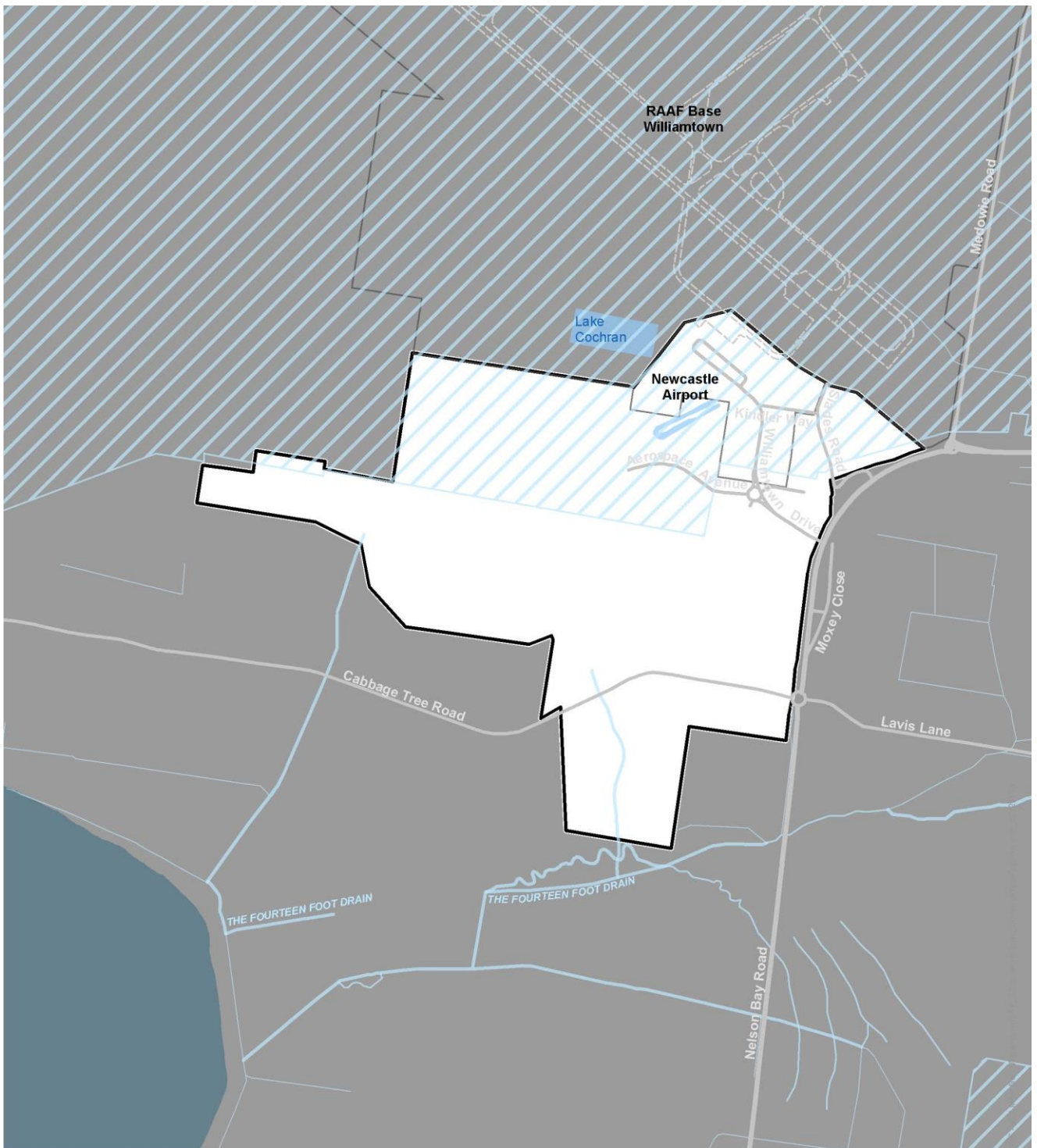


### Aboriginal Cultural Heritage and Non-Aboriginal Heritage Map

- |  |   |
|--|---|
| — Roads  | ■ Tilligerry State Conservation Area                |
| — Runway and Taxi ways                         | ■ Waterbody   |
| — Waterway                                     | ■ High Potential - Aboriginal Heritage Significance |
| ▬ Williamstown SAP Boundary                    | <b>LEP Heritage (Item - General)</b>                |
| ▬ RAAF Base Williamstown and Newcastle Airport | ■ St Saviour's Anglican Church                      |
| ■ Hunter Wetlands National Park                |   |

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### Land Application Map

- Roads
- Runway and Taxi ways
- Waterway
- ▬ Williamstown SAP Boundary
- ▬ RAAF Base Williamtown and Newcastle Airport
- ▬ Hunter Wetlands National Park
- ▬ Waterbody
- ▬ Drinking Water Catchments

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