EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Defence

Defence Act 1903

Defence (RAAF Base Richmond Defence Aviation Area) Declaration 2026

The instrument is made under subsection 117AC(1) of the *Defence Act 1903* (the Act). The instrument commences on the day after it is registered on the Federal Register of Legislation and is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

Purpose

The purpose of the instrument is to declare the area of land and airspace in the vicinity of RAAF Base Richmond in New South Wales to be a defence aviation area. The instrument also specifies height restrictions that apply in relation to buildings, structures and objects (including trees and other natural obstacles) within the area.

Part IXD of the Act establishes defence aviation areas, and provides for their declaration by legislative instrument and regulation-making powers. Part 11A of the *Defence Regulation 2016* (the Regulation) regulates the construction and use of certain buildings, structures and objects in defence aviation areas in order to prevent, remove or reduce hazards to aircraft and aviation-related communications, navigation or surveillance.

Under subsection 117AC(1) of the Act, the Minister may declare, by legislative instrument, an area of land, sea or airspace in or adjacent to Australia to be a defence aviation area, and may also determine height restrictions that apply to buildings, structures and objects (including trees and other natural obstacles) within the area.

The Minister must not declare a defence aviation area unless satisfied that it is necessary for the defence of Australia for one or more of the following matters to apply, and that those matters are necessary for the purpose of preventing or reducing hazards to aircraft or aviation-related communications, navigation and surveillance:

- the regulation or prohibition of the construction or use of buildings, structures or objects within a defence aviation area;
- the regulation or prohibition of the bringing of hazardous objects into, or having objects within, a defence aviation area;
- the removal (in whole or in part), marking, lighting, screening, modification or relocation of buildings, structures or objects (including trees or other natural obstacles) within a defence aviation area.

By declaring the RAAF Base Richmond Defence Aviation Area, the regulatory framework in Part IXD of the Act and Part 11A of the Regulation applies to the area. This supports Defence to ensure the safe and effective operation of Defence aviation at RAAF Base Richmond.

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Background

Defence airfields, air weapons ranges and low flying training areas are important to Australia's defence capability. They support training, operational readiness and Defence's ability to respond to emergencies. The safe operation of aircraft at military airfields is also important to ensuring the safety of surrounding communities.

Defence aviation areas are regulated areas in which activities that may present a hazard to aviation can be controlled. In accordance with Part 11A of the Regulation, a person must obtain approval from the Defence Minister (referred to as 'Defence approval') before constructing a building, structure or object that exceeds the specified height restriction, or before undertaking an activity that may generate gas plumes or air turbulence above the specified height restriction within a defence aviation area. A person must also obtain Defence approval before bringing into a defence aviation area an object that may be hazardous to aircraft or aviation-related communications, navigation or surveillance systems. Under Part 11A, the Defence Minister has the power to direct the removal, marking, lighting, screening, modification or relocation of a building, structure or object in a defence aviation area that exceeds the height restrictions, or is otherwise hazardous to aviation. Part 11A also prescribes offences for non-compliance.

The declaration helps prevent and reduce hazards to Defence aviation in the vicinity of RAAF Base Richmond. The declaration also means that the regulatory requirements that apply to other defence aviation areas will also apply to the RAAF Base Richmond Defence Aviation Area, providing certainty to non-defence users. Overall, the declaration helps achieve the objective of ensuring the safety of Defence aviation operations within the RAAF Base Richmond Defence Aviation Area.

Development of land around RAAF Base Richmond within the defence aviation area is regulated by the *Environmental Planning and Assessment Act 1979* (NSW). Therefore, before constructing a building, structure or object that exceeds the specified height restriction, or before undertaking an activity that may generate gas plumes or air turbulence above the specified height restriction within a defence aviation area, a person may need to seek both Defence approval and local government approval to conduct the activity. While these are separate processes, Defence and local governments may consult on proposals and share information to support a common understanding of the proposal scope, and support their respective regulatory processes. By doing so, Defence and local governments minimise the risk that a building, object or structure is built within, or brought into, a defence aviation area that could create a hazard to Defence aviation safety.

Details of the instrument

Details of the instrument are set out in **Attachment A**.

Consultation

Public consultation occurred between 2 May 2025 and 25 July 2025. Consultees were generally supportive of the proposal to declare the RAAF Base Richmond Defence Aviation Area. Public consultation occurred between 2 May 2025 and 25 July 2025. Consultees were generally supportive of the proposal to declare the RAAF Base Richmond Defence Aviation Area and included local Government stakeholders (including Hawkesbury, The Hills, Penrith, Blacktown and Blue

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Mountains councils), airspace stakeholders (including the Civil Aviation Safety Authority and Airservices Australia), relevant NSW Government agencies, and members of the public and public interest groups.

Parliamentary scrutiny

The instrument is subject to disallowance under section 42 of the Legislation Act.

The instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full Statement of Compatibility with Human Rights is included at **Attachment B**.

The instrument is made by the Hon Peter Khalil MP, Assistant Minister for Defence, in accordance with the requirements of subsection 117AC(1) of the Act.

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Attachment A

Details of the *Defence (RAAF Base Richmond Defence Aviation Area) Declaration 2026*

Section 1 Name

Section 1 provides that the title of the instrument is the *Defence (RAAF Base Richmond Defence Aviation Area) Declaration 2026*.

Section 2 Commencement

Section 2 provides that the instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3 Authority

Section 3 provides that the instrument is made under subsection 117AC(1) of the Act.

Section 4 Declaration of Defence Aviation Area

Subsection 4(1) declares the RAAF Base Richmond Defence Aviation Area to be a defence aviation area.

Subsection 4(2) provides that the RAAF Base Richmond Defence Aviation Area comprises the area of land and airspace in the vicinity of RAAF Base Richmond in New South Wales depicted on the plan set out in Schedule 1 to the instrument.

Subsection 4(3) clarifies that areas depicted by white space on the plan are not included in the RAAF Base Richmond Defence Aviation Area.

The note after subsection 4(3) provides that 'defence aviation area' is defined in section 4 of the Act.

Section 5 Specification of height restrictions

Subsection 5(1) provides that for the purposes of subsection 117AC(3) of the Act, height restrictions apply in relation to buildings, structures and objects, including trees and other natural obstacles, within the RAAF Base Richmond Defence Aviation Area.

Subsection 5(2) provides that the height restrictions described in the legend to the plan in Schedule 1 apply in the corresponding area depicted on the plan.

Schedule 1 – Plan

Schedule 1 contains the plan depicting the area of land and airspace that comprises the RAAF Base Richmond Defence Aviation Area. The declared defence aviation area is the area as identified by the legend to the plan. The legend also identifies the applicable height restrictions for different parts of the defence aviation area. The plan is available on Defence's website at https://www.defence.gov.au/about/locations-property/defence-aviation-areas-regulation.

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Attachment B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Defence (RAAF Base Richmond Defence Aviation Area) Declaration 2026

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instrument declares the areas of land and airspace surrounding RAAF Base Richmond to be a defence aviation area, and specifies height restrictions that apply to buildings, structures and objects within that area. The declaration means that the provisions of Part IXD of the *Defence Act 1903* and Part 11A of the *Defence Regulation 2016* apply within the area.

Human rights implications

This instrument does not engage any of the applicable rights or freedoms.

Conclusion

This instrument is compatible with human rights as it does not raise any human rights issues.

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