



Matter for consideration

Commencement of technical amendment TA2023-03 – FUA uplift and rezoning boundary and public land overlay changes

To

Freya O'Brien
Executive Branch Manager
Planning and Urban Policy

Recommendations

That you:

1. note the contents of this minute and TA2023-03 (Attachment A)
2. agree that you are satisfied that if the plan variation in TA2023-03 is made, it is a technical amendment
3. approve TA2023-03 by signing the attached Notifiable Instrument (Attachment A), and
4. agree to the commencement of TA2023-03.

Background

This technical amendment will make the following changes to the Territory Plan:

Territory Plan Map

- Remove the public land overlay 'Pi – a sport and recreation reserve' at Ainslie section 26 block 19 and Braddon section 30 block 6

Issues

Legal Policy and Information Access reviewed and cleared the notifiable instrument on 17 April 2023.

The technical amendment did not require public consultation and there are no outstanding issues.

For the technical amendment to commence on Friday 28 April 2023, the attached NI needs to be approved by Wednesday 26 April 2023.

Media issues

Nil.

Financial implications

Nil.


Linkages to other briefs and ministerials

Nil.

Name	Alix Kaucz
Position title/branch	Senior Director, Territory Plan
Division	Planning and Urban Policy
Phone number	x50864

Contact Officer	Chris Thompson
Phone number	x78720

AGREED / NOT AGREED / NOTED / DISCUSS


.....
Executive Branch Manager, Planning and Urban Policy

..... 24 / 04 / 2023

Planning and Development (Technical Amendment—FUA uplift and rezoning boundary and public land overlay changes) Plan Variation 2023

Notifiable instrument NI2023—

Technical Amendment No 2023-03

made under the

Planning and Development Act 2007, s 89 (Making technical amendments), s 90A (Rezoning boundary changes) and s 96 (Effect of approval of estate development plan)

1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—FUA uplift and rezoning boundary and public land overlay changes) Plan Variation 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Technical amendment

I am satisfied under the *Planning and Development Act 2007*, section 89 (1) (a), that the FUA uplift and rezoning boundary and public land overlay changes plan variation is a technical amendment to the Territory Plan.

4 Dictionary

In this instrument:

FUA uplift and rezoning boundary and public land overlay changes plan variation means the technical amendment to the Territory Plan, variation 2023-03, as set out in the schedule.

Note No consultation was required in relation to this plan variation under the Act, s 87.


Freya O'Brien

Delegate of the planning and land authority

24 April 2023



ACT
Government

Environment, Planning and
Sustainable Development

Planning & Development Act 2007

Technical Amendment to the Territory Plan Variation 2023-03

FUA uplift and rezoning boundary and
public land overlay changes

April 2023

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1. INTRODUCTION

1.1 Purpose

This technical amendment makes the following changes to the Territory Plan:

Territory Plan Map

- Remove the public land overlay 'Pi – a sport and recreation reserve' at Ainslie section 26 block 19 and Braddon section 30 block 6
- Add the public land overlay 'Pe – urban open space' at Dickson section 34 block 30
- Uplift the future urban area (FUA) overlay on land in the Divisions of Kenny and Strathnairn, as identified in Part 2 of this document
- Realign zone and overlay boundaries on the following blocks:
 - Strathnairn section 35 blocks 2, 3 and 4 (Strathnairn Arts Centre) and section 37 block 5

Kenny Precinct Map and Code

- Introduction of the Kenny Precinct Map and Code

Strathnairn Precinct Map and Code

- Replace the Strathnairn Precinct Map
- Add Table 1 – Additional merit track development
- Add RC2 – Strathnairn Arts Centre

1.2 Public consultation

Under section 87(1)(b) of the *Planning and Development Act 2007* (the Act) this type of technical amendment is not subject to public consultation.

1.3 National Capital Authority

The National Capital Authority does not need to be advised of this technical amendment as per 1.2.

1.4 Process

This technical amendment has been prepared in accordance with section 87 and made in accordance with section 89 of the Act.

1.5 Types of technical amendments under the Act

The following categories of technical amendments are provided under section 87 of the Act:

- (1) Each of the following territory plan variations is a **technical amendment** for which no consultation is needed before it is made under section 89:
 - (a) a variation (an **error variation**) that –
 - (i) would not adversely affect anyone’s rights if approved; and
 - (ii) has as its only object the correction of a formal error in the plan;
 - (b) a variation to change the boundary of a zone or overlay under section 90A (Rezoning – boundary changes);
 - (c) a variation, other than one to which subsection (2)(d) applies, in relation to an estate development plan under section 96 (Effect of approval of estate development plan);
 - (d) a variation required to bring the territory plan into line with the national capital plan;
 - (e) a variation to omit something that is obsolete or redundant in the territory plan.

- (2) Each of the following territory plan variations is a **technical amendment** for which only limited public consultation is needed under section 90:
 - (a) a variation (a **code variation**) that –
 - (i) would only change a code; and
 - (ii) is consistent with the policy purpose and policy framework of the code; and
 - (iii) is not an error variation;
 - (b) a variation to change the boundary of a zone under section 90B (Rezoning – development encroaching on adjoining territory land);
 - (c) a variation in relation to a future urban area under section 90C (Technical amendments – future urban areas);
 - (d) a variation in relation to an estate development plan under section 96 (Effect of approval of estate development plan) if it incorporates an ongoing provision that was not included in the plan under section 94(3)(g);
 - (e) a variation to clarify the language in the territory plan if it does not change the substance of the plan;
 - (f) a variation to relocate a provision within the territory plan if the substance of the provision is not changed.

TA2023-03 has been prepared in accordance with section 87(1)(a), (b), (c) and (e) of the Act.

2. EXPLANATION

This part of the technical amendment document explains the changes to be made to the Territory Plan.

2.1 Variation to the Territory Plan Map

Variation to the Territory Plan Map

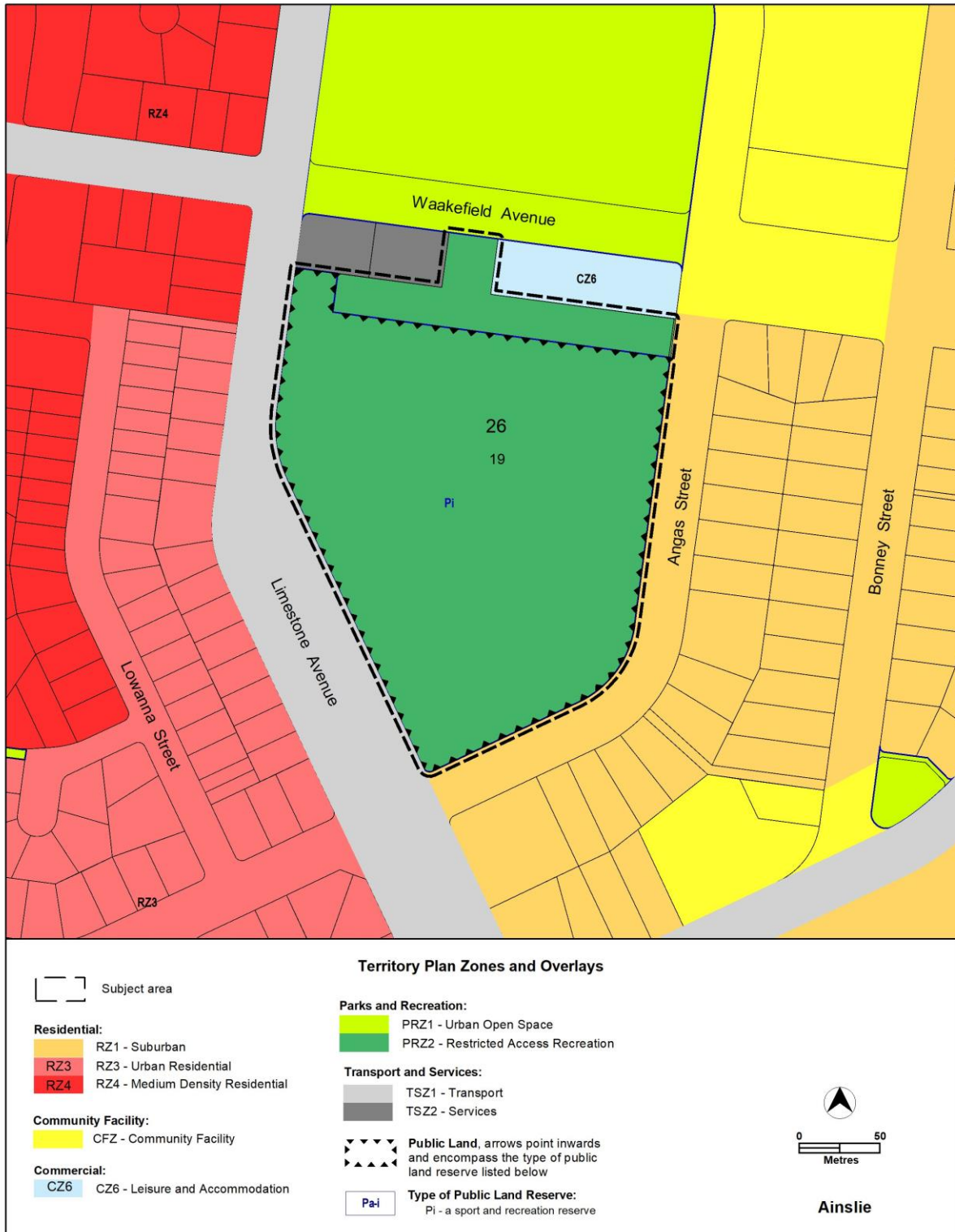
Ainslie and Braddon

The enclosed ovals at Ainslie section 26 block 19 and Braddon section 30 block 6 are zoned Parks and Recreation PRZ2 Restricted Access Recreation and have a public land 'Pi – a sportsground or recreation reserve' overlay.

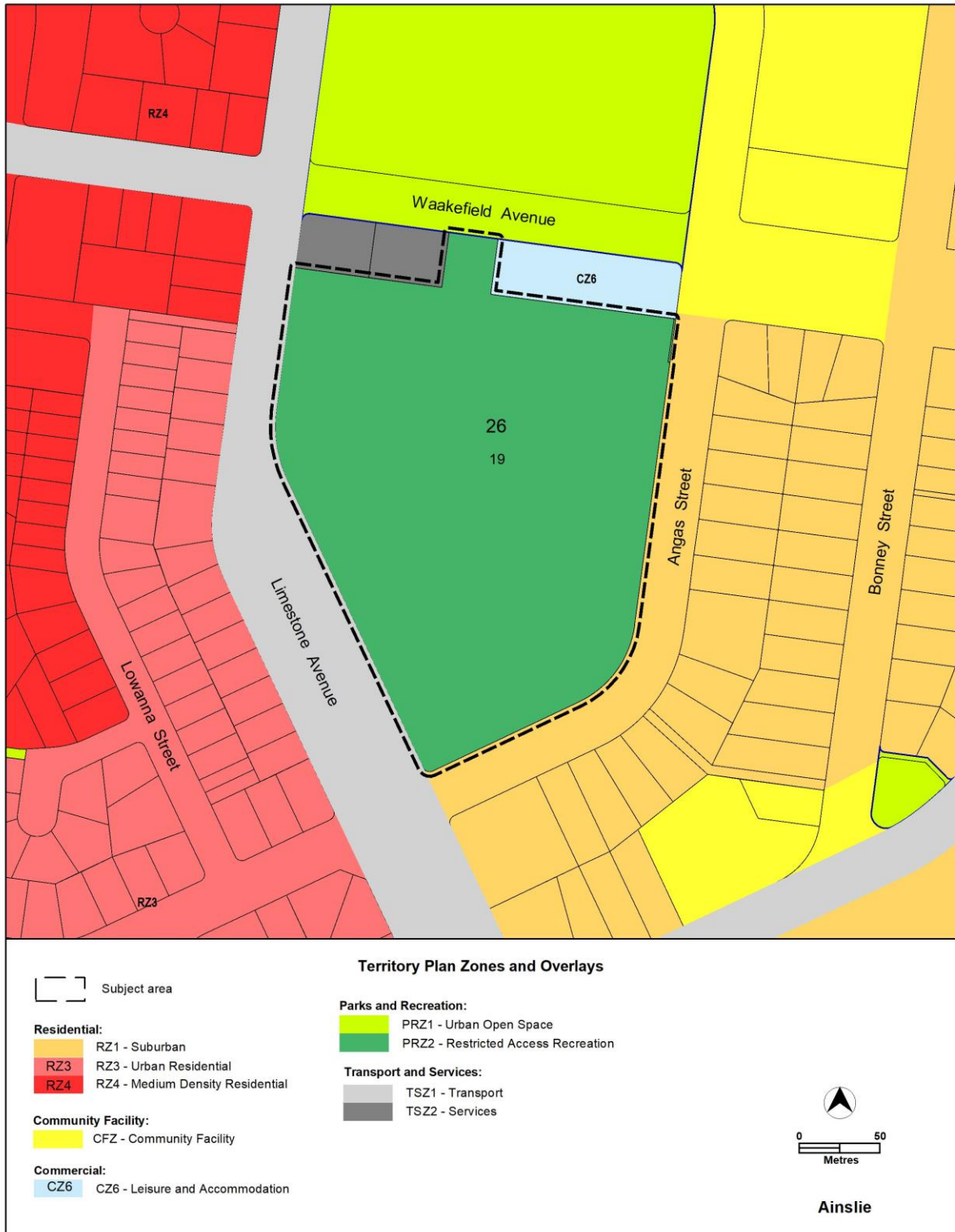
The *Planning and Development Act 2007*, section 321 states that the custodian of an area of public land must prepare a draft land management plan for the area. Section 333 defines custodian as "...an administrative unit or other entity with administrative responsibility for land in the ACT that is unleased land, public land or both.", which effectively limits custodianship to government agencies. As the enclosed oval in Ainslie is leased to the Ainslie Football Club and the enclosed oval at Braddon is leased to the Canberra District Rugby League Football Club, there is no custodian. Therefore, as section 321 is not able to be achieved, the 'Pi' overlay on each oval is being removed.

Section	Statement
s87(1) (e) a variation to omit something that is obsolete or redundant in the territory plan.	Compliant. This amendment removes the Pi overlay on the enclosed ovals at Ainslie and Braddon as they are privately leased, and the overlay has become redundant. The Conservator of Flora and Fauna supports the removal of the overlay from both ovals.

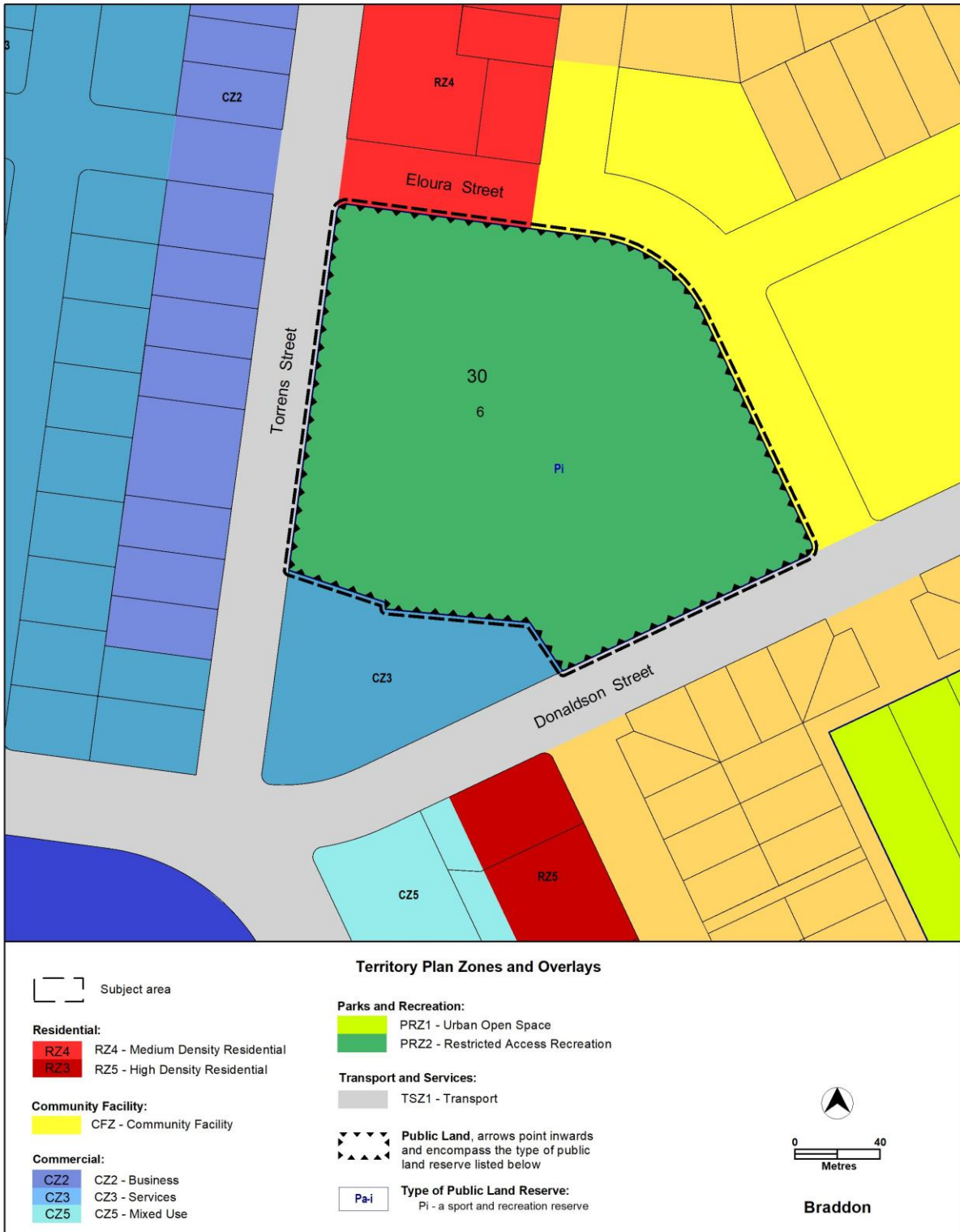
Ainslie – Existing Territory Plan Map



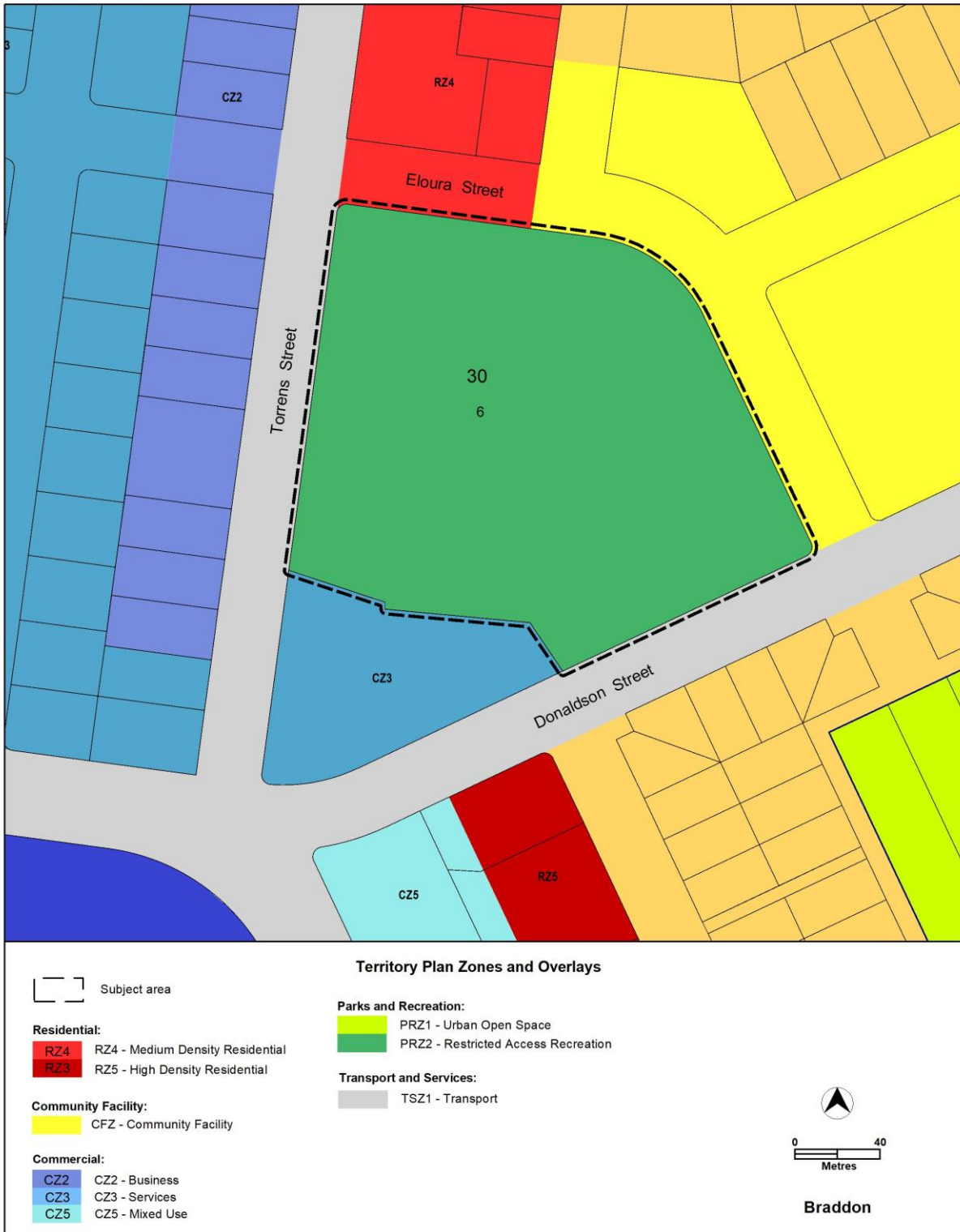
Ainslie – Proposed Territory Plan Map



Braddon – Existing Territory Plan Map



Braddon – Proposed Territory Plan Map



Dickson

Variation 311 implemented the findings of the Dickson centre master plan, which included adding the public land overlay 'Pe – an urban open space' to a portion of Dickson section 34 block 30. However, the Pe overlay was inadvertently omitted. This technical amendment rectifies the omission.

Dickson – Existing Territory Plan Map



Dickson – Proposed Territory Plan Map



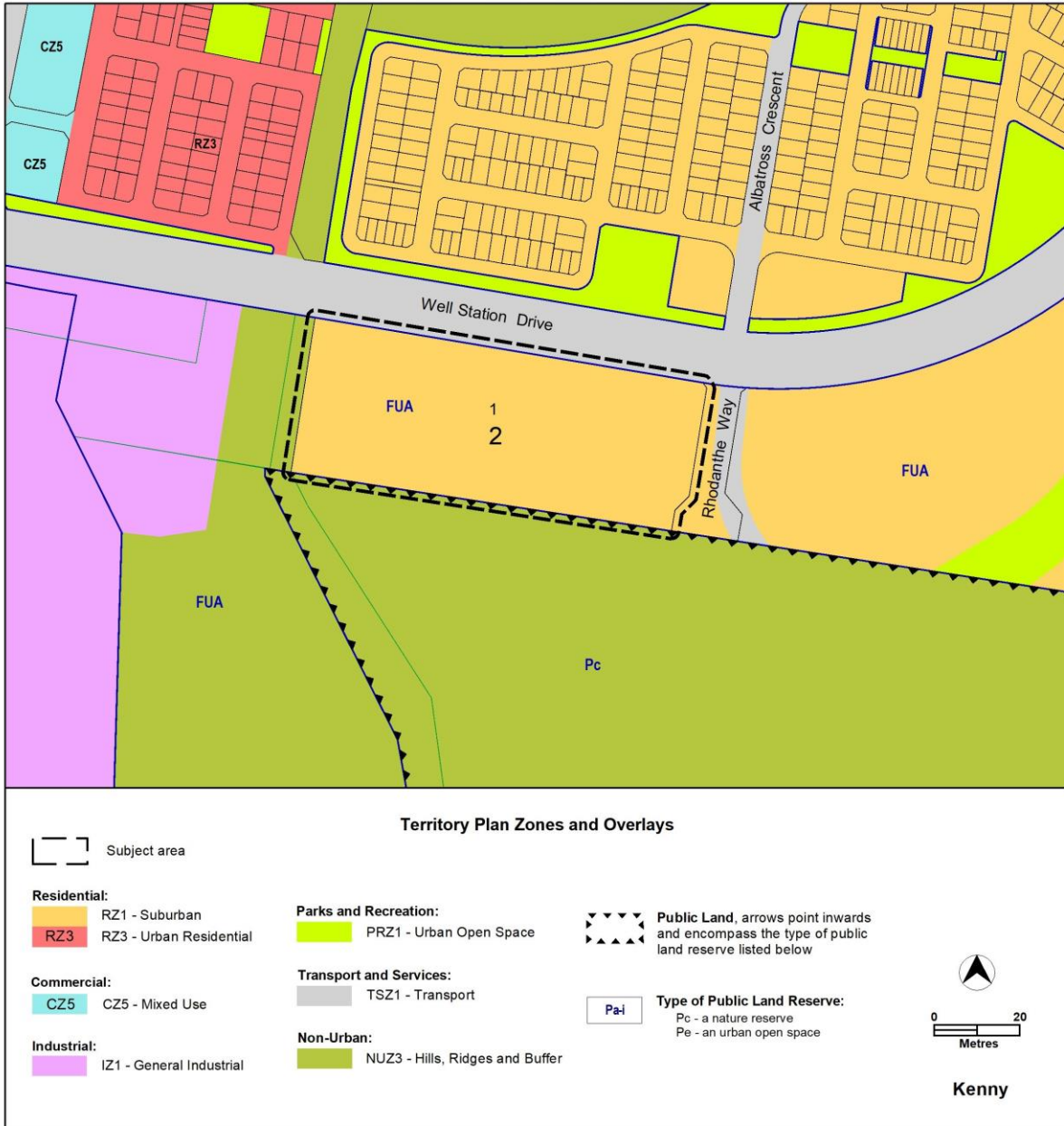
Compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(a) (a) a variation (an error variation) that— (i) would not adversely affect anyone's rights if approved; and (ii) has as its only object the correction of a formal error in the plan;	Compliant. This amendment corrects a formal error on the Territory Plan Map by rectifying an omission to include Pe – urban open space overlay in accordance with Variation 311 to the Territory Plan.

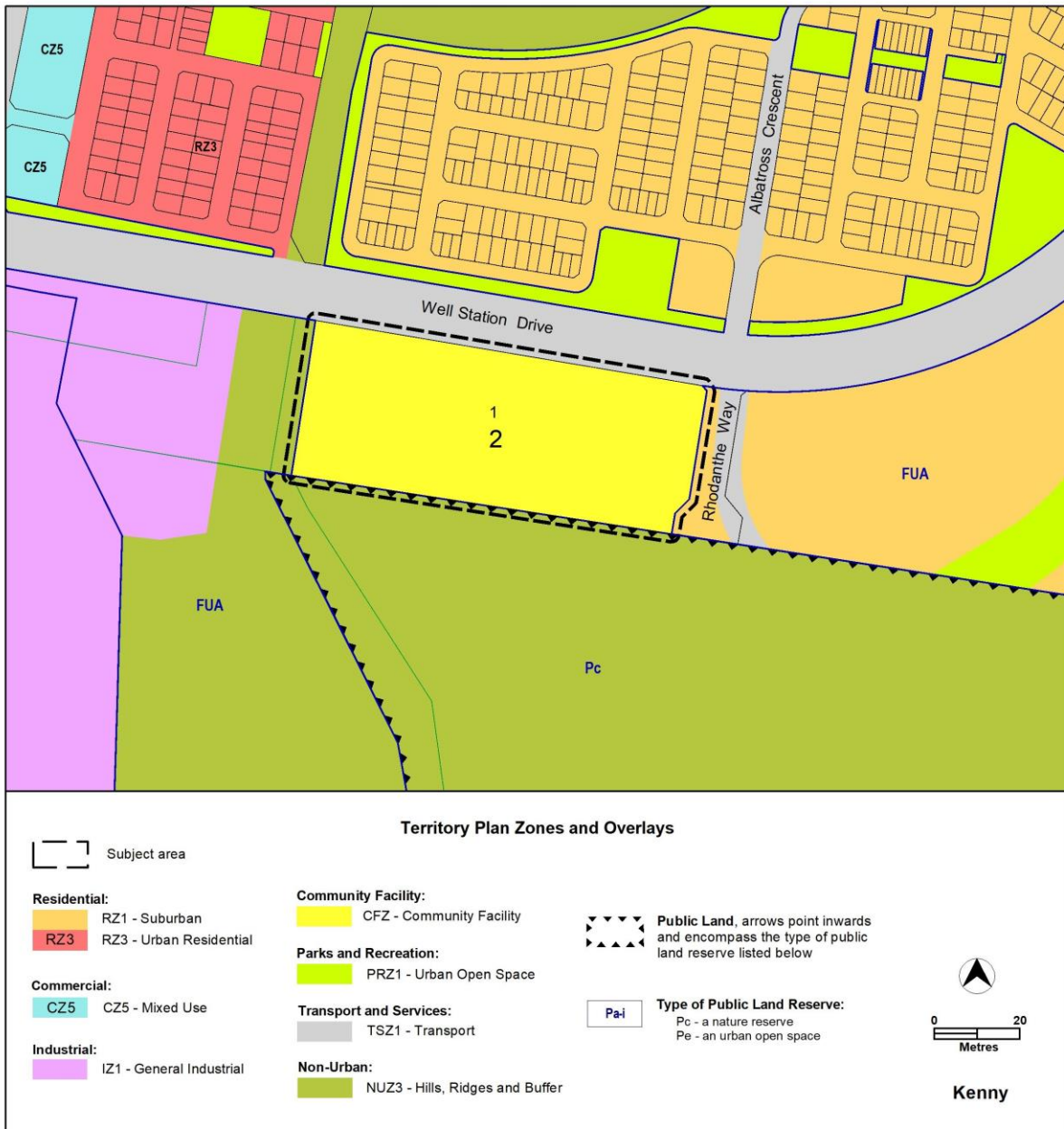
Kenny

The Territory Plan map is varied to identify the zone that applies to land ceasing to be in a future urban area.

Kenny - Existing Territory Plan Map



Kenny - Proposed Territory Plan Map



Compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(c) a variation, other than one to which subsection (2) (d) applies, in relation to an estate development plan under section 96 (Effect of approval of estate development plan);	Compliant. This amendment identifies the zone that will apply to the land and incorporates ongoing provisions consistent with the estate development plan.

Strathnairn

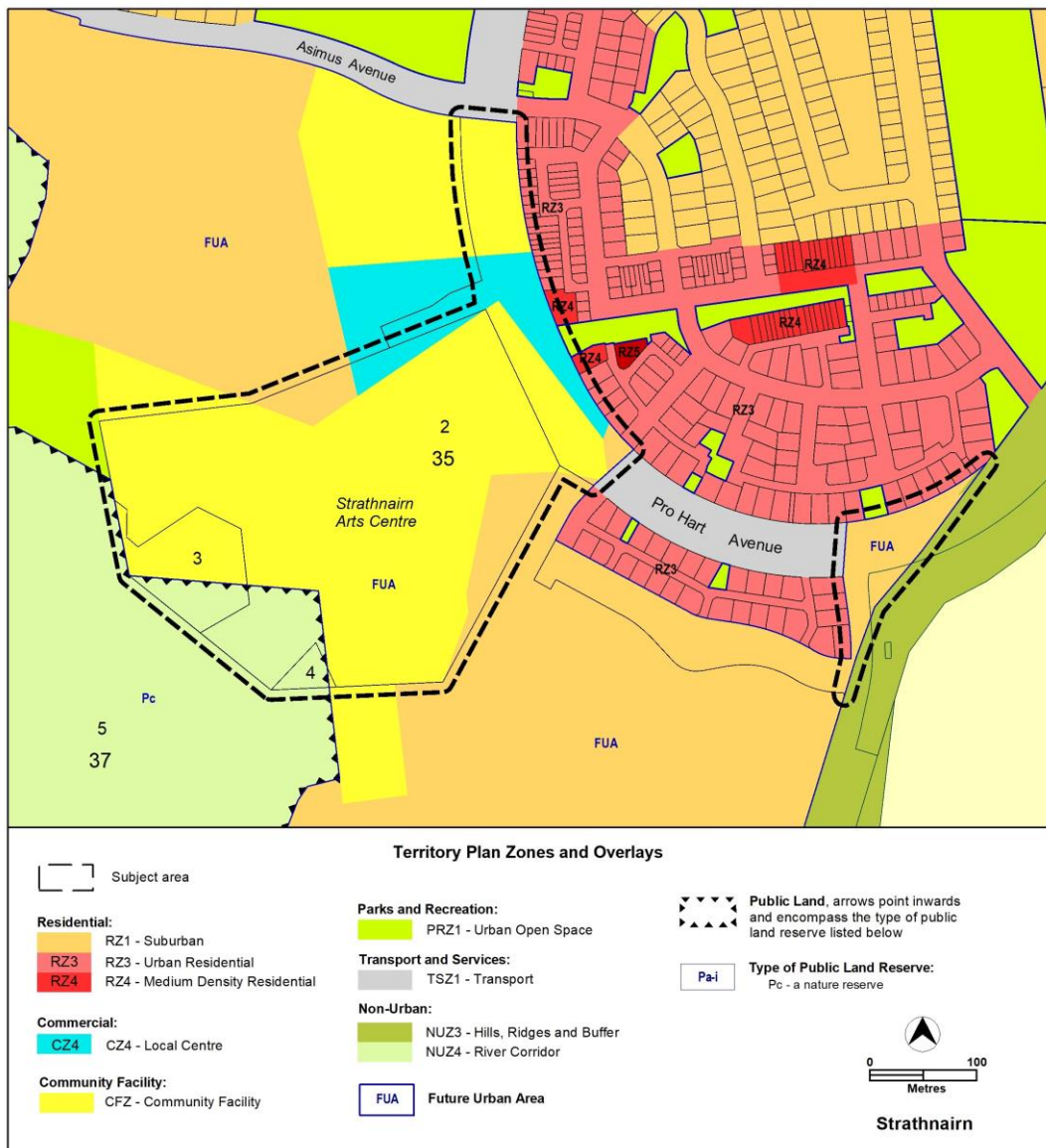
The Territory Plan map is varied to identify the zones and overlays that apply to land ceasing to be in a future urban area.

In accordance with section 90A of the *Planning and Development Act 2007* this technical amendment will realign the zone and overlay boundaries of the:

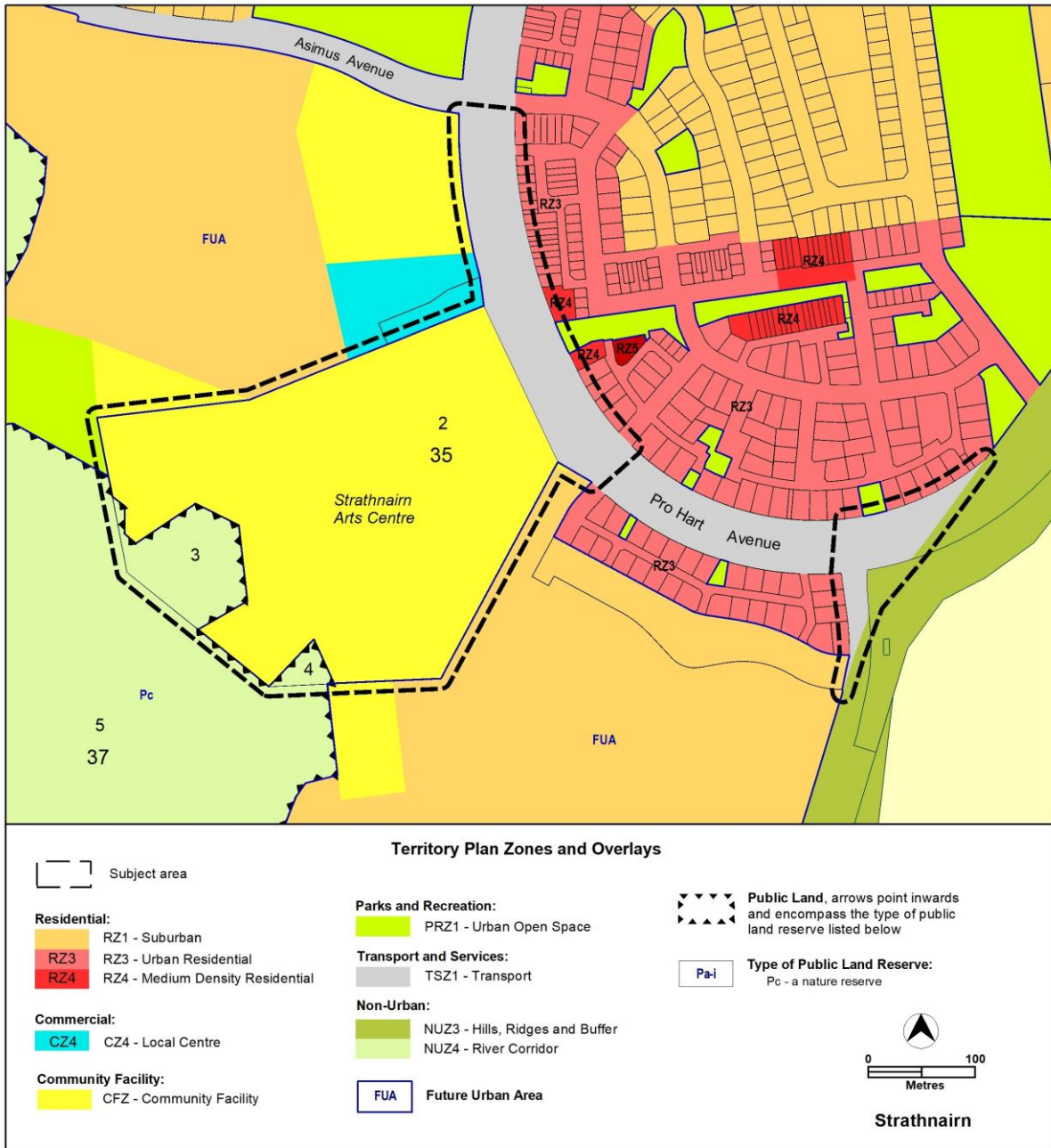
- Community Facility zone and Non-Urban NUZ4 River Corridor zone, and public land Pc nature reserve overlay at Strathnairn section 35 blocks 2 (Strathnairn Arts Centre), 3 and 4 and section 37 block 5

The zone and overlay boundaries are being adjusted to match the new block boundaries. Blocks 3 and 4 will be included in the expanded nature reserve and Ginninderry Conservation Corridor. The planning and land authority was requested to make changes to the zone and overlay boundaries by the relevant land custodians.

Strathnairn – Existing Territory Plan Map



Strathnairn - Proposed Territory Plan Map



Compliance with the *Planning and Development Act 2007*

Section	Statement
<p>Section 87(1)(b) - a variation to change the boundary of a zone or overlay under section 90A (Rezoning boundary changes)</p> <p>Section 90A</p>	
<p>(1) This section applies to a zone or overlay in relation to land if the land adjoins unleased territory land or land for which the Territory is the registered proprietor (the adjoining territory land).</p>	<p>This technical amendment proposes to adjust zoning on land which the Territory is the registered proprietor, and on unleased land at:</p> <ul style="list-style-type: none"> • Strathnairn section 35 blocks 2, 3 and 4 and section 37 block 5
<p>(2) The planning and land authority may vary the territory plan under section 89 (Making technical amendments) to change the boundary of the zone or overlay to encroach onto the adjoining territory land if the change is consistent with— (a) the apparent intent of the original boundary line; and (b) the objective for the zone.</p>	<p>The amendment is considered to be consistent with the apparent intent of the original zone and overlay boundaries. This technical amendment facilitates the achievement of the zone objectives. The amendment to the zone boundary results in an overall gain to the NUZ4 River Corridor zone and nature reserve.</p>
<p>(3) The planning and land authority may vary the territory plan under section 89 to change the boundary of an overlay to encroach onto the adjoining territory land if— (a) the authority is advised to do so by— (i) the conservator of flora and fauna; or (ii) the custodian of the land for the overlay; and (b) the conditions in subsection (2) (a) and (b) are satisfied.</p> <p>(4) In this section: overlay means an overlay identified in the territory plan.</p>	<p>The planning and land authority has been advised to make the changes by the land custodians Chief Minister, Treasury and Economic Development Directorate and the Environment, Planning and Sustainable Development Directorate.</p> <p>The conditions in subsection (2) (a) and (b) are satisfied as explained above.</p>

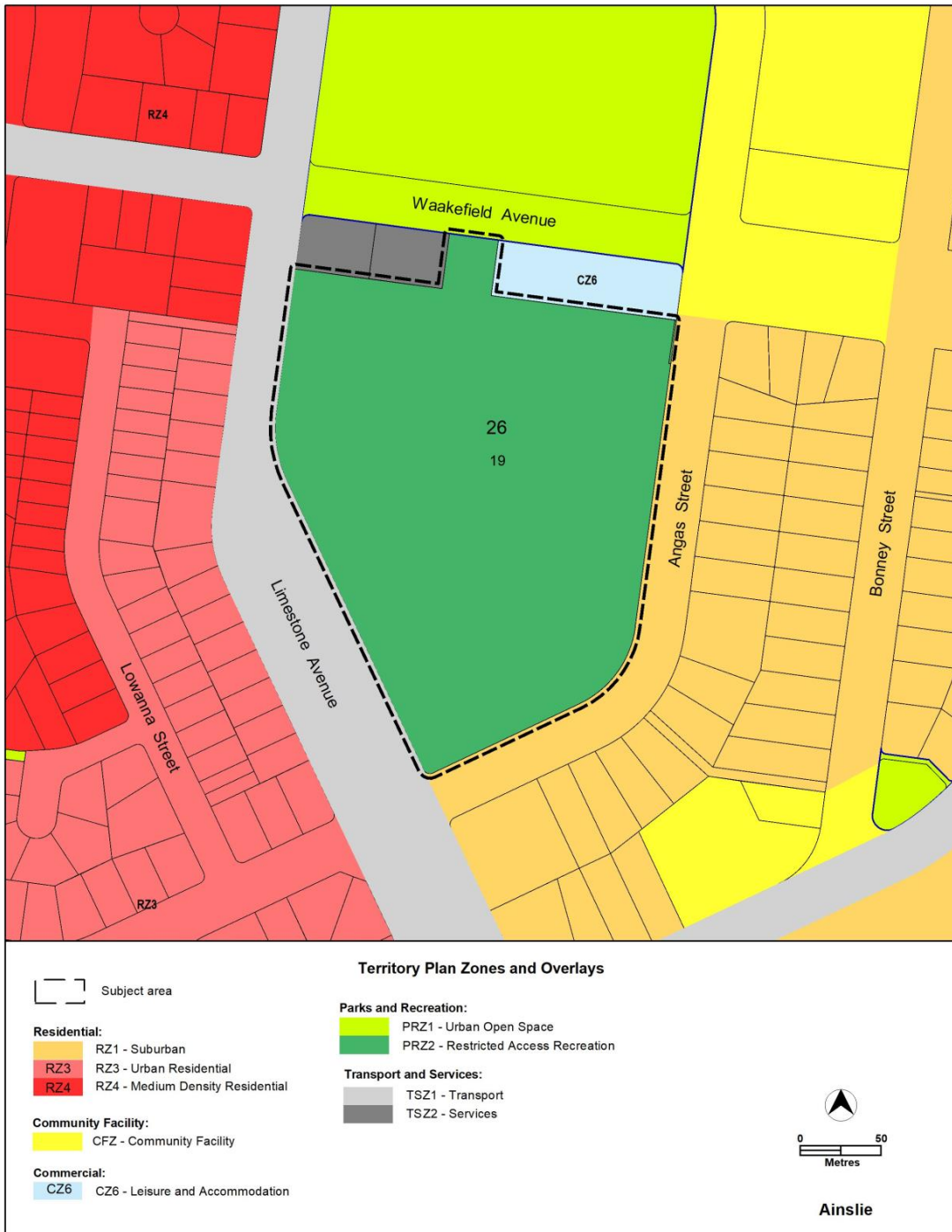
3. TECHNICAL AMENDMENT

This section of the technical amendment document provides the actual instructions for implementing the changes to the Territory Plan.

3.1 Territory Plan Map

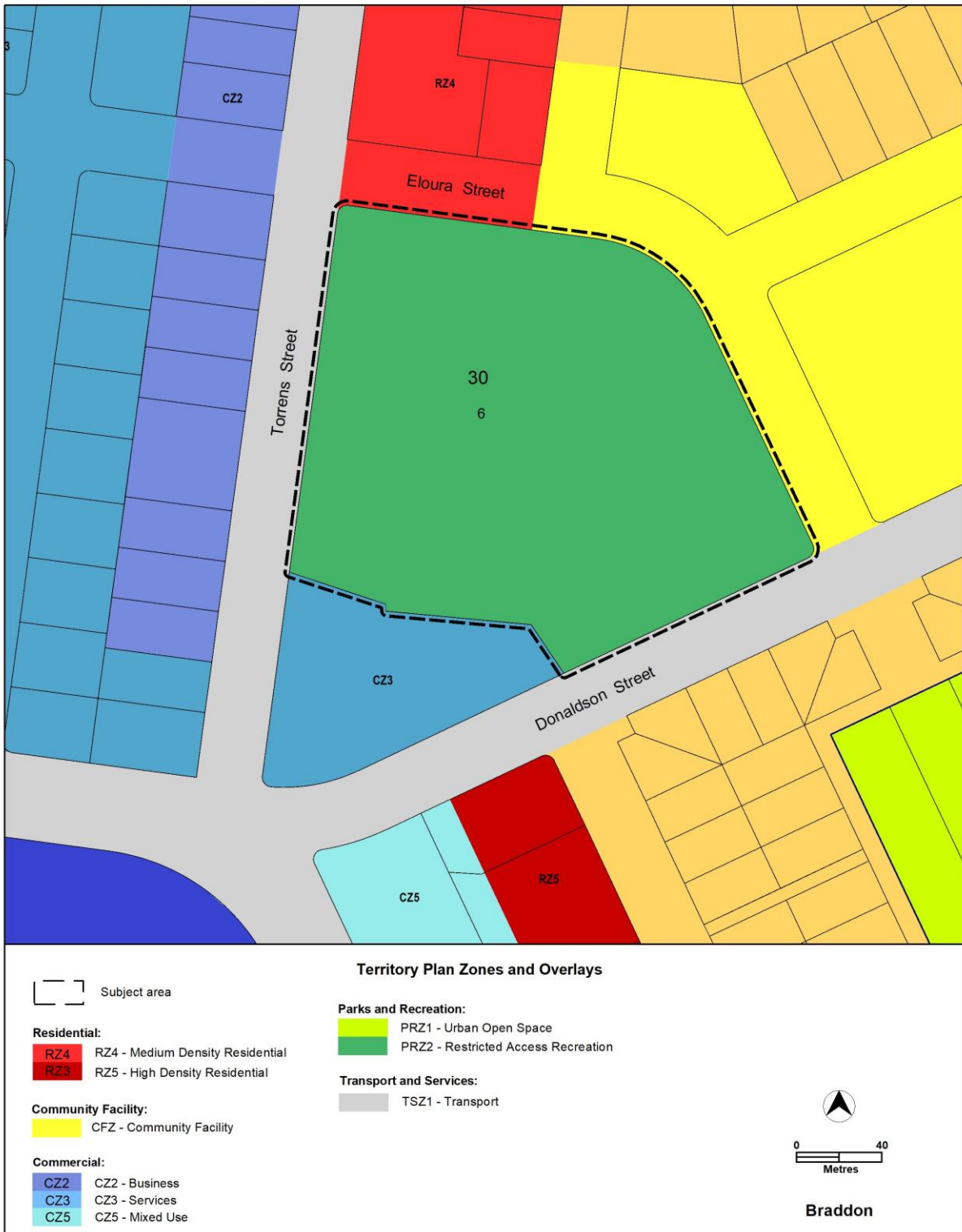
1. Ainslie

The Territory Plan map is varied as indicated below.



2. Braddon

The Territory Plan map is varied as indicated below.



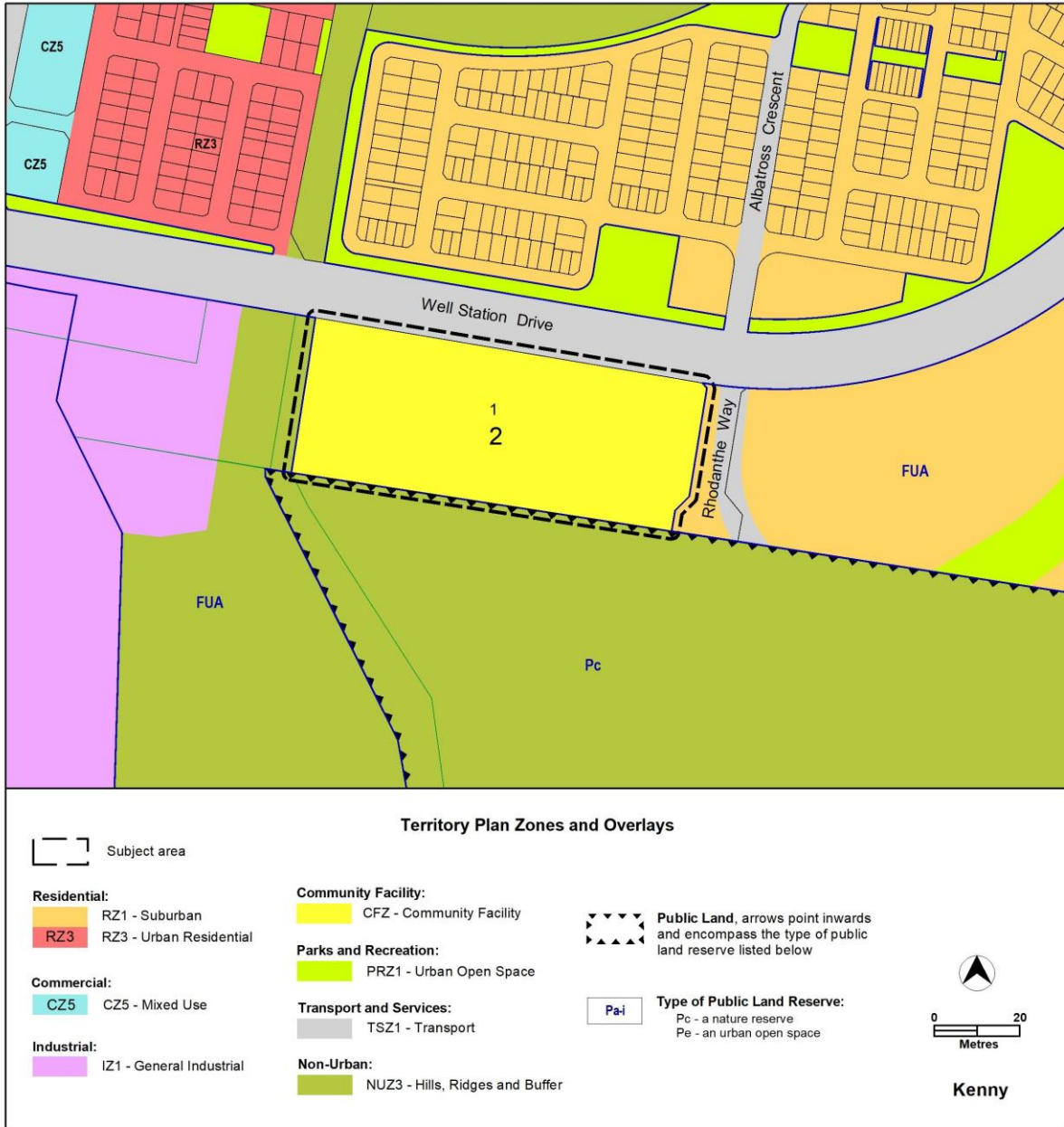
3. Dickson

The Territory Plan map is varied as indicated below.



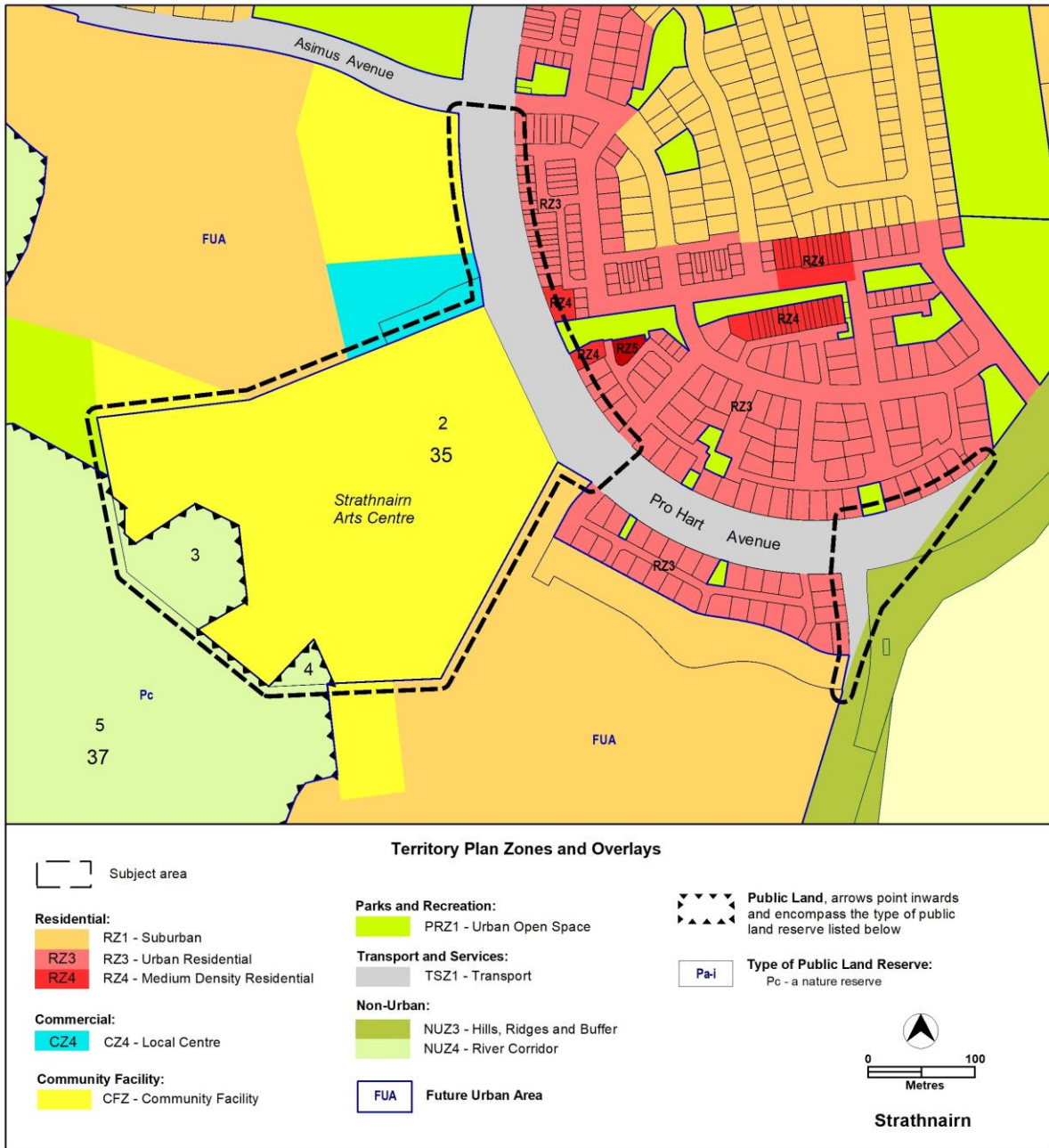
4. Kenny

The Territory Plan map is varied as indicated below.



5. Strathnairn

The Territory Plan map is varied as indicated below.



3.2 Precinct Maps and Codes

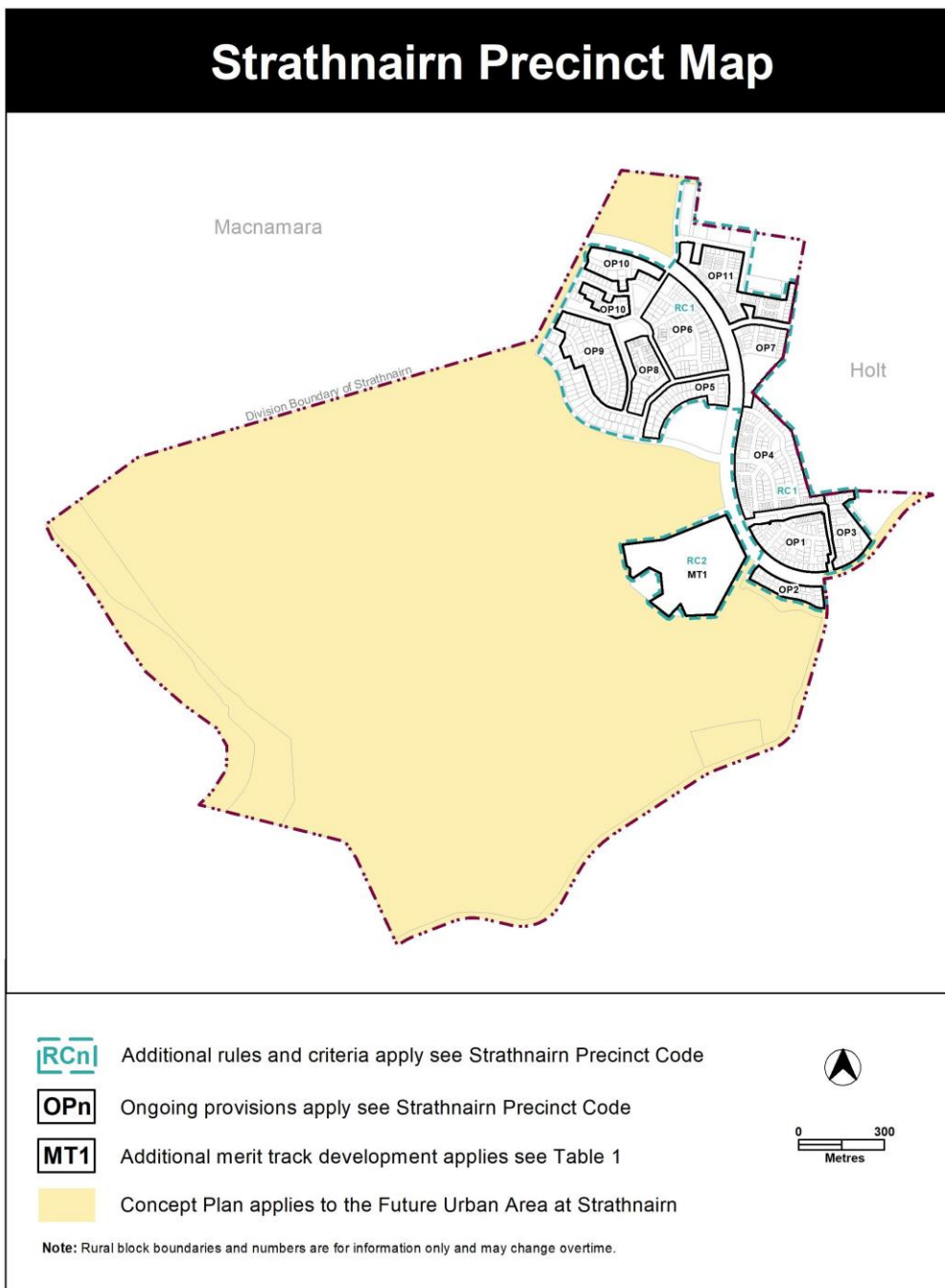
6. Suburb Precinct Maps and Codes, new Kenny Precinct Map and Code

insert Appendix A

3.3 Strathnairn Precinct Map and Code

7. Strathnairn Precinct Map

substitute



8. Strathnairn Precinct Map, new Assessment Tracks

after Strathnairn Precinct Map insert

Assessment Tracks

The following table identifies the additional merit track development for blocks and parcels shown in the Strathnairn Precinct Map (identified as MTn). Development that is exempt from requiring development approval, other prohibited development and the minimum assessment track applicable to each development proposal is set out in the relevant zone development table.

The following table constitutes part of the relevant zone development table.

Table 1 – Additional merit track development

Additional merit track development that may be approved subject to assessment		
Suburb precinct map label	Zone	Development
MT1	CFZ	<i>craft workshop</i> <i>place of assembly</i> <i>produce market</i> <i>restaurant</i> <i>shop</i>

9. Additional rules and criteria, Element 3: Home business provisions, new RC2

after rule R19 insert

RC2 – Strathnairn Arts Centre

This part applies to blocks and parcels identified in area RC2 shown on the Strathnairn Precinct Map.

Element 4: Use

Rules	Criteria
4.1 Floor area limits	
R20 Total maximum gross floor area across the RC2 area for: a) <i>Restaurant</i> – 250m ² b) <i>SHOP</i> (except where ancillary to the main use of the land for arts and craft) – 100m ² c) <i>Business agency</i> – 500m ²	This is a mandatory requirement. There is no applicable criterion.



ACT
Government

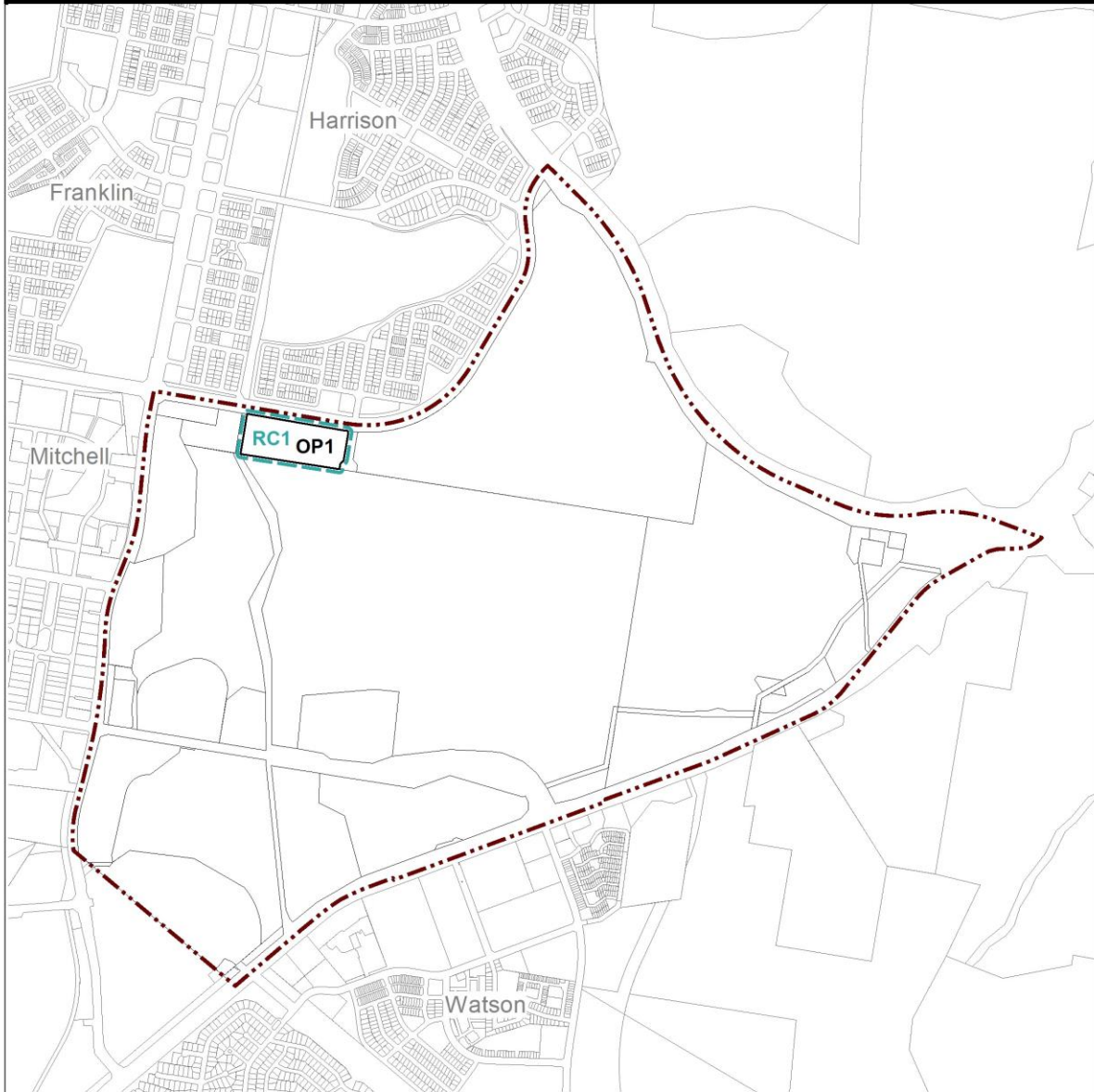
Environment, Planning and
Sustainable Development

Appendix A

Kenny Precinct Map and Code

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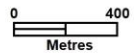
Kenny Precinct Map



Additional rules and criteria apply see Kenny Precinct Code



Ongoing provisions apply see Kenny Precinct Code



Kenny Precinct Code

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Introduction

Name

The name of this code is the **Kenny Precinct Code**.

Application

The code applies to the Division of Kenny.

Purpose

This code provides additional planning, design and environmental controls for specific areas or blocks and may also contain references to provisions in other codes.

In conjunction with other relevant codes it will be used by the *Authority* to assess development applications and offer guidance to intending applicants in designing development proposals and preparing development applications.

Structure

This code contains additional rules and/or criteria for particular blocks or parcels identified as areas RCn on the precinct map, to be read in conjunction with the relevant development code. It may also contain sub-parts.

Each element has one or more rules and, unless the respective rule is mandatory, each rule has an associated criterion. Rules provide quantitative, or definitive, controls. By contrast, criteria are chiefly qualitative in nature.

In some instances rules are mandatory. Such rules are accompanied by the words "This is a mandatory requirement. There is no applicable criterion." Non-compliance with a mandatory rule will result in the refusal of the development application. Conversely, the words "There is no applicable rule" are found where a criterion only is applicable.

Code hierarchy

Under the *Planning and Development Act 2007*, where more than one type of code applies to a development, the order of precedence if there is inconsistency of provisions between codes is: precinct code, development code and general code.

If more than one precinct code applies to the site, the most recent precinct code takes precedence to the extent of any inconsistency.

Definitions

Defined terms, references to legislation and other documents are italicised.

Definitions of terms used in this code are listed in part 13 of the Territory Plan or, for terms applicable only to this code, associated with the respective rule.

Acronyms

EPA	ACT Environment Protection Authority
ESA	ACT Emergency Services Agency
EPSDD	ACT Environment, Planning and Sustainable Development Directorate
NCA	National Capital Authority
P&D Act	Planning and Development Act 2007
TCCS	ACT Transport Canberra and City Services

Additional rules and criteria

This part applies to blocks and parcels identified in the Kenny Precinct Map (RCn). It should be read in conjunction with the relevant zone development code and related codes.

RC1 – Kenny school

This part applies to blocks and parcels identified in area RC1 shown on the Kenny Precinct Map.

Element 1: Building and site controls

Rules	Criteria
1.1 On-site stormwater detention	
<p>R1</p> <p>This rule applies to blocks or parcels identified in Figure 1.</p> <p>Onsite stormwater detention is to be provided in accordance with the rules for on-site stormwater detention in the Water Sensitive Urban Design General Code.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

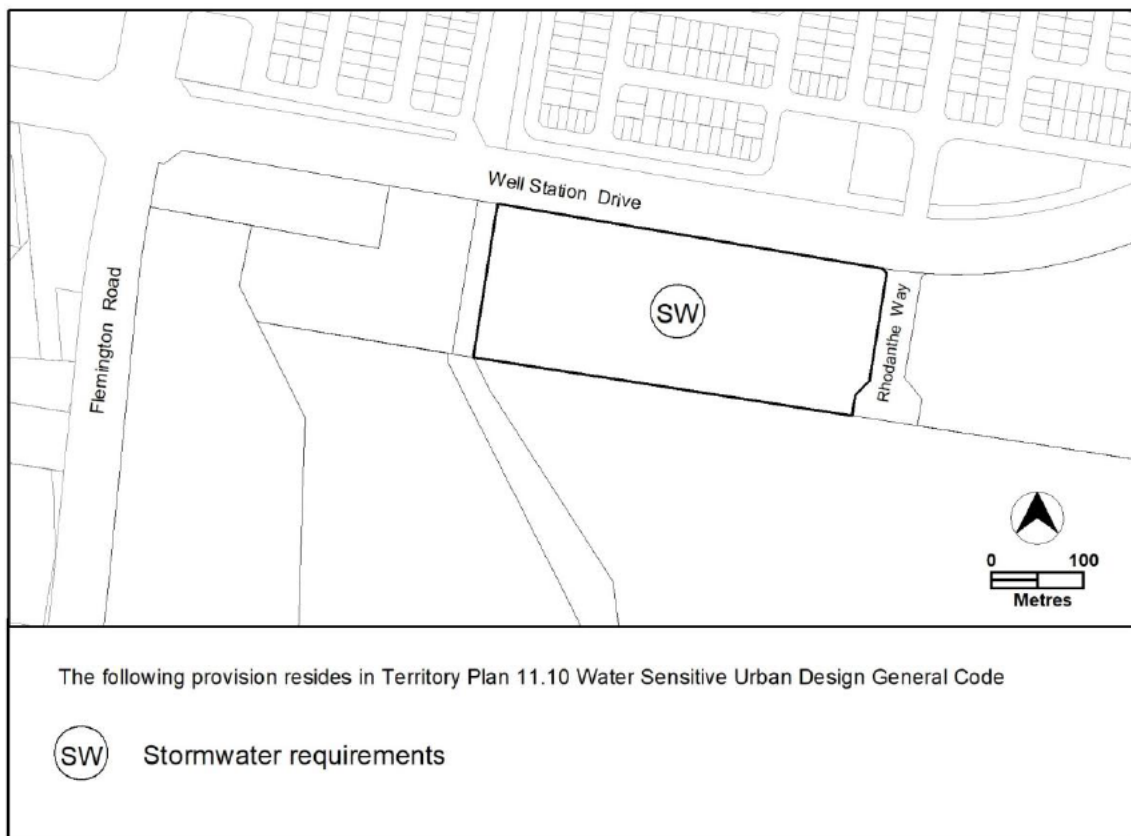


Figure 1 Kenny school

Other ongoing provisions

This part applies to blocks and parcels identified as ongoing provisions (OPn) in the Kenny Precinct Map. It should be read in conjunction with the relevant zone development code and related codes.

OP1 – Kenny school

This part applies to blocks and parcels identified in area OP1 shown on the Kenny Precinct Map.

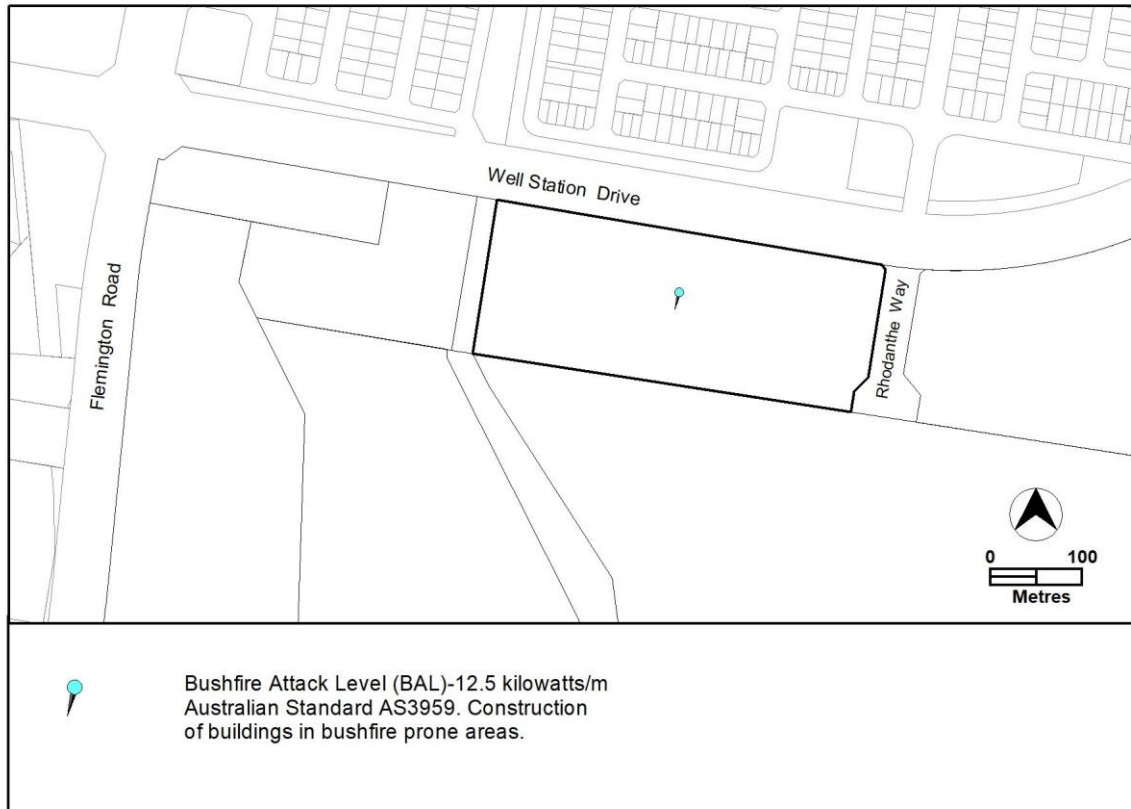


Figure 2 Kenny school ongoing provisions

Interpretation service

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

131 450

Canberra and District - 24 hours a day, seven days a week

From: [Terrplan](#)
To: [Kaucz, Alix](#)
Cc: [Moser, Sonya](#)
Subject: FW: Recommendation for TPV - Block 19 Section 26, Ainslie - Alan Ray Oval
Date: Monday, 29 August 2022 12:09:11 PM
Attachments: [s.314 Territory Plan Variation recommendation from Conservator.pdf](#)

OFFICIAL

From: ConservatorFloraFauna <ConservatorFloraFauna@act.gov.au>
Sent: Monday, 29 August 2022 11:58 AM
To: Terrplan <Terrplan@act.gov.au>
Subject: Recommendation for TPV - Block 19 Section 26, Ainslie - Alan Ray Oval

OFFICIAL

Morning TP team,

Please see attached letter from the Conservator recommending a TPV for Block 19 Section 26 Ainslie.

Kind regards,

Eliza Larson

A/g Conservator Liaison

Phone: +61 2 6207 7009 | Email: eliza.larson@act.gov.au

Environment Division | Environment, Planning and Sustainable Development Directorate | ACT Government
Level 2, 480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au



ACT
Government

Environment, Planning and
Sustainable Development

Mr Ben Ponton
Chief Planning Executive
ACT Planning and Land Authority
terrplan@act.gov.au

Dear Mr Ponton

Ben

Proposed Variation to the Territory Plan –Block 19 Section 26 Ainslie (Block)

I refer to the above Block which is subject to a public land overlay (Pi – a sport and recreation reserve) under the Territory Plan.

The Block is privately leased to the Ainslie Football and Social Club and is zoned as PR22 - Restricted Access Recreation. I have received a request on behalf of the lessee for the removal of the public land overlay. The basis for the request is that the lessee is unable to comply with s.321 of the *Planning and Development Act 2007* (Act).

S.321 of the Act states that the custodian of an area of public land must prepare a draft land management plan for the area. S.333 of the Act defines custodian as “...an administrative unit or other entity with administrative responsibility for land in the ACT that is unleased land, public land or both.”, which effectively limits custodianship to government agencies. The Block is privately leased and there is no custodian for the area. Therefore s.321 is not able to be achieved.

I confirm that there are no significant ecological values on the block and that I have no objection to the requested removal public land overlay. Pursuant to s.314 of the Act, I recommend that the Territory Plan be varied and that Block stops being public land.

The contact officer for the matter within my officer is Eliza Larson, A/g Conservator Liaison on 6207 7009.

Yours sincerely

Bren Burkevics
Conservator of Flora and Fauna

28 August 2022

From: [ConservatorFloraFauna](#)
To: [Terrplan](#); [Kelley, Rebecca](#); [Dean, Cindy](#)
Subject: FOR COMMENT BY 17/2: Block 6 Section 30 - Public Land Management
Date: Thursday, 9 February 2023 4:10:04 PM
Attachments: [image002.png](#)
[B6 S30 PUBLIC LAND MANAGEMENT LETTER.pdf](#)
[B6 S30 PUBLIC LAND MANAGEMENT TIMELINE.pdf](#)

OFFICIAL

Hi Territory Plan & Sport and Rec teams,

You may recall a request last year to remove the public land overlay from Alan Ray Oval in Ainslie. We now have the same request for Block 6, Section 30 Braddon. There are similar intentions to expand the uses on the site to include areas of residential, while retaining the oval use.

Once again, I can't see much justification to refuse their request. There are no significant ecological values on the site, and the issue regarding the inability to achieve section 321 of the P&D Act remains. Please let me know by **17 February** if you have any concerns about removing the Pi – sport and recreation reserve overlay.

We are likely to see further requests come in for the remaining privately leased ovals. TP team – has there been any more thought on how we could deal with these all together? I don't know how the proposed removal of overlays from the new Territory Plan (noting there does not currently seem to be a replacement in place) will affect these cases. I know there has been some discussion about where the nature reserve overlays can sit under the Nature Conservation Act, but am not aware of any discussions about where the other kinds of overlays will sit.

It's also a bit of a shame that all public land decisions are lumped together, as I don't really think the Conservator is the appropriate entity to make recommendations in relation to sports and recreation overlays as it is quite outside our normal scope and expertise.

Many thanks,

Eliza Larson | A/g Conservator Liaison

Phone: +61 2 6207 7009 | Email: eliza.larson@act.gov.au

From: Brendon Hill [REDACTED]@spacelab.net.au>

Sent: Tuesday, 31 January 2023 10:13 AM

To: Larson, Eliza <Eliza.Larson@act.gov.au>

Cc: David Shearer [REDACTED]@spacelab.net.au>

Subject: Block 6 Section 30 - Public Land Management

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

[Learn why this is important](#)

Good morning Eliza,

From our discussions regarding the Public Land Overlay on Block 19 Section 26 Ainslie last year, we have undertaken investigation on behalf of another club who has the same Public Land Overlay on their block – Block 6 Section 30, Braddon.

We are seeking the Conservator's written recommendation to the Planning and Land Authority for the removal of the Public Land Overlay from Block 6, Section 30 Braddon.

Attached is a letter detailing the public land management issues as well as a timeline - similar to what we provided for B19 S26 Ainslie. Let me know if you need any additional information to assist.

Cheers

Brendon Hill | Director – Landscape & Urban Design

P: 02 6262 6363 | M: [REDACTED]

E: [REDACTED]@spacelab.net.au | W: www.spacelab.net.au

5/97 Northbourne Avenue Turner ACT 2612



BLOCK 6 SECTION 30, BRADDON PUBLIC LAND MANAGEMENT

ATTN: ELIZA LARSON
CONSERVATOR LIAISON
OFFICE OF THE CONSERVATOR OF FLORA AND FAUNA

31 JANUARY 2023

Dear Eliza,

We act on behalf of the Canberra District Rugby League Football Club Limited (CDRL), who is the lessee for Block 6 Section 30 Braddon. As a result of previous liaison with the Conservator regarding the usage of the *Public Land Overlay* in Ainslie, we have undertaken a further investigation into its usage in Braddon.

Clause 3. (b) of the crown lease currently requires a Draft Plan of Management to be prepared for the management of the site, and provided to the Conservator of Flora and Fauna. Upon receipt of the draft, the Conservator is then required to provide the lessee with a Plan of Management. Through our review of the site and crown lease, this appears to be an erroneous crown lease clause for several reasons:

1. Block 6 Section 30 Braddon is not public land

The *Territory Plan* currently identifies the land of Block 6 Section 30 Braddon as “Public Land”, despite the land not being owned by the Territory or any custodian. The block is privately leased and zoned PRZ2 – Restricted Access Recreation Zone. Under Section 333 of the *Planning and Development Act 2007*, “a custodian for an area of land is an administrative unit or other entity with administrative responsibility for land in the ACT that is unleased land, public land or both.”

2. The site cannot have a custodian, and therefore cannot prepare a draft plan of management

Section 321 of the *Planning and Development Act 2007*, only allows for a “Custodian” to prepare a draft land management plan. A custodian is defined by the *Planning and Development Act 2007* as “an administrative unit or other entity with administrative responsibility for land in the ACT that is unleased land, public land or both” (Section 333). The problem is we can’t have a Custodian, as the land is a market value private lease, and the *Planning and Development Act 2007* provides no opportunity for a private lessee to be a custodian.

The terms of management of the land are defined within the crown lease and therefore everything associated with public land are thus unachievable. For instance, we do not (and cannot) have a custodian under the definitions, yet the crown lease requires the preparation of a document that only a custodian can prepare.

3. The *Planning and Development Act 2007* only provides the ability for a “custodian” to implement an approved land management plan

Section 332 of the *Planning and Development Act 2007* requires that a custodian implement a finalised land management plan. There is no reference or ability to a private lessee being able to implement an approved land management plan. This makes it questionable whether the CDRL could implement a land management plan, even if there was somehow an ability for one to be prepared considering point 2.

BLOCK 6 SECTION 30, BRADDON PUBLIC LAND MANAGEMENT

Given the abovementioned information, we are led to believe that the identification of the land as public land in the *Territory Plan*, and subsequently the crown lease requirements for a plan of management are in error. As such, the CDRL desire that the crown lease is amended to ensure they are able to comply with all aspects of the lease. In order to undertake this, a variation would need to be made to the *Territory Plan*, in order to remove the misidentification of the site as public land.

Unfortunately, this raises the next obstacle- with no custodian for the land existing, the only way the land can cease to be nominated as public land, is if the Conservator of Flora and Fauna recommends to the Planning and Land Authority that the *Territory Plan* be varied to provide that the land stops being public land (*Planning and Development Act 2007 – S314*).

As such, on behalf of the CDRL, we request that the Conservator of Flora and Fauna prepares a written recommendation to the Planning and Land Authority under Section 314 of the *Planning and Development Act 2007*, which requests the removal of the identification of Block 6 Section 30 Braddon as public land.

If you have any questions relating to the information submitted, please do not hesitate to contact me on 02 6262 6363

Regards,



SPACELAB
Director- Landscape & Urban Design



David Shearer
SPACELAB
Director- Projects

BLOCK 6 SECTION 30, BRADDON - TIMELINE

1925

- Northbourne Oval officially opened, primarily used as a venue for Rugby League, Cricket and Australian Rules.



1989

- Self Government commenced - NCDC ceased Management for B6 S30.
- At the time ACT Self Government was introduced, 'Public Land' overlay should have been removed from the lease as no government entity was responsible for privately leased land.



1991

- Territory Plan introduced - Conservator of Flora and Fauna was the only entity noted as responsible for Public Land.



1998

- Canberra District Rugby League acquire private leases for Blocks 5 and 6, Section 30 Braddon.



2007

- New Territory Plan and Planning Act create the 'Custodian' defined as a government agency or entity responsible for the management of land.
- Conservator of Flora and Fauna retained for management of nature reserves.
- Conservator of Flora and Fauna is the only party who can de-notify land as 'Public Land'.



2015

- Canberra District Rugby League commence design work to redevelop Block 5 for residential use and develop part of Block 6 as the Raiders Centre of Excellence training facility.

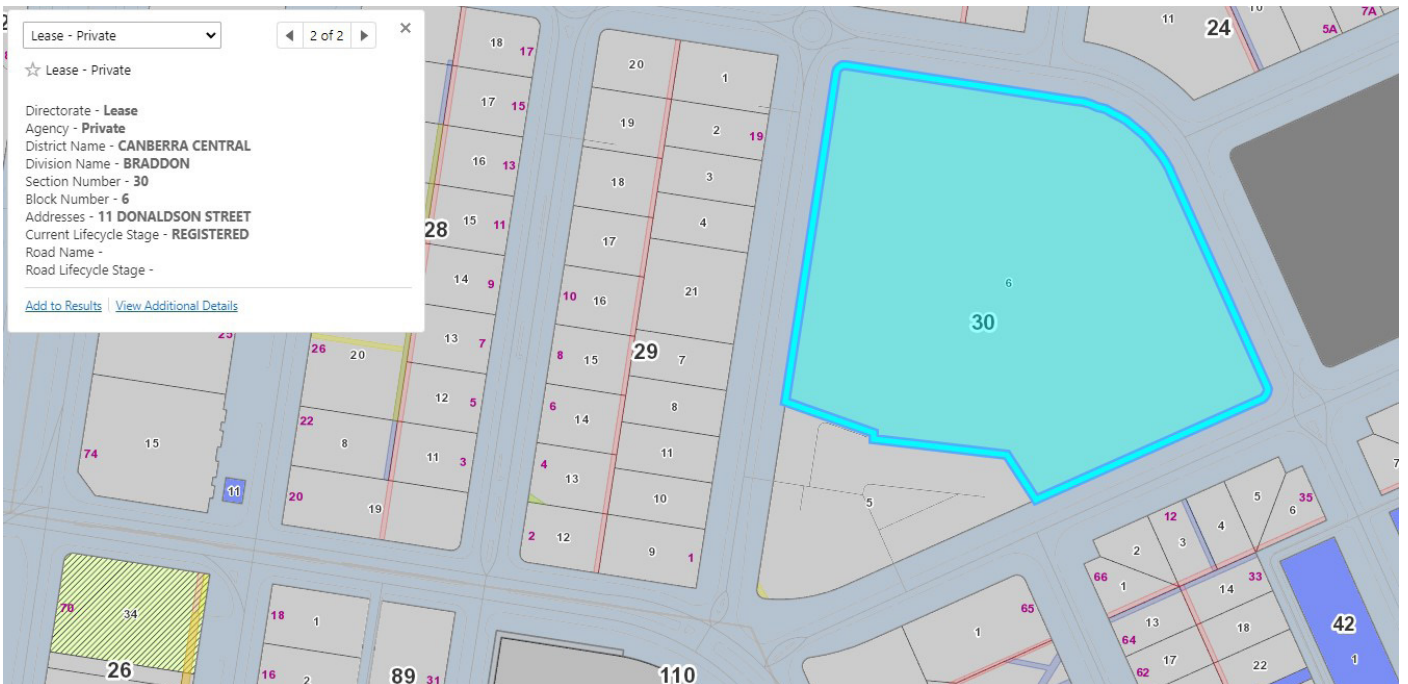


2023

- The Lessee and EPSDD have become aware of this long running error and seek the Conservator of Flora and Fauna's written support to remove the 'Public Land' overlay from Block 6 Section 30, Braddon.



ACTMAPi Territory Plan Mapping



ACTMAPi Land Custodianship Mapping

MANAGEMENT OF LAND (b)

That the Lessee shall manage the land in accordance with the Plan of Management. In the event a Plan of Management is not available at the date of commencement of the lease the lessee shall at its own cost within six months of the commencement of the lease prepare and submit to the Conservator a draft Plan of Management. The Lessee shall manage the premises in accordance with the requirements of the draft Plan of Management until the Conservator shall provide the Lessee with a Plan of Management;

Wording included in Crown Lease

From: [Coghill, Stacey](#)
To: [Terrplan](#)
Subject: Recommendation for TPV
Date: Thursday, 2 March 2023 10:40:36 AM
Attachments: [s.314 Territory Plan Variation Recommendation - Braddon Block 6 Section 31 CDRL EGM SIGNED.pdf](#)

OFFICIAL

Morning TP team,

Please see attached letter from the Conservator recommending a TPV for Block 6 Section 31 Braddon.

Kind regards,

Stacey Coghill

Conservation Officer

Conservator Support | Environment, Heritage & Water

Environment, Planning and Sustainable Development Directorate, ACT Government

Phone 02 6205 9274 | Stacey.Coghill@act.gov.au

Level 2, 480 Northbourne Ave, Dickson ACT 2604

www.environment.act.gov.au |



ACT
Government

Environment, Planning and
Sustainable Development

Mr Ben Ponton
Chief Planning Executive
ACT Planning and Land Authority

terrplan@act.gov.au

Dear Mr Ponton

Proposed Variation to The Territory Plan – Block 6 Section 30, Braddon

I refer to the above Block which is subject to a public land overlay (Pi – a sport and recreation reserve) under the Territory Plan.

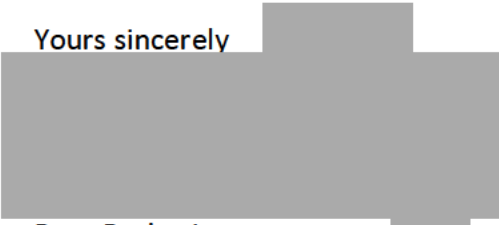
The Block is privately leased to the Canberra District Rugby League Football Club Limited and is zoned as PRZ2 - Restricted Access Recreation. I have received a request on behalf of the lessee for the removal of the public land overlay. The basis for the request is that the lessee is unable to comply with s.321 of the *Planning and Development Act 2007* (Act).

S.321 of the Act states that the custodian of an area of public land must prepare a draft land management plan for the area. S.333 of the Act defines custodian as “...an administrative unit or other entity with administrative responsibility for land in the ACT that is unleased land, public land or both.”, which effectively limits custodianship to government agencies. The Block is privately leased and there is no custodian for the area. Therefore s.321 is not able to be achieved.

I confirm that there are no significant ecological values on the Block and that I have no objection to the requested removal of the public land overlay. Pursuant to s.314 of the Act, I recommend that the Territory Plan be varied and that Block stops being public land.

The contact officer for this matter within my office is Eliza Larson, A/g Conservator Liaison, who can be contacted on 6207 7009.

Yours sincerely


Bren Burkevics
Conservator of Flora and Fauna

| March 2023

From: [Kaucz, Alix](#)
To: [David Shearer](#)
Cc: [Terrplan](#); [OBrien, Freya](#)
Subject: Ainslie and Braddon Pi overlay
Date: Friday, 10 March 2023 1:15:56 PM

Hi David

Thank you for the call yesterday and sorry again that we kept missing each other.

As discussed, we are working to add the removal of the Pi sport and recreation reserve overlay from the Ainslie Football Club oval and the site in Braddon to a technical amendment we are preparing. We had been progressing the technical amendment under sections 87(1)(b) and 90A of the *Planning and Development Act 2007* (a change to the boundary of a zone or overlay in response to Conservator request) however this only applies to unleased land. Noting the Conservator's support for the removal of the overlay due to the land being leased (and therefore no land custodian) we are now looking at making the technical amendment under section 87(1)(e) to omit something that is redundant.

Previously we have spoken about adding all sites that are leased but have a Pi overlay to the technical amendment, however in the interests of time the overlay for the Ainslie and Braddon sites will be progressed first. Once further investigation work has been completed for the other sites we will look to remove the overlay from those sites too. You have mentioned you have details of other ovals in the same situation as Ainslie and Braddon – if possible it would be great if you could send that information to us to assist with our review.

I will let you know when the technical amendment is nearing completion, noting that this type of amendment does not require public consultation. The technical amendment will also contain other changes that do not require public consultation under the Act.

Kind regards

Alix

Alix Kaucz | Senior Director, Territory Plan

Phone 02 6205 0864

Planning and Urban Policy | Environment, Planning and Sustainable Development | **ACT Government**

Level 2, 480 Northbourne Avenue Dickson ACT 2602 | www.environment.act.gov.au