

Australian Capital Territory

Planning and Development (Technical Amendment—Error Variation) Notice 2008*

Notifiable instrument NI2008—290

Technical Variation No 2008-05

made under the

Planning and Development Act 2007, section 89 (Making technical amendments)

This instrument (and the plan variation in it) commences on the day after it is notified.

Variation No 2008–05 to the Territory Plan has been approved by the Planning and Land Authority

The variation specifies miscellaneous corrections to the Territory Plan as detailed in Annexure A.

Jacqui Lavis
Delegate of the Planning and Land Authority
9 July 2008

*Name amended under Legislation Act, s 60



Planning & Development Act 2007

**Technical Amendment
to the Territory Plan**

No. 2008-05

Miscellaneous Error Variation No. 1

July 2008

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1. INTRODUCTION

1.1 Outline of the process

The Commonwealth's *Australian Capital Territory (Planning and Land Management) Act 1988* allows for the Legislative Assembly to make laws to establish a Territory Planning Authority and for that Authority to prepare and administer a Territory Plan. The *Planning and Land Act 2007* (the P & D Act) establishes the ACT Planning and Land Authority as the Authority which prepares and administers the Territory Plan, including continually reviewing and proposing amendments as necessary. Part 5.4 section 87 of the P & D Act allows for technical amendments to be made to the Territory Plan in a number of circumstances.

The ACT Planning and Land Authority (the Authority) is the approval authority for Error Variations under section 87a and do not need any consultation under section 90 of the P & D Act. The Authority needs to be satisfied that the error variation would, if made be a technical amendment and fix a date when the plan variation is to commence. On approval, the variation will commence in accordance with the commencement notice in the Legislation Register and will be notified in a daily news paper. The Territory Plan will be updated to reflect the changes that are approved in the Error Variation.

2. EXPLANATORY STATEMENT

2.1 Background

Under section 87a of the P & D Act, an error variation is defined as 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.

A formal error is defined in the P & D Act as:

- a) a clerical error; or
- b) an error arising from an accidental slip or omission; and
- c) a defect of form.

The Authority considers that the changes included in this variation have as their only object, the correction of formal errors in the Plan and will not affect anyone's rights as they meets one or more of the following:

- The variation is consistent with the land use policies and controls that applied under the former Territory Plan.
- The variation is consistent with the existing approved development on a site.
- The variation is of a minor nature and does not change the substantive meaning and underlying intent of the relevant part of the Plan.

2.3 Proposed Changes and Reasons

- A. Heritage references** – rewording in *Residential Zone-Single Dwelling Housing Development Code* at R21 and in *Residential Zone-Multi-unit Dwelling Housing Development Code* at R39

Amendments reflect changes to the status naming of heritage registrations in accordance with the *Heritage Act 2004*

- B. Blocks developed before or after the Territory Plan originally came into effect** - rewording in *Single Dwelling Housing Development Code* at Tables 1 and 2 and footnotes under Figures C1-3 and in *Multi-unit Dwelling Housing Development Code* at Tables 1 and 2 and footnote under Figure 4.

Changes to wording removes the inconsistency between the terms ‘land originally developed’ and ‘blocks approved’ as well as clarifying the date a block was approved. Reference to Figure 4 in the Multi-Unit Dwelling Code will also be changed to Figure C1 to be consistent with the Single Dwelling Code.

- C. *Single Dwelling Housing Development Code*** - Typographical errors in rule references - correction of typographical errors at Part C(2) Section 2.3 (reference in the in title to R31 to be changed to R30) and at Part C(2) Section 2.4 (reference in the in title to R32 and R33 to be changed to R31 and R32)

- D. *Multi-unit Dwelling Housing Development Code*** - Formatting change - in the Introduction under Structure of Codes, Part 4 becomes Part D and is no longer a subcategory of Part C.

- E. Size of block for Water Sensitive Urban Design** – amendment in the *Multi-unit Dwelling Housing Development Code* at R47 reflects that blocks $>2000\text{m}^2$ are required to address stormwater quality issues rather than blocks $<2000\text{m}^2$ (as currently stated in R47)

- F. *City Centre Precinct Code* amendments** – rewording at CZ2 Business Zone-Braddon and Turner, R34 as well as at CZ3 Services Zone-Braddon, R41, R43 and R44.

The word ‘side’ is to be deleted from R34 as this was unintentionally included in the original rule. Rewording of R41, R43 and R44 includes the details of the Planning Study for Braddon Commercial Precinct that were inadvertently not included. This includes the provision for Areas 3 and 4, Block 5 Section 30 Braddon being permitted to have residential use at ground and first floor level (R41). Changes to R43 and R44 clarify the requirements of the rule and better reflect the content of the Planning Study and Territory Plan 2002.

- G. *Industrial Zone Development Code*** - Repetition of rule and incorrect reference - R38 has been repeated in the Code and are therefore deleted. In R2, the reference to Figure 3 is changed to Figure 1
- H. *Reference to Planning and Development Act 2007*** – corrections made to the name of this Act in the NUZ2 – Rural Zone Development Table and in the *Rural Villages Precinct Code* at C33.
- I. *Parking and Vehicular Access General Code - Car parking provisions***
The parking provision rate for Offices in City Centre CZ2 Zone in Schedule 2 is amended to 2.5 spaces/100m² GFA as it currently does not require enough spaces.
- J. *Residential Boundary Fences General Code - Typographical errors in rule references*** – amend R1 (e)
The current references provided in this mandatory rule do not exist so is amended to reflect the correct rules.
- K. *Overlays and Clearance Zone Policies - Typographical error*** – in section 2.1 it states that the map has a red border. This is to be corrected to be a blue border to reflect the content of the Territory Plan map
- L. *Definition changes*** –amendments have been made to the definitions for ‘minor use’, ‘temporary use’ and ‘front zone’ for clarification purposes.
- M. *Broadacre Zone reference to Industrial Code*** – the *Non-Urban Zones Development Code* in new Territory Plan inadvertently omitted a sub-section for Harman Industrial Area. The provisions of Territory Plan 2002 have been inserted.
- N. *Territory Plan Map and diagrams*** – the E overlay (Education) was inadvertently not removed from Chifley Section 7 Block 10 and has subsequently been removed.
In the *Rural Villages Precinct Code*, at Part A – Village of Hall, Figure 1 requires replacing to correct an error in the mapping details.

3. ERROR VARIATION

3.1 Residential Zones - Single Dwelling Housing Development Code

- 1) At Part B Element 6 R21 – Substitute the text ‘subject to interim or full heritage registration’ with the following:

subject to provisional registration or registration under s.41 of the *Heritage Act 2004*

- 2) At Part C(1) Element 2 – substitute the existing Tables 1 and 2 titled ‘Front Street Setback (Refer Figures C1-3)’ and ‘Front Street Setback to Garages (Refer Figures C1-3)’ with the following:

Table 1: Front Street Setback (Refer Figures C1-3)

Floor level	Blocks in subdivisions approved after 18 October 1993	Blocks in subdivisions before 18 October 1993	Exceptions		
			Corner blocks		Open space or pedestrian paths wider than 6m
			<500 m ² , long street frontage	>500 m ² , long street frontage	
Lower floor level	4 m	6 m	3 m	4 m	4 m
Upper floor level	6 m	7.5 m	3 m	6 m	4 m

Notes: The minimum setbacks for corner blocks apply only to the street frontage nominated. Setbacks to any other street frontage are to comply with the minimum requirements stated in the respective columns for blocks in subdivisions approved post or pre 18 October 1993. If street frontages on corner blocks are of equal length, the minimum setbacks only apply to one street frontage.

Table 2: Front Street Setback to Garages (Refer Figures C1-3)

Item	Blocks in subdivisions approved after 18 October 1993	Blocks in subdivisions approved before 18 October 1993
Garage	5.5 m with a minimum of 1.5 m behind the front building line	6 m

- 3) At Part C Figures C1, C2 and C3 – Substitute the footnote marked * with the following:

* Front setbacks on blocks in subdivisions approved prior to 18 October 1993.

- 4) At Part C(2) Additional Controls for Deakin and Forrest, Element 2 – in the existing title ‘2.3 Front Street Setback (Replaces R31)’ substitute ‘R31’ with ‘R30’ as follows:

2.3 Front Street Setbacks (Replaces R30)

- 5) At Part C(2) Additional Controls for Deakin and Forrest, Element 2 – in the existing title ‘2.4 Side and Rear Setbacks (Replaces R32 and R33)’ substitute ‘R32 and R33’ with ‘R31 and R32’ as follows:

2.4 Side and Rear Setbacks (Replaces R31 and R32)

3.2 Residential Zones - Multi Unit Housing Development Code

- 1) At Introduction to Multi Unit Housing Development Code, under Structure of Codes – Substitute the last dot point under Part C with the following:

Part D – Development Type Controls - Other Forms of Residential Development and Non-Residential Development provide any specific controls for other forms of residential development (not including single dwelling housing) and for non-residential development in all Residential Zones.

- 2) At Part B Element 6 R39 – Substitute the text ‘subject to interim or full heritage registration’ with the following:

subject to provisional registration or registration under s.41 of the *Heritage Act 2004*

- 3) At Part B Element 6 Section 6.8 R47 – substitute ‘<2000m²’ with ‘>2000m²’.

- 4) At Part C(1) Element 2 – substitute the existing Tables 1 and 2 titled ‘Front Street Setback (refer Figure C1)’ and ‘Front Street Setback to Garages (refer Figure C1)’ with the following:

Table 1: Front Street Setback (refer Figure C1)

Floor level	Land originally developed after 18 October 1993	Land originally developed before 18 October 1993	Exceptions		
			Corner blocks		Open space or pedestrian paths wider than 6m
			<500 m ² , long street frontage	≥500 m ² , long street frontage	
Lower floor level	4 m	6 m	3 m	4 m	4 m
Upper floor level	6 m	7.5 m	3 m	6 m	4 m

Notes: The minimum setbacks for corner blocks apply only to the street frontage nominated. Setbacks to any other street frontage are to comply with the minimum requirements stated in the respective columns for blocks in subdivision approved post or pre 18 October 1993. If street frontages on corner blocks are of equal length, the minimum setbacks only apply to one street frontage.

Table 2: Front Street Setback to Garages (refer Figure C1)

Item	Land developed after 18 October 1993	Land developed before 18 October 1993
Garage	5.5 m with a minimum of 1.5 m behind the front building line	6 m

- 5) At Part C(1) Element 2 Figure 4 amend footnote marked * as follows:

* Front setbacks on blocks in subdivision approved prior to 18 October 1993.

- 6) At Part C(1) Element 2 Figure 4 substitute the title ‘Figure 4 Setbacks’ with the following:

Figure C1 Setbacks

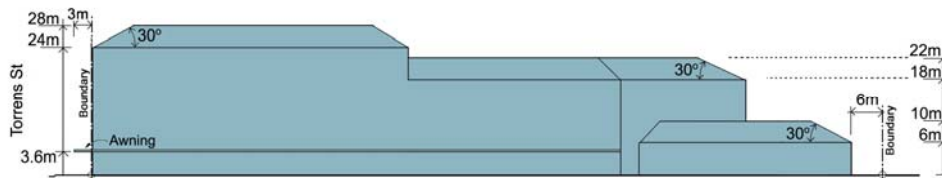
3.3 City Centre Precinct Code

- 1) At Part A(2) - City Centre - CZ2 Business Zone- Braddon and Turner, Element 2 R34 delete the word 'side' from the text.

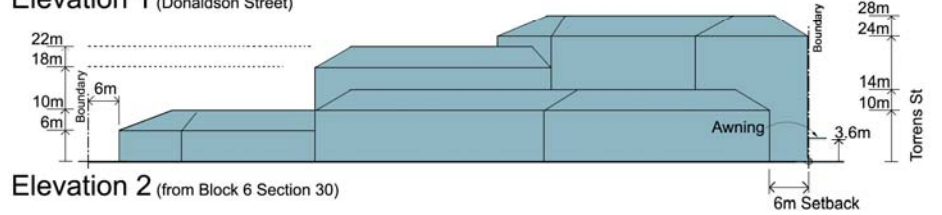
- 2) At Part A(3) – City Centre - CZ3 Services Zone- Braddon, Element 1 – substitute the existing section 1.1 titled 'Restrictions on Use' with the following:

Rules	Criteria
1.1 Restrictions on Use	
<p>R41</p> <p>Residential use is prohibited at ground and first floor level except for Block 5 Section 30 Braddon Areas 3 and 4 (Figure A12).</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
<p>R42</p> <p>There is a minimum of 2 ground floor level tenancies or businesses addressing the street frontages of blocks. Where development includes block amalgamation, this rule applies to the number of blocks existing prior to the amalgamation.</p>	<p>C2</p> <p>Buildings fronting streets incorporate uses on the ground floor that generate activity.</p>
<p>R43</p> <p>Offices uses at ground floor level do not occupy more than a total of 8m of the street frontage.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
<p>R44</p> <p>The maximum total GFA per lease for supermarkets or shops selling food is 200 m².</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

3) At Part A(3), immediately preceding Part B – General Development Controls – Substitute existing Figure A12 titled ‘Building Envelope Diagram – Braddon Section 30 (CZ3 Zone) with the following:



Elevation 1 (Donaldson Street)



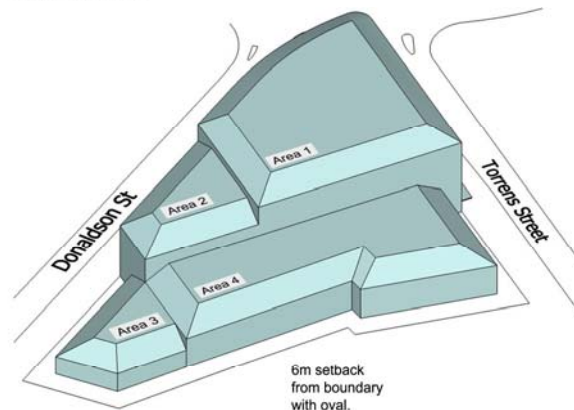
Elevation 2 (from Block 6 Section 30)



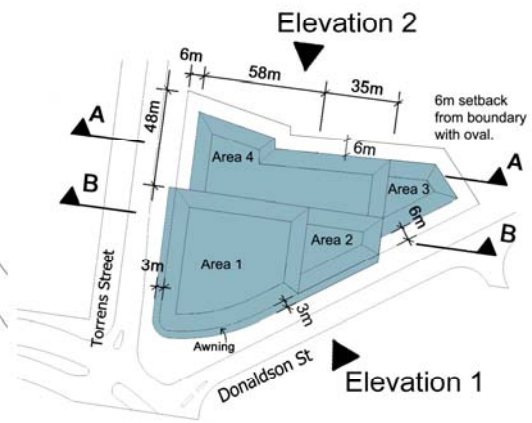
Section AA



Section BB



Block 5, Section 30
Perspective of envelope



Block 5, Section 30 Plan

3.4 Industrial Zone Development Code

- 1) At Part A(2) – IZ2 – Industrial Mixed Use Zone – in R2 in existing section titled ‘1.1 Gross Floor Area’ substitute ‘Figure 3’ with ‘Figure 1’.
- 2) At Part B Element 6 – delete existing sections titled ‘6.1 Water Sensitive Urban Design – Mains Water Consumption’ and R38 from pages 10 (immediately following R39), 11 (immediately following R41) and 12 (immediately following R44).

3.5 NUZ1 – NUZ5 Objectives and Development Table

- 1) At NUZ2 – Rural Zone Development Table, Minimum Assessment Track Merit – substitute ‘Planning and Development Act 2006’ with ‘Planning and Development Act 2007’

3.6 Non-Urban Development Code

- 1) At Part C(7) – Symonston – insert the following immediately following Figure 11 titled ‘Symonston’:

Part C(7) – Harman Industrial Area, Jerrabomberra

Element 1: Restrictions on Use

Intent:

- a) To make provision for hazardous and offensive industries on main transport routes away from residential areas.

Rules	Criteria
1.1 Harman Industrial Area (Figure 12)	
R56 All development is designed to comply with Part B - General Development Controls of the Industrial Zones Development Code	C56 This is a mandatory requirement. There is no applicable criterion.

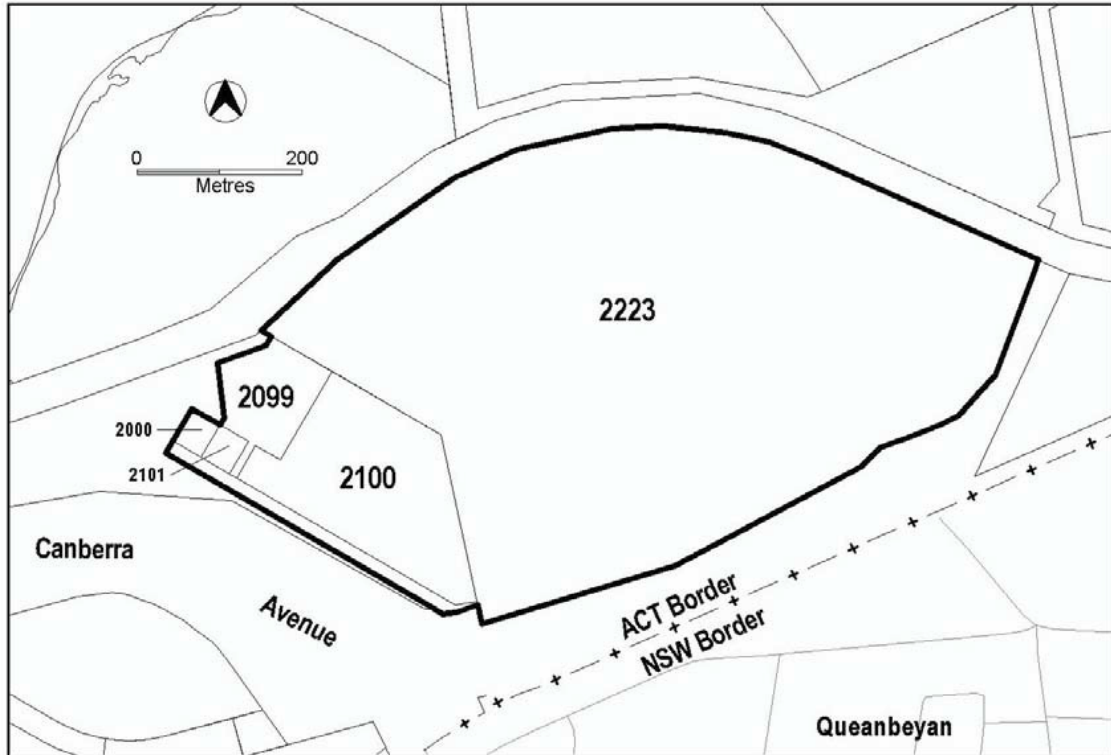
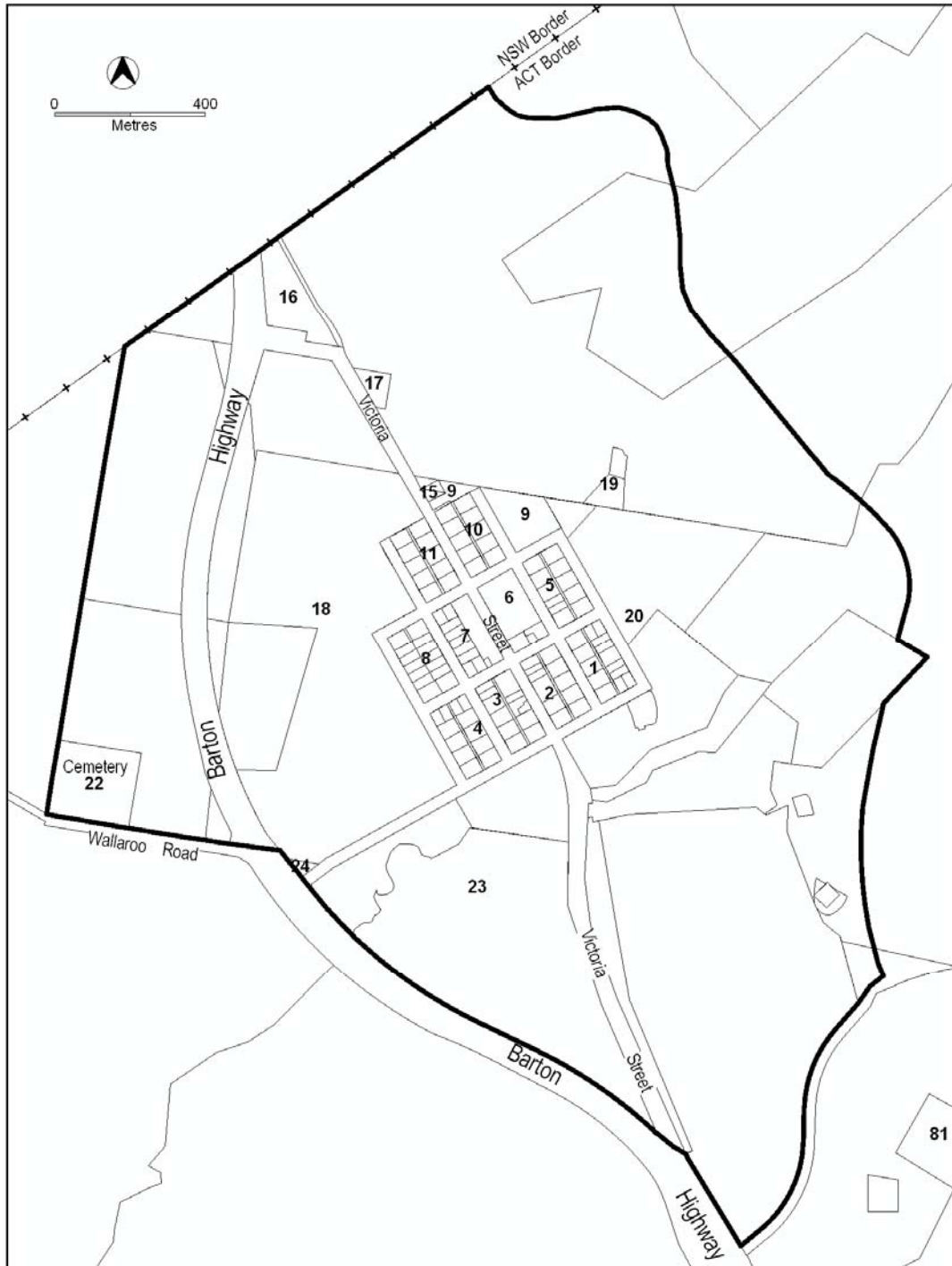


Figure 12 Harman Industrial Area, Jerrabomberra

3.7 Rural Villages Precinct Code

- 1) At Part A – Village of Hall – substitute existing Figure 1 titled ‘Hall Village precinct’ with the following:



- 2) At Part B – Stromlo Settlement – at existing C33 substitute the reference ‘*Planning and Development Act 200X.*’ with ‘*Planning and Development Act 2007.*’

3.8 Parking and Vehicular Access General Code

- 1) At Part 3 Schedule 2, under Development Column at 'Office' – substitute the current City Centre CZ2 Zone requirement '2.0 spaces/100m² GFA' with the following:

2.5 spaces/100m² GFA.

3.9 Residential Boundary Fences General Code

- 1) At Part A – in existing section 2.1 titled 'Front Fences – All Blocks', at R1 e) substitute 'Items 1.2 – 1.7' with the following:

Items 2.2-2.7 of this Code.

3.10 Overlays and Clearance Zone Policies

- 1) At Part 2, 2.1 in the first sentence – substitute the word 'red' with 'blue'.

3.11 Definitions

- 1) At Part A – substitute the existing definition for 'Minor Use' with the following:

'Minor Use' means the use of unleased land for a purpose that is incidental to the use and development of land in the zone and includes but is not limited to open space; public car parking; community path systems; utility services; public roads; street furniture and the like.'

- 2) At Part A – substitute the existing definition for 'Temporary Use' with the following:

'Temporary Use' means the use of unleased land for a purpose that is temporary in nature and for which a licence may be issued for a maximum term of three years and which may be renewed.'

- 3) At Part B – substitute the existing definition for 'Front Zone' with the following:

'Front Zone' means the area of a block between the *front boundary* and the *building line* or at the minimum front setback for the block whichever is greater. (Note: for the purpose of this definition, the *front zone* shall not be more than 10m from the *front boundary*).

3.12 Territory Plan Map

Removal of E Overlay for Chifley Section 7 Block 10

From the Territory Plan Map remove E overlay from Chifley Section 7 Block 10.

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 τηλεφωνήστε 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 ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

131 450

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