

Australian Capital Territory

Planning and Development (Draft Variation No 326) Consultation Notice 2013

Notifiable instrument NI2013—572

made under the

***Planning and Development Act 2007*, section 63 (Public consultation—notification) and section 64 (Public consultation—notice of interim effect etc)**

Under the *Planning and Development Act 2007* (the Act), section 63(1), the planning and land authority has prepared Draft Variation No 326 to the Territory Plan – Chisholm Section 590 (see Annexure A).

Draft Variation No 326 to the Territory Plan proposes to rezone an area of land in Chisholm, District of Tuggeranong, from CZ4 Local Centre to PRZ1 Urban Open Space. The proposed rezoning will protect the park and existing playground, and enable the naming of the park to occur.

The draft variation and background documents are available online at **www.act.gov.au/draftvariations** until the closing date for written comments.

Printed copies of the draft variation and background documents are available for inspection and purchase at the Environment and Sustainable Development Customer Service Centre, 16 Challis Street, Dickson, Monday to Friday (except public holidays) between 8:30am and 4:30pm. Please call 6207 1923 to arrange a copy for purchase.

Written comments from the public are invited from the public by **17 February 2014**.

Comments should include reference to the draft variation, your name and contact details, and be addressed to the Territory Plan Section.

Comments can be:

- emailed to terrplan@act.gov.au
- mailed to Territory Plan Comments, GPO Box 158, Canberra, ACT 2601
- delivered to ESDD's Customer Service Centre at 16 Challis Street, Dickson

Copies of written comments will be made publicly available 10 working days after the closing date for no less than 15 working days at ESDD's Customer Service Centre in Dickson and may be published on ESDD's website.

Comments made available will include personal contact details unless excluded under section 411 or 412 of the Act. A request for exclusion under these sections

must be in writing, clearly identifying what you are seeking to exclude and how the request satisfies the exclusion criteria.

Effect of the draft variation

Section 65 of the Act applies to the draft variation. This means that, in addition to the Territory Plan, the provisions of Draft Variation No 326 apply to development applications lodged on or after 14 December 2013. The draft variation is part of the Territory Plan for a period of up to one year unless the draft variation is commenced, is withdrawn or rejected by the Legislative Assembly. During this period, the ACT Government must not do or approve anything that would be inconsistent with the Territory Plan.

Jim Corrigan
Delegate of the ACT Planning and Land Authority
11 December 2013



ACT
Government

Environment and
Sustainable Development

Planning and Development Act 2007

Draft
Variation to the
Territory Plan
No 326

Chisholm Section 590
Caroline Chisholm Park

December 2013

Draft variation for public consultation prepared
under s60 of the *Planning and Development Act 2007*

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1. INTRODUCTION

1.1 Summary of the Proposal

Draft Variation No 326 (DV326) proposes to rezone Chisholm section 590 from CZ4 Local Centre zone to PRZ1 Urban Open Space zone. The site had been retained by the ACT Government for a future local commercial centre, though in response to community concerns to the proposed sale of the land in 2012, the ACT Government agreed to retain the site as a park for the local community. The Government also proposed to officially name the park after Caroline Chisholm. In order to protect the park and playground, and for the official naming to occur, the site is required to be rezoned to PRZ1 urban open space.

1.2 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 Development Act 2007* (the Act) establishes the planning and land authority as the Authority which prepares and administers the Territory Plan, including continually reviewing and proposing amendments as necessary. The functions of the planning and land authority are administered by the Environment and Sustainable Development Directorate (ESDD).

The Territory Plan is comprised of a written statement and a map. The written statement contains a number of parts, namely governance; strategic directions; zones (including objectives and development tables and zone or centre development codes); precinct codes; general codes; overlays; definitions; structure plans, concept plans and development codes for future urban areas.

The Territory Plan Map graphically represents the applicable land use zones (under the categories of residential, commercial, industrial, community facility, urban parks and recreation, transport and services and non urban), precincts and overlays. The zone, precinct and overlay requirements are detailed in the volumes of the Territory Plan.

Draft variations to the Territory Plan are prepared in accordance with the Act. Following the release of the draft variation under section 63 of the Act, submissions from the public are invited. At the conclusion of the consultation period the ESDD submits a report on consultation and a recommended final variation to the Minister responsible for planning for approval.

The Minister has the discretion to determine if referral to the Legislative Assembly standing committee responsible for planning is warranted prior to approval, depending on the nature and significance of the proposal. If the draft variation is referred to the committee by the Minister or otherwise, the Minister must consider the findings of the committee before deciding whether to approve the draft variation. If the Minister approves the variation, the variation and associated documents will be tabled in the Legislative Assembly. Unless disallowed by the Legislative Assembly within five sitting days, the variation commences on a day nominated by the Minister.

1.3 This document

This document contains the background information in relation to the proposed variation. It comprises the following parts

Part 1 This Introduction

Part 2 An Explanatory Statement, which gives reasons for the proposed variation and describes its effect

Part 3 The Draft Variation, which details the precise changes to the Territory Plan that are proposed

1.4 Public Consultation

Written comments about the draft variation are invited from the public by **17 February 2014.**

Comments should include reference to the draft variation, your name and contact details, and be addressed to the Territory Plan Section.

Comments can be:

- emailed to terrplan@act.gov.au
- mailed to Territory Plan Comments, GPO Box 158, Canberra, ACT 2601
- delivered to ESDD's Customer Service Centre at 16 Challis Street, Dickson

Copies of written comments will be made available (unless excluded) for public inspection for no less than 15 working days starting 10 working days after the closing date for comment. The comments will be available at ESDD's customer service centre in Dickson and may be published on ESDD's website.

Comments made available will include personal contact details unless excluded under section 411 or 412 of the *Planning and Development Act 2007*. A request for exclusion under these sections must be in writing, clearly identifying what you are seeking to exclude and how the request satisfies the exclusion criteria.

Further Information

The draft variation is available online at **www.act.gov.au/draftvariations** until the closing date for written comments.

Printed copies of the draft variation (this document) and background documents are available for inspection and purchase at the Environment and Sustainable Development Customer Service Centre, 16 Challis Street, Dickson, Monday to Friday (except public holidays) between 8:30am and 4:30pm. Please call 6207 1923 to arrange a copy for purchase.

2. EXPLANATORY STATEMENT

2.1 Background

Section 590 Chisholm is zoned CZ4 – local centre, however has never been leased or developed for commercial purposes. The land was released for sale in the mid 1990's but was not sold as the surrounding catchment for the centre was considered to be too small to support a local commercial centre. Around that time a small public playground was established on the site.

In 2010 the (then) ACTPLA received a request for a direct sale of the site to a major supermarket group. The request was not supported due to the size of the site seen to be limiting the potential for sufficient parking to be provided on site, and proximity of the site to existing commercial centres.

In late-2011 the ACT Government proposed another auction of the site, for medium density residential. Following community consultation where a number of residents raised concerns with the loss of the land as a public space, the ACT Government announced in 2012 that the site would not be sold for development, but would instead be retained as a park for the local community. The Government also indicated that the park would be named after Caroline Chisholm.

In order for the park to be formally named after Caroline Chisholm, the *Public Place Names Act 1989* requires land to be zoned PRZ1 urban open space zone. Therefore, this draft variation has been proposed to zone the land PRZ1.

2.2 Site Description

Section 590 (consisting of blocks 3, 4, 5 and 6) Chisholm, in the Tuggeranong District is a vacant site located at the south west corner of Heagney Crescent and Deamer Crescent. The site is bounded by the following:

- Heagney Crescent to the north;
- Deamer Crescent to the east;
- Open space (block 21 , section 516 and block 10 section 518) and floodway reserve to the south;
- single dwelling residential development on blocks 1 and 8 section 517 to the west.

The site has an area of approximately 6272m². The site is currently used as informal open space with a centrally located public playground, installed and maintained by TAMSD.

Features on the site are limited to the playground structure, dryland grasses, remnant and newer trees, and stormwater easements through the site. Footpaths cross the site in a north-south direction, central to the site and east-west along the southern boundary. This network provides connectivity for pedestrians between the surrounding streets, the playground and open space to the south.

The site slopes north to south, with substantial drainage swales extending across the site from road low points in Heagney Crescent and Deamer Crescent.

There are 13 trees on or adjacent to the site, six of which would satisfy the criteria for Regulated trees as defined by the *Tree Protection Act 2005*.

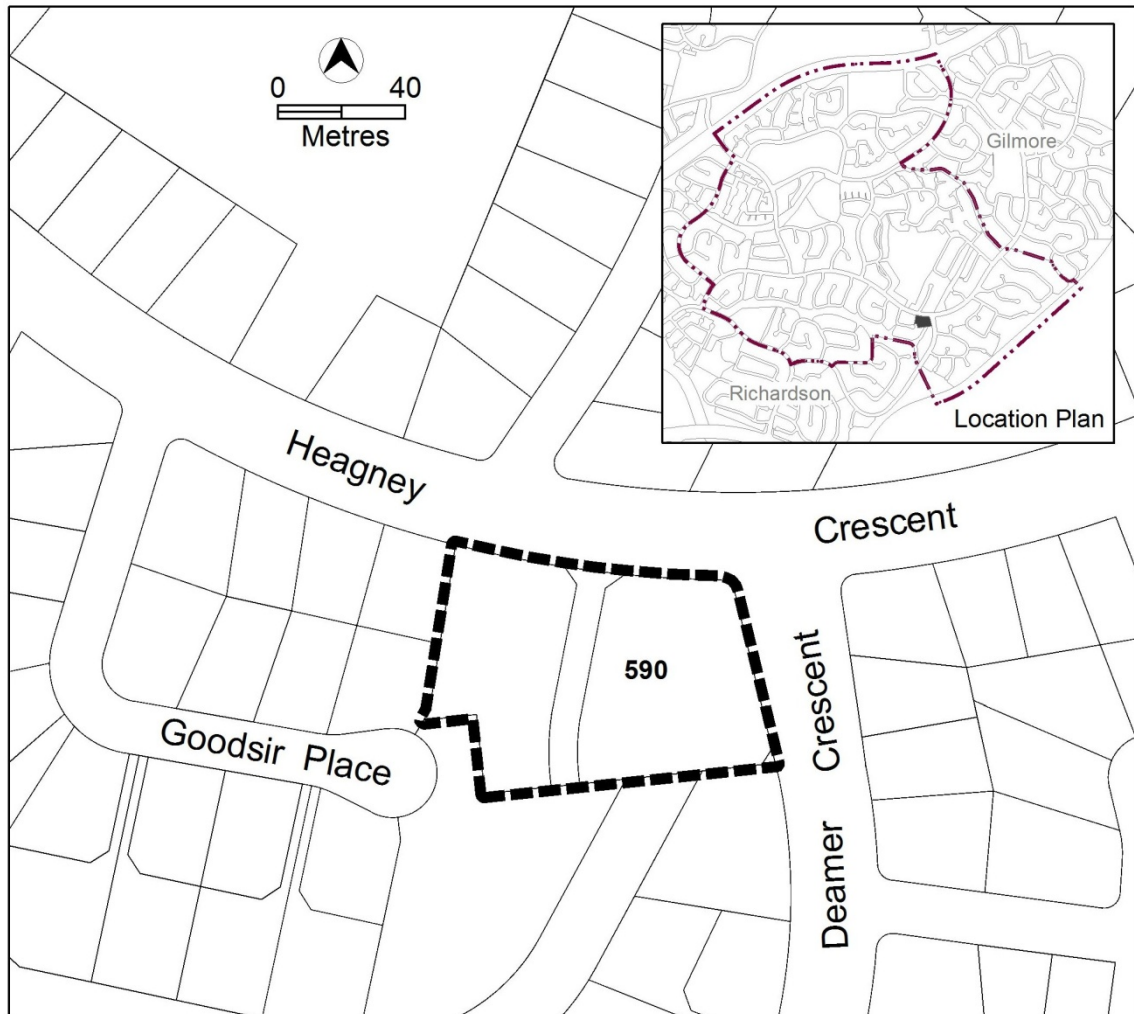


Figure 1 Site Plan

2.3 Current Territory Plan Provisions

The Territory Plan map zone for the area subject to this variation is shown in **Figure 2**. The land is zoned CZ4-local centre, and is subject to the provisions of the Commercial Zones development code.

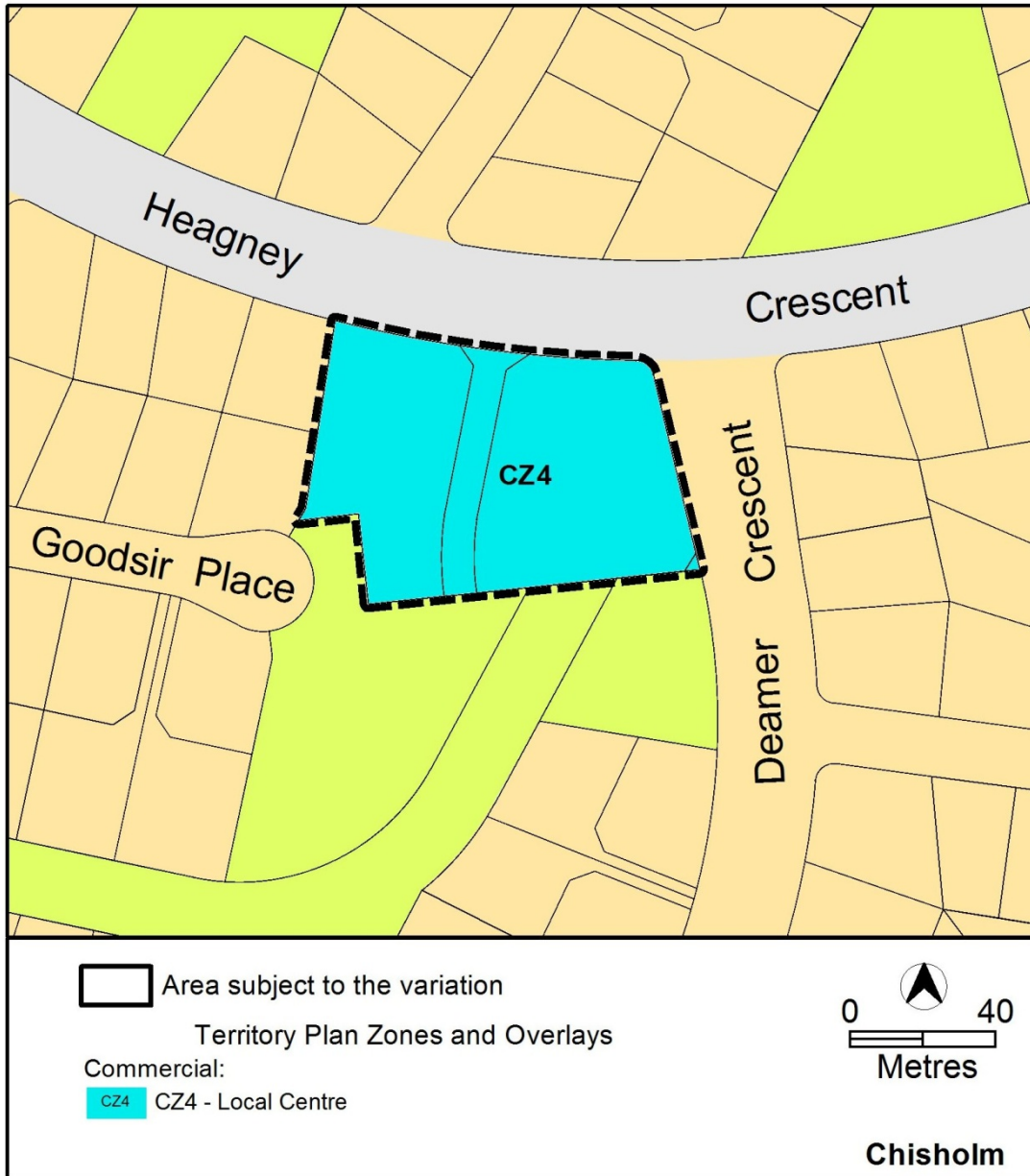


Figure 2 Territory Plan Zones Map

2.4 Proposed Changes

2.4.1 Proposed Changes to the Territory Plan Map

The proposed changes to the Territory Plan map are indicated in Figure 3.

The draft variation map indicates the proposed zone boundaries as accurately as possible but may be subject to adjustments following detailed surveys.

2.5 Reasons for the Proposed Draft Variation

The reasons for the draft variation are as follows:

- The site has been utilised as public open space for many years, with an established playground provided on the site
- The ACT Government announced in 2012 that the site would be retained as a park for the local community
- The Government has indicated that the park will be named after Caroline Chisholm. To formally name an unleased open space as a park under the *Public Place Names Act 1989*, the site is required to be zoned PRZ1 urban open space zone. The site is currently zoned CZ4 local centre

2.6 Planning Context

2.6.1 National Capital Plan

The *Australian Capital Territory (Planning and Land Management) Act 1988* established the National Capital Authority (NCA) with two of its functions being to prepare and administer a National Capital Plan (NCP) and to keep the NCP under constant review and to propose amendments to it when necessary.

The NCP, which was published in the Commonwealth Gazette on 21 January 1990, is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The *Planning and Land Management Act 1988* also required that the Territory Plan is not inconsistent with the NCP.

2.6.2 Territory Plan

Statement of Strategic Directions

The proposal is consistent with the Territory Plan's statement of strategic directions in terms of environmental, economic and social sustainability and spatial planning and urban design principles.

The draft variation supports the following key principles in the strategic directions:

- 1.1 *Planning processes and decisions will be focused on the combined achievement of economic vitality, community wellbeing, and environmental quality. Broad community involvement will be a key element in the pursuit of sustainable development, as will complementary regional strategies and agreements.*

The proposed amendment to the Territory Plan supports this principle through the official recognition and establishment of a neighbourhood park, following community involvement.

- 1.18 *Provision will be made for a comprehensive range of readily accessible community, cultural, sporting and recreational facilities, distributed according to the varying needs of different localities and population groups. In major centres and developing areas, sites will be safeguarded where necessary for particular community needs.*

The proposed amendment supports this principle by protecting the public playground and retaining public land through the formalisation of the site as public open space.

- 1.19 *A variety of open space types will be provided in each district or local area to meet the diverse recreational needs of residents and visitors, and to contribute to community health.*

The proposed amendment supports this principle by providing an urban open space with a playground for residents of south-eastern Chisholm.

- 2.10 *Adequate provision of open space throughout the Territory will remain a high priority. Open space will be planned and carefully maintained as an integrated, hierarchical system that provides for a diversity of sport and recreation activities, contributes to the legibility and character of urban development, is cost-effective to maintain, and assists in the effective management of stormwater.*

Neighborhood Parks have playground facilities and are usually situated within 400m distance of residential areas. The proposed amendment supports this principle by formalising the neighbourhood park, which will be integrated into the existing neighbourhood park system in Chisholm, and provide links between areas of open space in the area.

2.16 Retention of Canberra's unique landscape setting, including the integration of natural and cultural elements that create its 'garden city' and 'bush capital' qualities, will be accorded the highest priority. Special attention will be given to safeguarding visual amenity, protecting vegetation and other important features within the established urban landscape, and ensuring the high quality of environmental design in new developments or redevelopment.

The draft variation will ensure the retention of a number of regulated trees on the site along with the area of grassed open space that forms part of the character of the area.

2.7 Interim Effect

Section 65 of the *Planning and Development Act 2007* applies to the draft variation. This means that, in addition to the Territory Plan, the provisions of Draft Variation No 326 apply to development applications lodged on or after **14 December 2013**.

The effect of section 65 during the defined period means that the ACT Government must not do or approve anything that would be inconsistent with the Territory Plan. Put simply, the provisions of the draft variation are part of the Territory Plan for a period of up to one year from the date of this notice, unless the draft variation commences, is withdrawn or rejected by the ACT Legislative Assembly. See the fact sheet on the website regarding interim effect.

2.8 Consultation with Government Agencies

The ESDD is required to, in preparing a draft variation under section 61(b) consult with each of the following in relation to the proposed draft variation:

- the national capital authority
- the conservator of flora and fauna
- the environment protection authority
- the heritage council

- if the draft variation would, if made, be likely to affect unleased land or leased public land – each custodian for the land likely to be affected

National Capital Authority

The National Capital Authority made the following comments on 28 November 2013

I refer to your letter of 26 November 2013 regarding Draft Variation 326 to the Territory Plan. I advise that DV 326 is not inconsistent with the National Capital Plan.

Response

Noted.

Conservator of Flora and Fauna

The Conservator of Flora and Fauna made the following comments on 28 November 2013

In accordance with Section 61(b) of the Planning and Development Act 2007 (Planning Act), I advise that I have examined Draft Variation to the Territory Plan No. 326 - Chisholm Section 590, to rezone Section 590 from commercial land uses to urban open space. I have no comments to provide other than to note my support.

Response

Noted.

Environment Protection Authority

The Environment Protection Authority provided the following comments on 9 December 2013

Thank you for the opportunity to review the proposed variation to the Territory Plan over Section 590 Chisholm, from CZ4 to PRZ1. I have reviewed the documentation and support the proposal.

Response

Noted.

Heritage Council

The ACT Heritage Unit responded on behalf of the Heritage Council and provided the following comments on 4 December 2013

Thank you for referring the above draft variation to the Heritage Council (the Council) for advice. We understand that Draft Variation 326 (DV326) provides for the zoning of Chisholm section 590 to be amended to PRZI to allow for the land to continue to be used for a park. There are no registered or nominated heritage places on the land and the proposed draft variation should not result in any disturbance of the land for development. Consequently, there should not be any detrimental heritage impacts as a result of DV326. The DA Taskforce of the Heritage Council have confirmed that they have no objection to DV326.

Response

Noted.

Land custodian – Economic Development Directorate/ TAMDS

EDD provided the following comments on 6 December 2013

Thank you for the opportunity to comment on the above Draft Variation. EDD have nil comment.

TAMSD provided the following comments on 9 December 2013

TAMSD supports the release of DV326 for public consultation.

Response

Noted.

3. DRAFT VARIATION

3.1 Variation to the Territory Plan

The Territory Plan is varied as shown in Figure 3 for the area shown as subject to the variation.

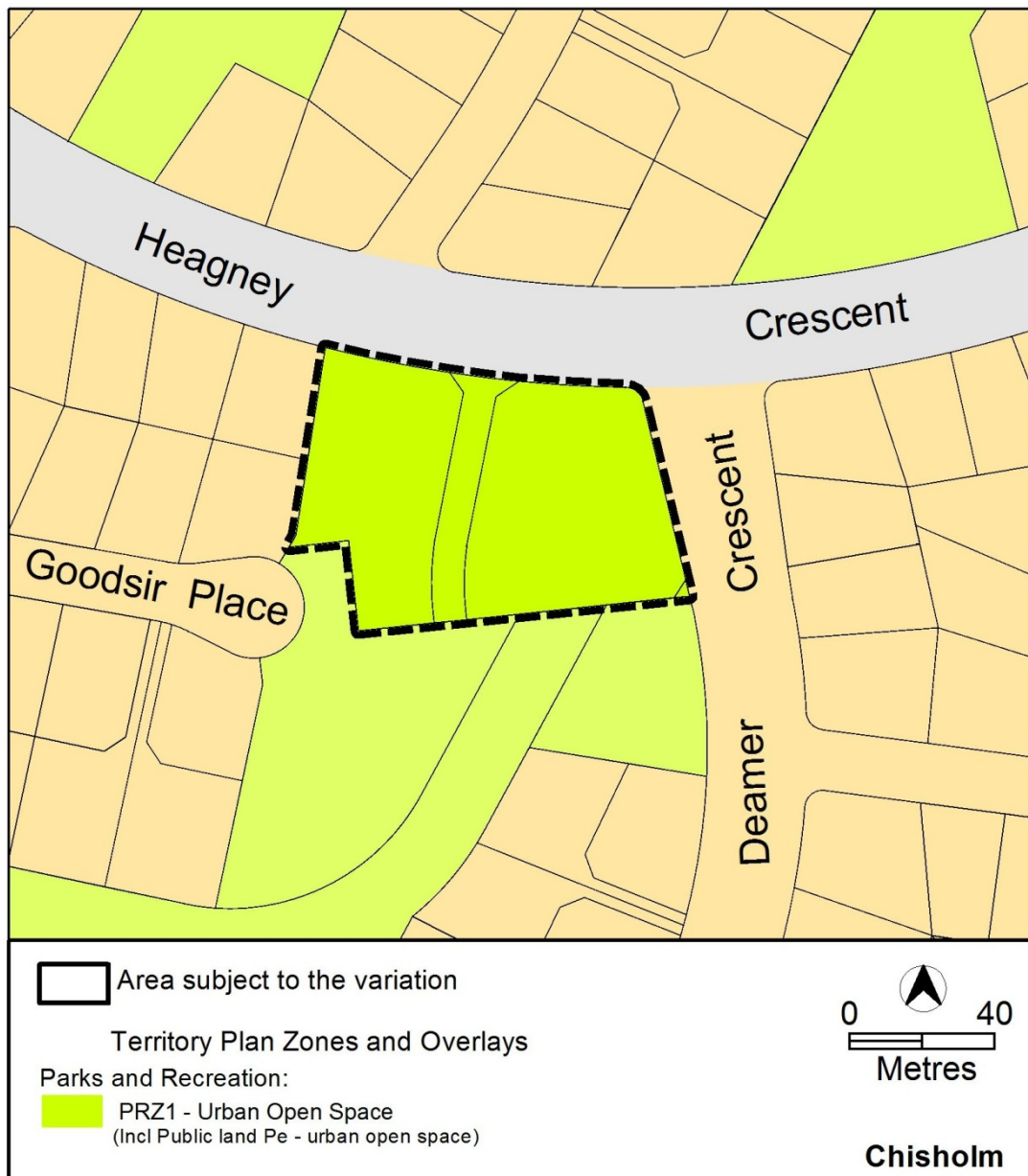


Figure 3 Proposed Territory Plan changes

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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-għajnuna 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	Ako vam je potrebna pomoć prevodioca telefoniрајте:
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:

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131 450

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