

Australian Capital Territory

Planning and Development (Technical Amendment—Miscellaneous Amendment) Plan Variation 2015 (No 4)*

Notifiable Instrument NI2015—704

Technical Amendment No 2015-16

made under the

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

This technical amendment commences on 18 December 2015.

Variation No 2015-16 to the Territory Plan has been approved by the planning and land authority.

Jim Corrigan
Delegate of the planning and land authority
15 December 2015

*Name amended under Legislation Act, s 60



ACT
Government

Environment and Planning

Planning & Development Act 2007

Technical Amendment to the Territory Plan Variation 2015-16

Various minor miscellaneous, code, and
clarification amendments and an adjustment to a
future urban area

December 2015

Commencement version

This page is left intentionally blank

Table of Contents

1.	INTRODUCTION	3
1.1	Purpose	3
1.2	Public consultation	4
1.3	National Capital Authority	4
1.4	Process.....	4
1.5	Types of technical amendments under the Act.....	4
2.	EXPLANATION.....	6
2.1	Multi unit Housing Development Code.....	6
2.2	Commercial Zones Development Code	8
2.3	Industrial Zones Development Code.....	8
2.4	Lawson Precinct Map and Code	9
2.5	Watson Precinct Map and Code	9
2.6	Definitions.....	13
2.7	Concept Plans – Precinct Codes for Section 93 of the Planning and Development Act 2007	15
3.	TECHNICAL AMENDMENT	17
3.1	Multi unit Housing Development Code.....	17
3.2	Commercial Zones Development Code	18
3.3	Industrial Zones Development Code.....	18
3.4	Lawson Precinct Map and Code	18
3.5	Watson Precinct Map and Code	19
3.6	Definitions.....	20
3.7	Concept Plans – Precinct Codes for Section 93 of the Planning and Development Act 2007	20

This page is left intentionally blank

1. INTRODUCTION

1.1 Purpose

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

Multi unit Housing Development Code

- Clarification of wording of Rule R54 to specify the minimum number of adaptable dwellings

Commercial Zones Development Code

- Revise Rule R37A to remove any confusion regarding interpretation of the rule relating to gross floor area for shop selling food in the CZ3 zone.

Industrial Zones Development Code

- 'Lease variation general code' added to section under Relevant Codes

Lawson Precinct Map and Code

- Correction to rule R1 regarding minimum number of storeys.

Watson Precinct Map and Code

- Vary Watson Precinct Map and Code to include Block 4 Section 95 Watson in the MT2 area allowing additional merit track development.

Definitions: Part A – Definitions of Development

- Include additional examples of small scale retail shops under 'Some Common Terminology' relating to the definition of *SHOP*.
- Include 'social housing' under 'Some Common Terminology' relating to 'Supportive Housing'.
- Clarification of 'Industrial trades' definition to include 'inspection'.

North Weston Concept Plan

- Amend wording in Section 2.5 paragraph 29 to clarify that a fast food restaurant is not mandatory as part of the development of the site for a service station.

1.2 Public consultation

Under section 88 of the Planning and Development Act 2007 (the Act) this type of technical amendment is subject to limited public consultation. The public was notified through a newspaper notice. At the conclusion of the limited consultation period, any representations were considered by the planning and land authority (the Authority) within the Environment and Planning Directorate. The Authority then determines a day when the technical amendment is to commence by way of a commencement notice.

1.3 National Capital Authority

The National Capital Authority has been advised of this technical amendment.

1.4 Process

This technical amendment has been prepared in accordance with section 87 of the *Planning and Development Act 2007* (the Act). Comments received from the public and the National Capital Authority were taken into account before the planning and land authority “made” the technical amendment under section 89 of the Act. The planning and land authority must now notify the public of its decision.

No changes were made to the technical amendment following public consultation.

1.5 Types of technical amendments under the Act

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

- (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 (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
- (c) a variation in relation to a future urban area under section 95 (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);
- (e) a variation to change the boundary of a zone or overlay under section 96A (Rezoning – boundary changes);
- (f) a variation required to bring the territory plan into line with the national capital plan;

- (g) a variation to omit something that is obsolete or redundant in the territory plan;
- (h) a variation to clarify the language in the territory plan if it does not change the substance of the plan;
- (i) a variation to relocate a provision within the territory plan if the substance of the provision is not changed.

Following each item in Part 2 Explanation of this technical amendment is a statement of compliance against the specific criteria for the relevant category of technical amendment.

TA2015-16 has been prepared in accordance with sections 87 (a), (b), (c) and (h) of the Act.

2. EXPLANATION

This part of the technical amendment document explains the changes to be made to the Territory Plan, the reasons for the change, and a statement of compliance against the relevant section of the Act.

2.1 Multi unit Housing Development Code

Minimum number of adaptable dwellings

Rule 54 and Table A8 in the multi unit housing development code specify the minimum number of dwellings that are part of a multi-unit development that must be 'adaptable' i.e. designed to meet Australian Standard AS4299 – Adaptable Housing (Class C). Table A8 specifies the minimum number of adaptable dwellings for developments of 10 or more dwellings. However the wording can be interpreted to mean a number in excess of that intended by the provision. The wording and format of rule 54 and Table A8 require simplification for clarity. The amendment has no effect on the minimum number of adaptable dwellings required.

Existing provision

5.6 Adaptability of dwelling for use by people with a disability	
R54 This rule applies to <i>multi-unit housing</i> comprising more than 9 dwellings. The minimum number of dwellings designed to meet Australian Standard <i>AS4299 – Adaptable Housing (Class C)</i> is shown in table A8.	This is a mandatory requirement. There is no applicable criterion.

Table A8 – Minimum number of dwellings designed to meet Australian Standard AS4299 – Adaptable Housing (Class C)

total number of dwellings	minimum number of dwellings designed to meet Australian Standard <i>AS4299 – Adaptable Housing (Class C)</i>
9	nil
10	1
11 to 20	2
21 to 30	3
31 to 40	4
41 and over	4 + 1 for every 10 dwellings (or part thereof)

Proposed provision

5.6 Adaptable housing – multi-unit housing comprising 10 or more dwellings	
<p>R54</p> <p>This rule applies to <i>multi-unit housing</i> comprising <u>10 or more dwellings</u>.</p> <p>The minimum number of <i>dwellings</i> designed to meet Australian Standard <i>AS4299 – Adaptable Housing</i> (Class C) is shown in table A8.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Table A8 – Minimum number of dwellings designed to meet Australian Standard AS4299 – Adaptable Housing (Class C)

total number of dwellings	minimum number of dwellings designed to meet Australian Standard <i>AS4299 – Adaptable Housing</i> (Class C)
<u>less than 10</u>	nil
10	1
11 to 20	2
21 to 30	3
31 to 40	4
<u>41 or more</u>	<u>5</u> <u>+ 1 for every 10 additional dwellings over 41</u>

Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
S87(h) a variation to clarify the language in the territory plan if it does not change the substance of the plan.	Compliant. This amendment clarifies the wording of the provision relating to adaptable housing. It does not change the meaning or substance of the provision.

2.2 Commercial Zones Development Code

Revision to Rule R37A to avoid confusion regarding produce market

Rule R37A applies to the commercial CZ3 Services zone, and refers to a maximum gross floor area for a supermarket or a shop selling food (except for a produce market) being 200m². The phrase '(except for a produce market)' is causing difficulty for development assessment involving lease applications. It can be misinterpreted to mean that the lease permits produce market under the use of shop, whilst under the Territory Plan 'produce market' is defined and listed as a separate use not associated with the umbrella term 'SHOP'. This appears to be a historic provision that is no longer needed but could inadvertently imply that a produce market is under the umbrella term of 'SHOP'.

The reference to '(except for a produce market)' is deleted in the rule to remove any confusion or misinterpretation of the intent of the provision.

Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
s87(b) a variation (a code variation) that – (i) would only change a code (ii) is consistent with the policy purpose and policy framework of the code; and (iii) is not an error variation.	Compliant. This amendment deletes reference to a produce market to avoid misinterpretation of the provision and remove a historical reference which is no longer applicable

2.3 Industrial Zones Development Code

Under the section on Relevant Codes at the beginning of the industrial zones development code, 'Lease Variation General Code' is added to ensure this code is noted in this section of the code as potentially being relevant to development in industrial zones.

Section	Statement
s87(b) a variation (a code variation) that – (i) would only change a code (ii) is consistent with the policy purpose and policy framework of the code; and (iii) is not an error variation.	Compliant. This addition to the code does not change any policy intent of the code but merely highlights to the reader that the lease variation general code may be relevant when considering development proposals within the industrial zones.

2.4 Lawson Precinct Map and Code

Rule R1 of the Lawson Precinct Code states:

‘The following rule applies to area A in Figure 1:
The minimum number of storeys for dwellings in this location is 2.’

The existing wording appears to describe *dwellings* of two storeys i.e. ‘townhouse’ type development, but effectively precludes the development of apartments, since the individual dwellings in an apartment development are generally not two-storey.

The sites are zoned residential RZ4 medium density. The concept planning for these sites included an intention for apartment development which is reflected in the projected dwelling yields for the sites.

It is considered that the provision is intended to refer to buildings rather than dwellings. The wording is rectified in the rule as part of this technical amendment to allow for the development of apartment buildings of 2 storeys or more as intended, whilst continuing to allow other 2 storey development types.

Section	Statement
s87(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. The change to the wording rectifies previous ambiguity in translation of the provisions from the concept plan into the precinct code.

2.5 Watson Precinct Map and Code

Block 4 Section 95 Watson

The lessees of Block 10 Section 64 Watson (on which the Carotel Motel is located) are seeking the direct sale of the adjoining Block 4 Section 95 Watson (the subject block), to consolidate with Block 10 for residential development. Block 10 is within the CZ6 leisure and accommodation zone with an additional merit track development (MT2) overlay in the Watson precinct map and code permitting residential use. The subject block is also classified as CZ6 zone with a future urban area (FUA) overlay and is not included in the MT2 area on the precinct map.

Block 4 Section 95 Watson is a thin strip of land in between Blocks 2 and 3 Section 95 and Block 10 Section 64 all of Watson, that was previously reserved for public infrastructure. The Territory and Municipal Services Directorate has confirmed with the proponent that the use of the land for drainage purposes is no longer required. As the subject block is still under FUA the precinct code can be amended provided that the changes are consistent with the principles and policies of the applicable structure plan. The North Watson Structure Plan envisaged residential use on

specific areas in the suburb of north Watson, and allowed for minor boundary adjustments between land use policy areas within defined land areas (now referred to as FUA land).

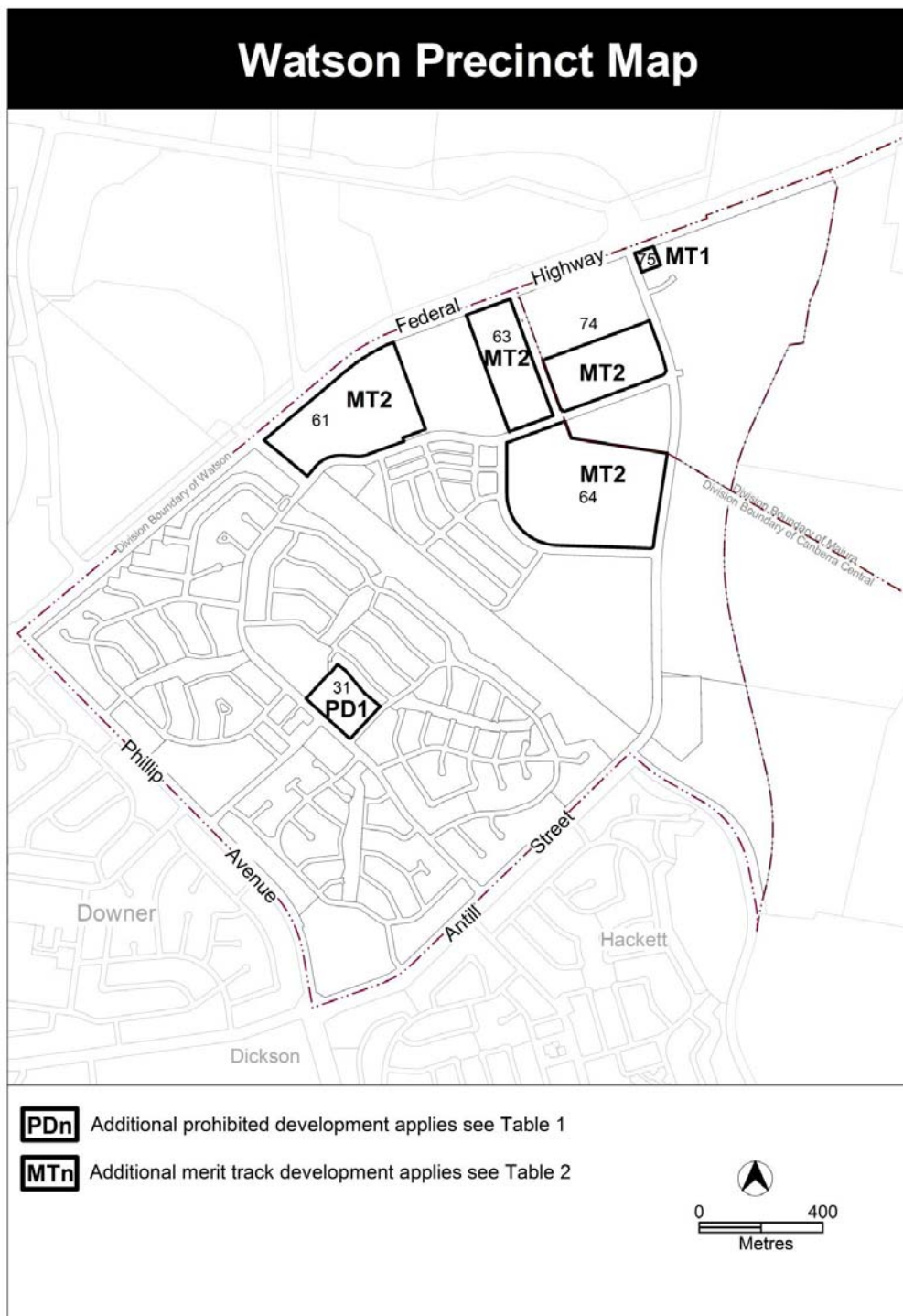
The request to include the subject block within the MT2 area and consolidate with the adjacent block presents an opportunity to utilise a block that would otherwise most likely be left under-utilised and undeveloped due to its unconventional shape.

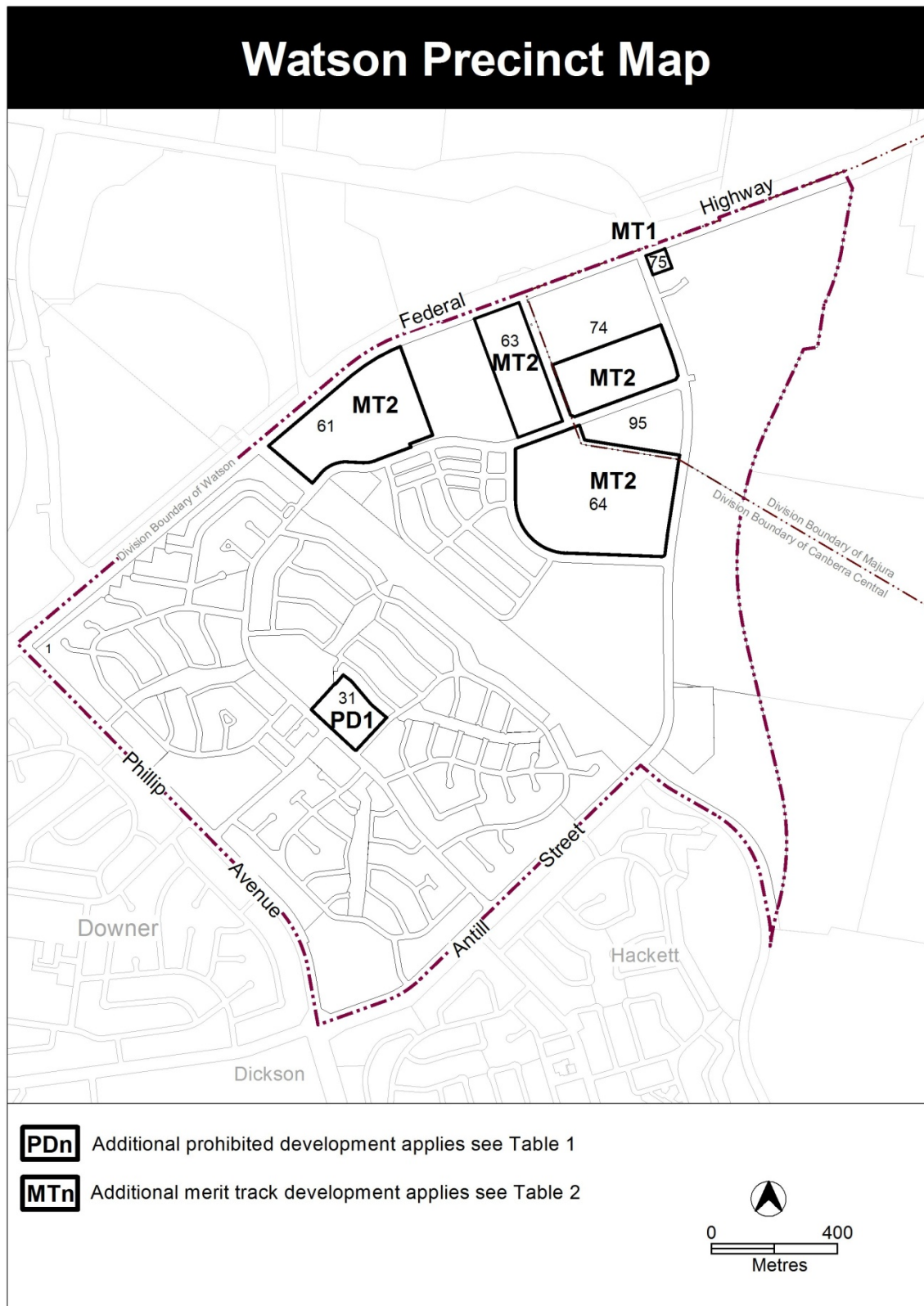
The adjustment to the District boundary will occur concurrently with the issue of the new Crown Lease over the consolidated block.

Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
s95 Technical amendments – future urban areas (1) The planning and land authority may vary the territory plan under section 89 (Making technical amendments) to rezone land in a future urban area, and establish or vary a precinct code in relation to the land, unless the variation is inconsistent with the principles and policies in the structure plan for the area.	Compliant. This amendment varies the Watson Precinct Map and Code to extend the MT2 additional merit track development land use provisions over Block 4 Section 95 Watson. The block is currently under a future urban area overlay.

Existing precinct map





2.6 Definitions

Part A – Definitions of Development

2.8.1 Clarification of ‘Industrial trades’ definition

The Territory Plan Definitions do not include a term for the inspection of goods or materials. Inspection is considered to fit within the definition of ‘Industrial trades’ because it is synonymous with the uses specified in relation to industrial, agricultural, construction or like purposes. This technical amendment makes provision to include ‘inspection’ in this definition to avoid potential misinterpretation and provide clarity to proponents and assessors.

Existing provision

Industrial trades means the use of land for the selling, hiring or servicing of goods or materials for industrial, agricultural, construction, transport or like purposes where:

- a) A large area for handling, storage or display is required; and/or
- b) The activity carried out has the potential to have an impact similar to *industry* in terms of traffic and parking generation, noise and air pollution, and visual impact.

Proposed provision

Industrial trades means the use of land for the selling, hiring, inspection or servicing of goods or materials for industrial, agricultural, construction, transport or like purposes where:

- a) A large area for handling, storage or display is required; and/or
- b) The activity carried out has the potential to have an impact similar to *industry* in terms of traffic and parking generation, noise and air pollution, and visual impact.

Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
S87(h) a variation to clarify the language in the territory plan if it does not change the substance of the plan.	Compliant. This amendment clarifies the term ‘Industrial trades’ in order to avoid potential misinterpretation. It does not change the meaning or substance of the definition.

2.8.2 Examples of small retail outlets added to ‘SHOP’ common terminology

It has been noted that there is no development type under the umbrella term ‘SHOP’ that covers small retail outlets such as boutiques and speciality stores, and small scale grocery and other food stores that don’t fit within the definition of ‘Supermarket’. Also, the common terminology relating to ‘SHOP’ also appears to be restricted to ‘Bulky goods retailing’ due to a formatting error in the table of definitions.

This amendment includes in the table of definitions under some common terminology for ‘SHOP’ some examples of small scale retail such as ‘boutique’ and ‘convenience store’.

Section	Statement
s87(h) a variation to clarify the language in the territory plan if it does not change the substance of the plan.	Compliant. This change provides further examples of type of permitted development that clarify the meaning and context of the definitions in the plan.

2.8.3 Inclusion of ‘social housing’ under ‘Some Common Terminology’ for ‘Supportive Housing’

The Territory Plan definition of ‘Supportive housing’ is:

Supportive housing means the use of land for residential accommodation for persons in need of support, which is managed by a Territory approved organisation that provides a range of support services such as counselling, domestic assistance and personal care for residents as required. Although such services must be able to be delivered on site, management and preparation may be carried out on site or elsewhere. Housing may be provided in the form of self-contained *dwellings*. The term does not include a *retirement village* or student accommodation.

Common terminology:

aged persons units
community housing
older persons units
rooming house
university college

The inclusion of the term ‘social housing’ to the common terminology for ‘supportive housing’ is in recognition that the term ‘social housing’ is an umbrella term encompassing generally low cost housing provided either by a public or a community provider for people on low or moderate incomes. Social housing could also meet the needs of people whose housing needs are not adequately met in other forms of housing.

The tenure type of the housing provider, ie public or community based, is not a critical element for the supportive housing use. However, it must be managed by a Territory approved organisation.

Any form of social housing, in order to be considered to be ‘supportive housing’ under the Territory Plan definition, must be able to comply with the requirements of the definition for ‘supportive housing’.

Section	Statement
s87(h) a variation to clarify the language in the territory plan if it does not change the substance of the plan.	Compliant. This change provides further examples of type of permitted development that clarify the meaning and context of the definitions in the plan.

2.7 Concept Plans – Precinct Codes for Section 93 of the Planning and Development Act 2007

North Weston Concept Plan

The North Weston Concept Plan was amended in June 2015 to change the future urban area zoning to commercial CZ3 services to facilitate the development of a service station on part Block 1218 Weston Creek. The concept plan was also amended to state that a service station and fast food restaurant are to be accommodated on the site. This wording is adjusted so that it is not a mandatory requirement for the associated use to be co-located on the site of the service station. This will give future service station operators the flexibility in considering the option of providing a restaurant/take-away food shop.

Existing wording

2.5 Commercial and mixed use development

29. A service station and fast food restaurant are to be accommodated on the site zoned CZ3 on the corner of Cotter Road and Kirkpatrick Street. Mixed use development incorporating commercial and residential uses are to be accommodated on the site zoned CZ5 in a building of minimum 2 storeys, maximum 4 storeys, with ground floor accommodation suitable for shop(s), café/restaurant(s), small office(s).

Proposed wording (underlined)

2.5 Commercial and mixed use development

29. A service station is to be accommodated on the site zoned CZ3 on the corner of Cotter Road and Kirkpatrick Street, in addition the site may be used for a restaurant and/or take-away food shop. Mixed use development incorporating commercial and residential uses are to be accommodated on the site zoned CZ5 in a building of minimum 2 storeys, maximum 4 storeys, with ground floor accommodation suitable for shop(s), café/restaurant(s), small office(s).

Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
s87(b) a variation (a code variation) that — (i) would only change a code (ii) is consistent with the policy purpose and policy framework of the code; and (iii) is not an error variation.	Compliant. This amendment does not affect the outcomes envisaged for the subject site, but changes the wording to allow a level of flexibility in the delivery of the associated use (fast food restaurant).

3. TECHNICAL AMENDMENT

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

3.1 Multi unit Housing Development Code

**1. Part A General controls; Element 5: Building design, Item 5.6
Adaptability of dwelling for use by people with a disability, Rule R54**

Substitute

5.6 Adaptable housing – multi-unit housing comprising 10 or more dwellings	
<p>R54</p> <p>This rule applies to <i>multi-unit housing</i> comprising 10 or more <i>dwellings</i>.</p> <p>The minimum number of <i>dwellings</i> designed to meet Australian Standard <i>AS4299 – Adaptable Housing</i> (Class C) is shown in table A8.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Table A8 – Minimum number of dwellings designed to meet Australian Standard AS4299 – Adaptable Housing (Class C)

total number of dwellings	minimum number of dwellings designed to meet Australian Standard <i>AS4299 – Adaptable Housing</i> (Class C)
less than 10	nil
10	1
11 to 20	2
21 to 30	3
31 to 40	4
41 or more	5 + 1 for every 10 additional dwellings over 41

3.2 Commercial Zones Development Code

2. Relevant precinct codes, development codes and general codes

Under the paragraph 'In addition to **development codes** and **precinct codes**, the following **general codes** may be relevant' after Home Business General Code *add*:

Lease Variation General Code

3. Part B – Additional controls for town centres; Element 11: Use; Item 11.1 Shops – floor area limit – CZ2 and CZ3

Substitute

11.1 Shops – floor area limit – CZ2 and CZ3	
R37A This rule applies CZ3. The maximum <i>gross floor area</i> for a supermarket or a <i>shop</i> selling food is 200m ² .	This is a mandatory requirement. There is no applicable criterion.

3.3 Industrial Zones Development Code

4. Relevant codes

Under the paragraph 'The following **general codes**, in particular, may be relevant to development in industrial zones' after Home Business General Code *add*:

Lease Variation General Code

3.4 Lawson Precinct Map and Code

5. RC1 – Lawson residential estate; Element 1: Building heights; Item 1.1 Number of storeys, Rule R1

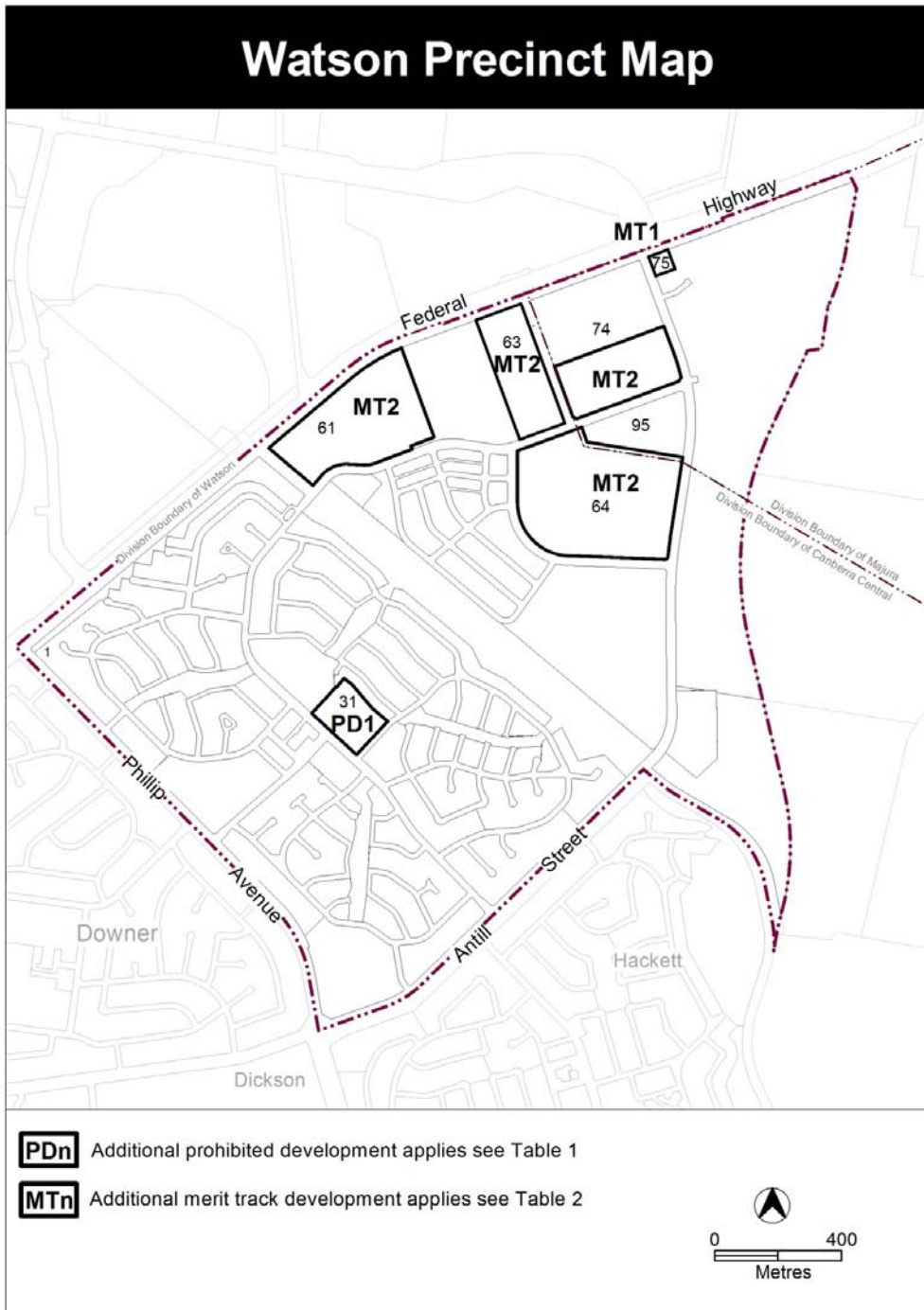
Substitute

1.1 Number of storeys	
R1 The following rule applies to area A in Figure 1: The minimum number of storeys for buildings in this location is 2.	This is a mandatory requirement. There is no applicable criterion.

3.5 Watson Precinct Map and Code

6. Watson Precinct Map

Substitute



3.6 Definitions

7. Part A – Definition of development; Industrial trades

Substitute

Industrial trades means the use of land for the selling, hiring, inspection or servicing of goods or materials for industrial, agricultural, construction, transport or like purposes where:

- a) A large area for handling, storage or display is required; and/or
- b) The activity carried out has the potential to have an impact similar to *industry* in terms of traffic and parking generation, noise and air pollution, and visual impact.

8. Part A – Definition of development; SHOP

In the 'Some Common Terminology' column add:

Boutique
Convenience store

9. Part A – Definition of development; Supportive housing

In the 'Some Common Terminology' column add:

Social housing

3.7 Concept Plans – Precinct Codes for Section 93 of the Planning and Development Act 2007

10. North Weston Concept Plan

Substitute

2.5 Commercial and mixed use development

29. A service station is to be accommodated on the site zoned CZ3 on the corner of Cotter Road and Kirkpatrick Street, in addition the site may be used for a restaurant and/or take-away food shop. Mixed use development incorporating commercial and residential uses are to be accommodated on the site zoned CZ5 in a building of minimum 2 storeys, maximum 4 storeys, with ground floor accommodation suitable for shop(s), café/restaurant(s), small office(s).

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	Ako vam je potrebna pomoć prevodioca telefonirajte:
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

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