

Australian Capital Territory

Planning and Development (Technical Amendment—Kingston) Plan Variation 2016 (No 1)

Notifiable Instrument NI2016—619

Technical Amendment No 2016-09

made under the

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

1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—Kingston) Plan Variation 2016 (No 1)*.

2 Technical amendment

I am satisfied under section 89(1)(a) of the *Planning and Development Act 2007* (the **Act**) that the Kingston plan variation is a technical amendment to the Territory Plan.

3 Commencement

This technical amendment commences on the day after it is notified.

4 Meaning of *Kingston plan variation*

For this instrument:

Kingston plan variation means the technical amendment to the Territory plan variation 2016-09 in the schedule.

Brett Phillips
Delegate of the planning and land authority
03 November 2016



ACT
Government

Environment and Planning

Planning & Development Act 2007

Technical Amendment to the Territory Plan Variation 2016-09

Changes to Kingston precinct map and code
Section 49 Kingston

November 2016

Commencement version

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1. INTRODUCTION

1.1 Purpose

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

Kingston Precinct Map and Code

- Adjust MT8/PD7 and MT7/PD6 sub-precinct boundary on the Kingston Precinct Map to include the Former Transport Depot in Section 49 with other heritage listed buildings
- Remove 'hotel' and 'child care centre' from Table 1 – Additional Prohibited Development
- Add a provision regarding site contamination audit requirements under Element 9: Site in RC4

1.2 Public consultation

Under section 87 of the *Planning and Development Act 2007* (the Act) this type of technical amendment requires limited public consultation. The public was notified through an online public 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 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:

- (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.

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.

TA2016-09 has been prepared in accordance with section 87(2)(a) 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 Changes to Kingston precinct map

Section 49 Kingston (part of the Kingston Foreshore area) is being developed as an Arts Precinct and the existing buildings on the site have been refurbished for use by various artists as studios and workshops. Future developments on the site will reflect and respond to the cultural and historic significance of the site.

The Kingston Precinct Map boundary for area MT8/PD7 (see Figure 1) was initially established to incorporate the historic sites into the one sub-precinct (MT8/PD7). This includes the Kingston Powerhouse and the Fitters' Workshop (listed on the ACT Heritage Register). At the time the Former Transport Depot building was not a heritage building and was intended for removal. After the original Kingston Foreshore sub-precinct boundaries were defined, the Former Transport Depot building was listed on the ACT Heritage Register with the associated Conservation Management Plan recommending that most of the building should be retained and adapted for alternative uses. The MT8/PD7 and MT7/PD6 boundary has been adjusted to include the Former Transport Depot Building in the Mt8/PD7 sub-precinct with other heritage listed buildings in Section 49 (see Figure 2).

The changes to the MT8/PD7 and MT7/PD6 sub-precinct boundary (see Figure 2) are also consistent with the *Planning and Development Regulation 2008* Kingston Foreshore map in Schedule 3, Part 3.4, Division 3.4.6 which already shows the boundaries as made by this technical amendment.

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

Section	Statement
s87(2)(a) 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 technical amendment adjusts the boundary of the MT8/PD7 and MT7/PD6 sub-precincts on the Kingston Precinct Map in the Kingston Precinct Map and Code to include all heritage buildings within the MT8/PD7 Section 49 area

Kingston Precinct Map

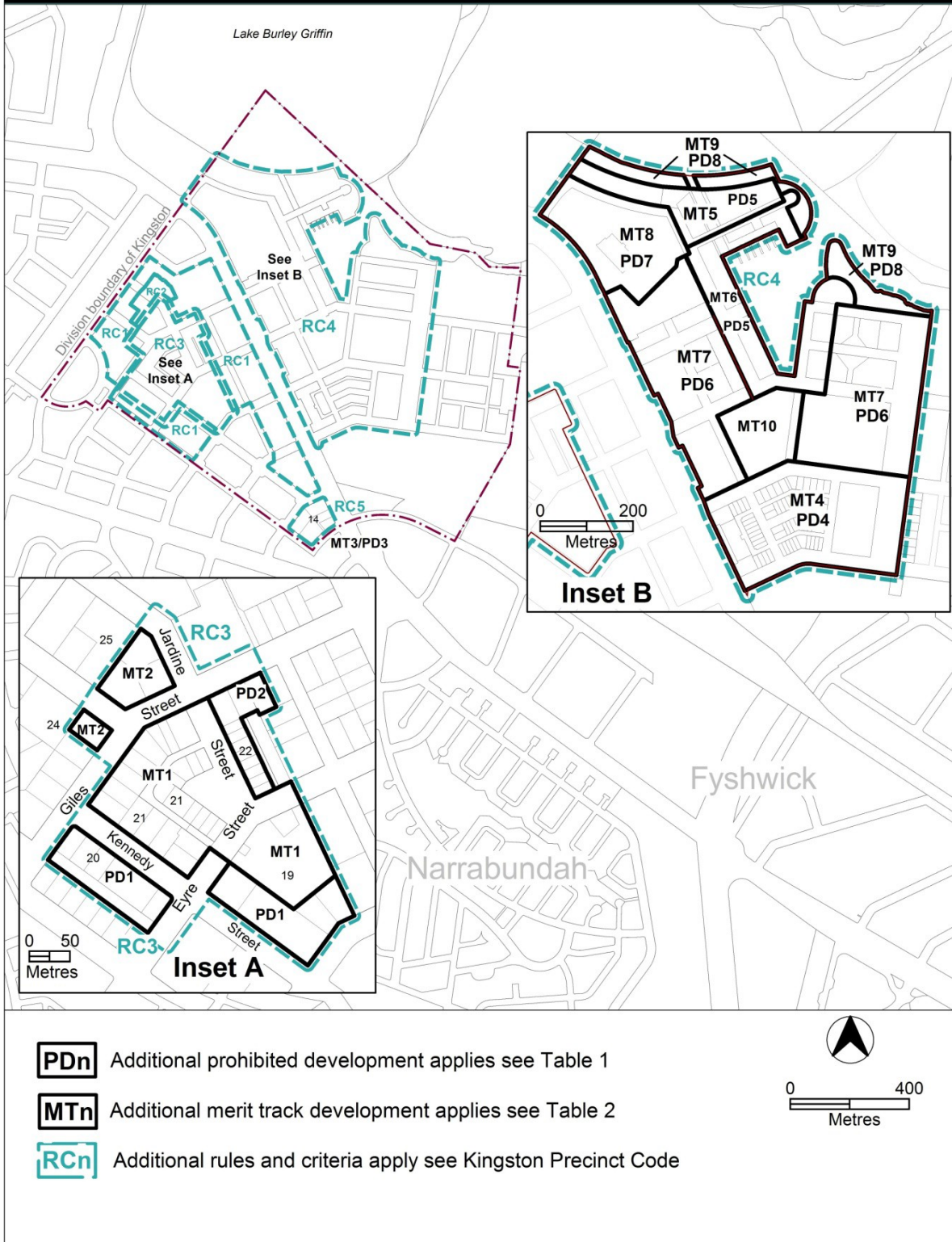
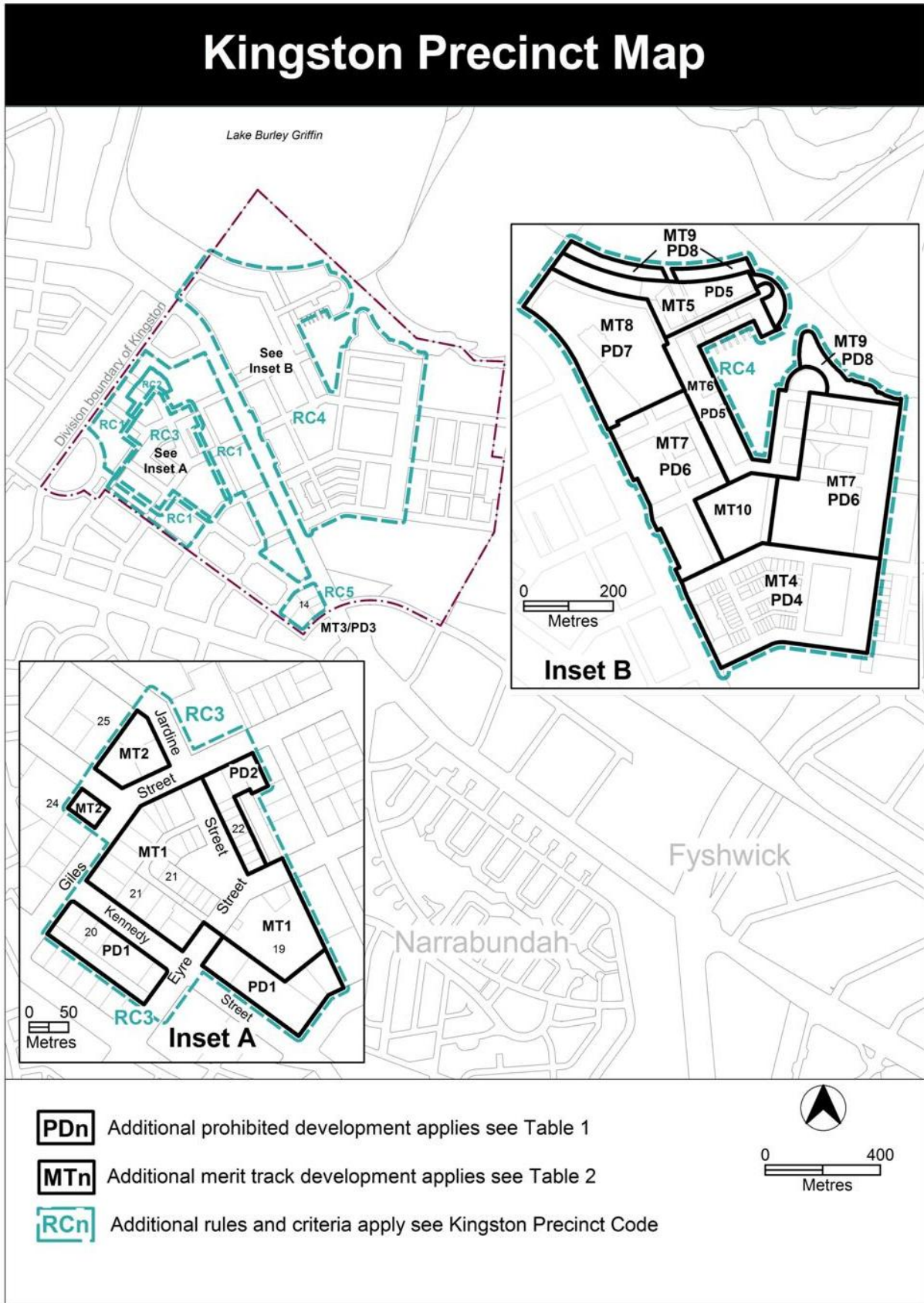


Figure 1: Existing Kingston Precinct Map

Figure 2: Proposed Kingston Precinct Map (see revised Inset B)



2.2 Changes to Assessment Tracks: Table 1 – Additional prohibited development

The land subject to this technical amendment is currently under a future urban area (FUA) overlay. The land is also currently unleased land and under the custodianship of the Territory. Changes can be made to the Territory Plan where land is covered by an FUA overlay, provided that the changes are consistent with the overarching Structure Plan or concept plan for the area. The Kingston Foreshore Structure Plan sets out the principles and policies that apply to the area known as Kingston Foreshore which includes Section 49 Kingston. The Kingston Foreshore Structure Plan is accessible at: <http://www.legislation.act.gov.au/ni/2008-27/copy/68159/pdf/2008-27.pdf>

It is recognised that a fundamental aspect to the success of the Kingston Arts Precinct will be the precinct's ability to attract and retain a diverse range of people, visitors, artists/businesses and employees alike. People will be more drawn to an area that includes a broad range of uses, particularly uses that support their interaction with the precinct and or provide their employment. Hotel and child care centre uses can both assist in achieving this outcome, especially in the context of the underlying commercial CZ5 mixed-use zone intent of the broader Kingston Foreshore area. Both hotel and child care centre are permitted uses in the commercial CZ5 mixed use zone in the Territory Plan.

Hotels can encourage and promote both national and international visitor access, generate pedestrian traffic, employ significant numbers of staff and provide the opportunity for tourists to engage in the area by staying locally in the area.

Child care facilities can provide employment opportunities, and also assist in making employment more accessible for people wanting to work in the creative industries and other businesses located within the area.

This technical amendment removes 'child care centre' and 'hotel' from the Table 1 – Additional prohibited development for the PD7 area.

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

Section	Statement
s87(2)(a) 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 technical amendment has been prepared to make changes to the Precinct Map and Code for the inclusion of certain assessable uses which are consistent with the structure plan for the area on which the precinct code is based.

2.3 Changes to RC4 – Kingston Foreshore

In response to feedback and discussion with the Environment Protection Authority (EPA) the following provision has been included under 'Element 9: Site', relating to EPA's site contamination requirements.

EPA requires a site contamination audit to be undertaken into the suitability of the site for the permitted uses and that the report is to be endorsed by the EPA prior to any future development being approved.

9.6 Site contamination – Section 49	
R55A Applications for any permitted uses (including hotel and child care centre) proposed on a site are to be accompanied by a report from an Environment Protection Authority (EPA) approved auditor, with written endorsement from the EPA, advising that the site has been assessed for suitability from a contamination perspective.	C55A Applications without written auditor and EPA endorsement will be referred to the EPA.

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

Section	Statement
s87(2)(a) a variation (a code variation) that – (iv) would only change a code (v) is consistent with the policy purpose and policy framework of the code; and (vi) is not an error variation.	Compliant. This provision has been included to ensure that a site contamination audit is undertaken and endorsed by the EPA prior to any future development being approved. It only changes the precinct code, it does not affect the policy purpose or policy framework of the code, and is not an error change.

3. TECHNICAL AMENDMENT

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

See over for instructions for Kingston precinct map and code

3.1 Kingston Precinct Map and Code

1. Kingston Precinct Map

Substitute



2. Assessment Tracks: Table 1 – Additional prohibited development

Under the 'Development' column corresponding to Suburb precinct map label 'PD7':

Delete

'child care centre'
'hotel'

3. RC4 – Kingston Foreshore; Element 9: Site

Add

9.6 Site contamination – Section 49	
R55A Applications for any permitted uses (including hotel and child care centre) proposed on a site are to be accompanied by a report from an Environment Protection Authority (EPA) approved auditor, with written endorsement from the EPA, advising that the site has been assessed for suitability from a contamination perspective.	C55A Applications without written auditor and EPA endorsement will be referred to the EPA.

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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, çempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
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SPANISH	Si necesita la asistencia de un intérprete, llame al:
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