

Australian Capital Territory

# Planning and Development (Technical Amendment—Amaroo) Plan Variation 2022

Notifiable instrument NI2022–364

Technical Amendment No 2022-04

made under the

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

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## 1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—Amaroo) Plan Variation 2022*.

## 2 Commencement

This instrument commences on 29 July 2022.

## 3 Technical amendment

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

## 4 Dictionary

In this instrument:

***Amaroo plan variation*** means the technical amendment to the Territory Plan, variation 2022-04, in the schedule.

Lisa Teburea  
Delegate of the planning and land authority  
25 July 2022

Schedule  
(see section 4)



**ACT**  
Government

Environment, Planning and  
Sustainable Development

*Planning and Development Act 2007*

# **Technical Amendment to the Territory Plan**

## **2022-04**

Territory land adjoining  
Amaroo section 114 block 3  
Change zone boundary – Development  
encroachment

July 2022

**Commencement version**

under section 89 of the *Planning and Development Act 2007*

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# 1. INTRODUCTION

## 1.1 Purpose

This technical amendment proposes the following change to the Territory Plan:

### *Territory Plan Map*

- Change the zone boundary of Territory land (Amaroo section 114 block 4 and part block 5) adjoining Amaroo section 114 block 3 for a width of 2.4 metres along the block boundary to expand the Community Facility zone from Parks and Recreation PRZ1 Urban Open Space zone.

## 1.2 Public consultation

Under section 87 of the *Planning and Development Act 2007* (the **Act**) this type of technical amendment is subject to limited public consultation.

TA2022-04 was released for public consultation from 3 June 2022 to 5 July 2022. No public submissions were received.

## 1.3 National Capital Authority

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 (the **Plan**) and to keep the NCP under constant review and to propose amendments to it when necessary.

The Plan, which was published in the Commonwealth Gazette on 21 January 1990, is required to ensure Canberra and the Territory are planned and developed in accordance with their national significance. The *Australian Capital Territory (Planning and Land Management) Act 1988* also requires the Territory Plan not be inconsistent with the Plan. The areas covered by this technical amendment are within urban areas identified in the Plan.

The NCA has been advised of this technical amendment.

## 1.4 Process

This technical amendment has been prepared in accordance with section 87 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.

TA2022-04 has been prepared in accordance with section 87 (2) (b) and section 90B of the Act.

## 2. EXPLANATORY STATEMENT

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 Background

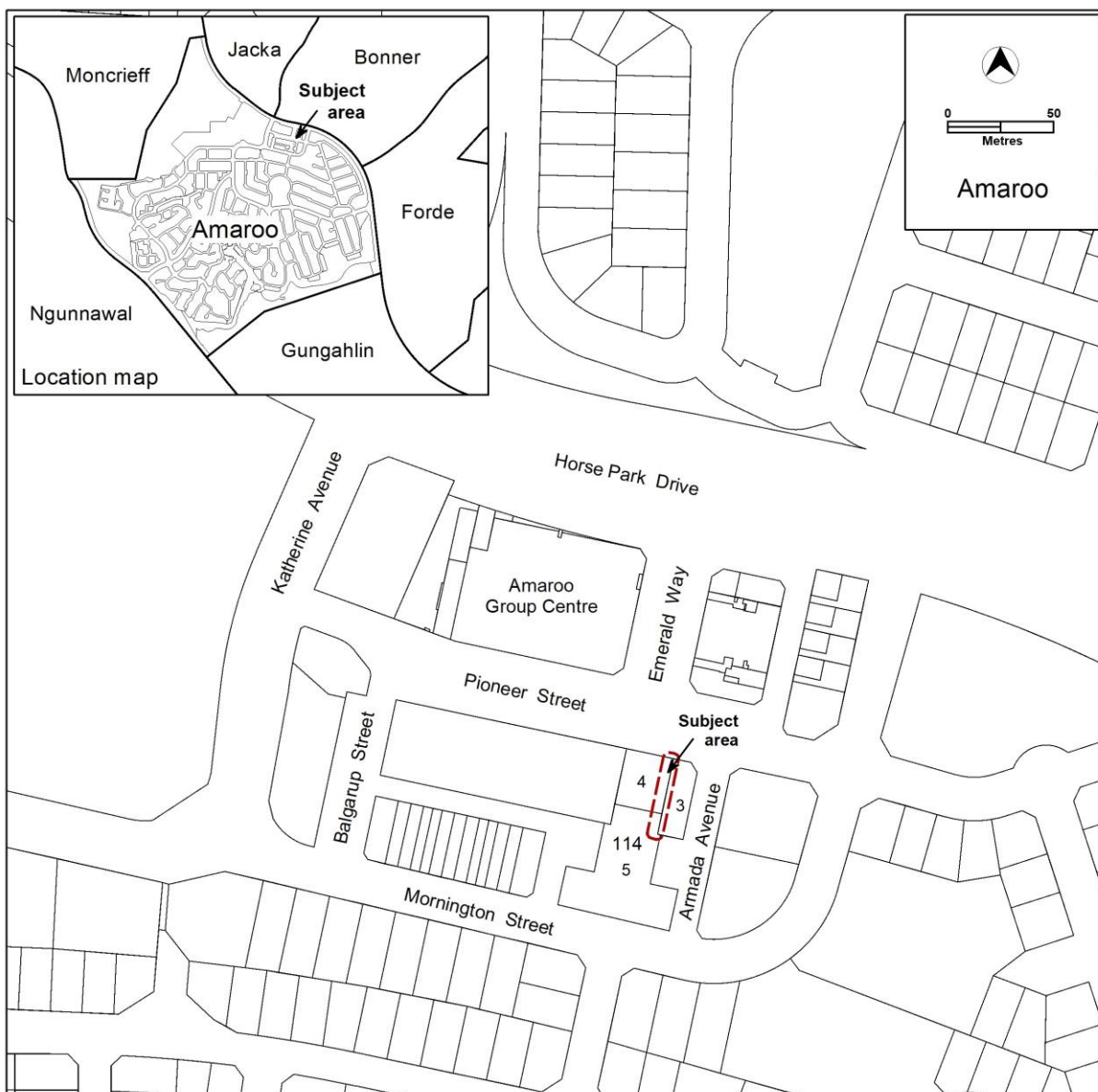
The planning and land authority has received a development proposal to develop Amaroo section 114 block 3 for a multi-storey health facility. Block 3 is zoned Community Facility and is located within the Amaroo group centre. The proponent contends that in order to achieve a building design that is workable and feasible, the proposal will result in part of the development overhanging the entire length of block 3 and encroaching into the parks and recreation PRZ1 zone on the western side of the block for a depth of 2.4 metres.

Rule R8 in the Amaroo Precinct Map and Code requires a 2.4 metre wide awning around the building at a minimum height of 3 metres above ground level, fronting the area zoned PRZ1 Urban Open Space. The development proposal is to build an additional two storeys above the awning and to utilise this gross floor area as part of the proposed health facility. To enable this, a direct grant process for air rights above the Urban Open Space zoned area is required.

A health facility is a prohibited use in the PRZ1 Urban Open Space zone. Therefore, the development triggers the requirement for a technical amendment under section 90B of the Act for rezoning where a development encroaches onto adjoining Territory land. Under the Act, section 90B permits the changing of the boundary of a zone where development is deemed to be encroaching onto adjoining Territory land, provided that the change is consistent with a development proposal under section 137AC of the Act. Section 137AC requires the planning and land authority to make a declaration for development encroaching on adjoining Territory land if development is prohibited provided that the proposal satisfies the criteria in section 137AC (2) of the Act.

The proposal was assessed by the planning and land authority and deemed to comply with the requirements under section 137AC. The declaration was approved by a delegate of the planning and land authority on 10 March 2022 and the notifiable instrument (NI2022-130) took effect on the legislation register on 22 March 2022.

The encroachment into the PRZ1 zone is considered to be a minor component of the development which allows a more logical and appropriate development. This is a positive and appropriate outcome because it does not detract from the amenity of the surrounding area, promotes better land management and does not unreasonably restrict public access to other land, particularly the urban open space located on Block 4 and Block 5 Section 114 Amaroo.



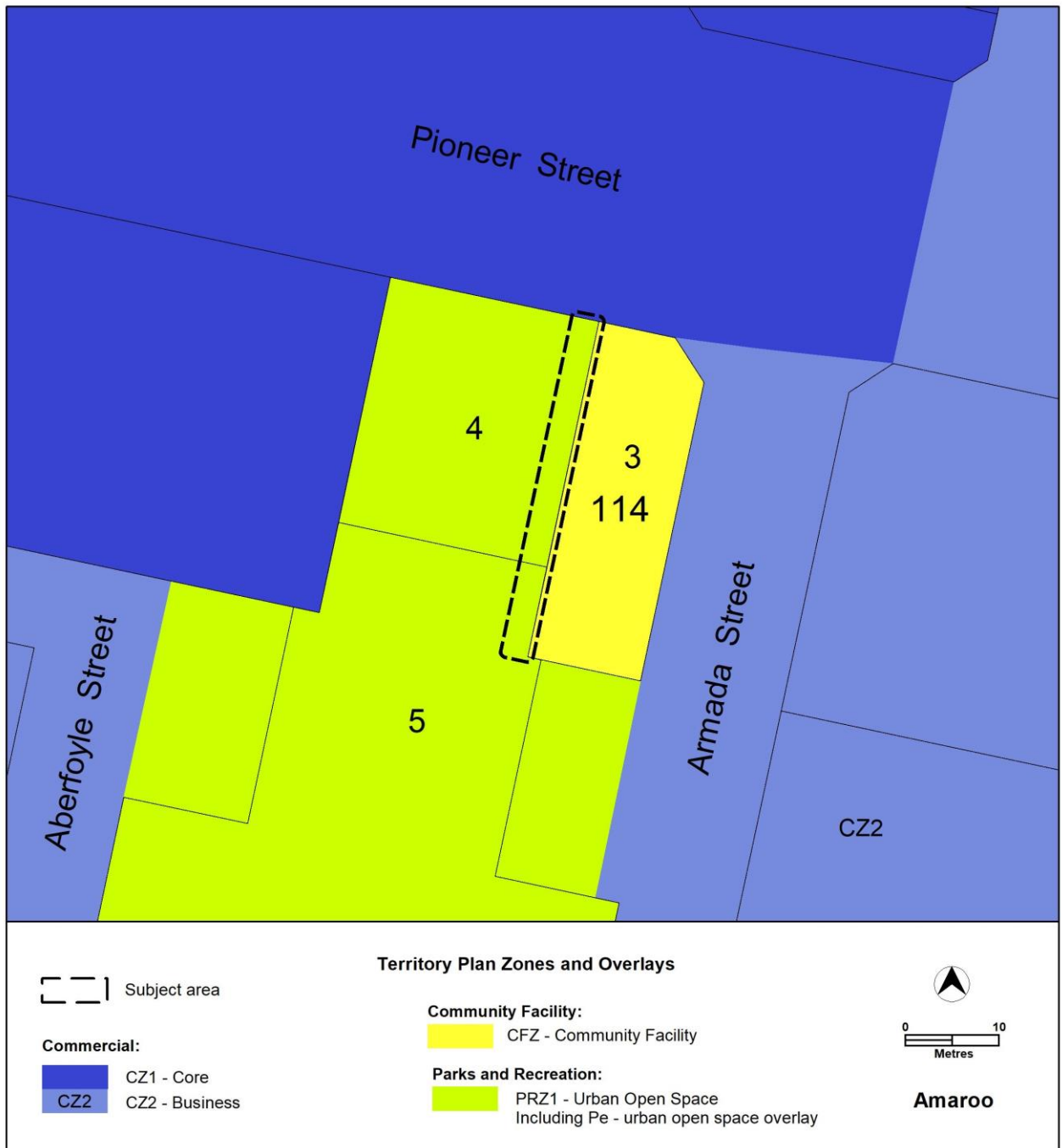
Location map

## 2.2 Variation to the Territory Plan Map

In accordance with section 90B of the Act this technical amendment will:

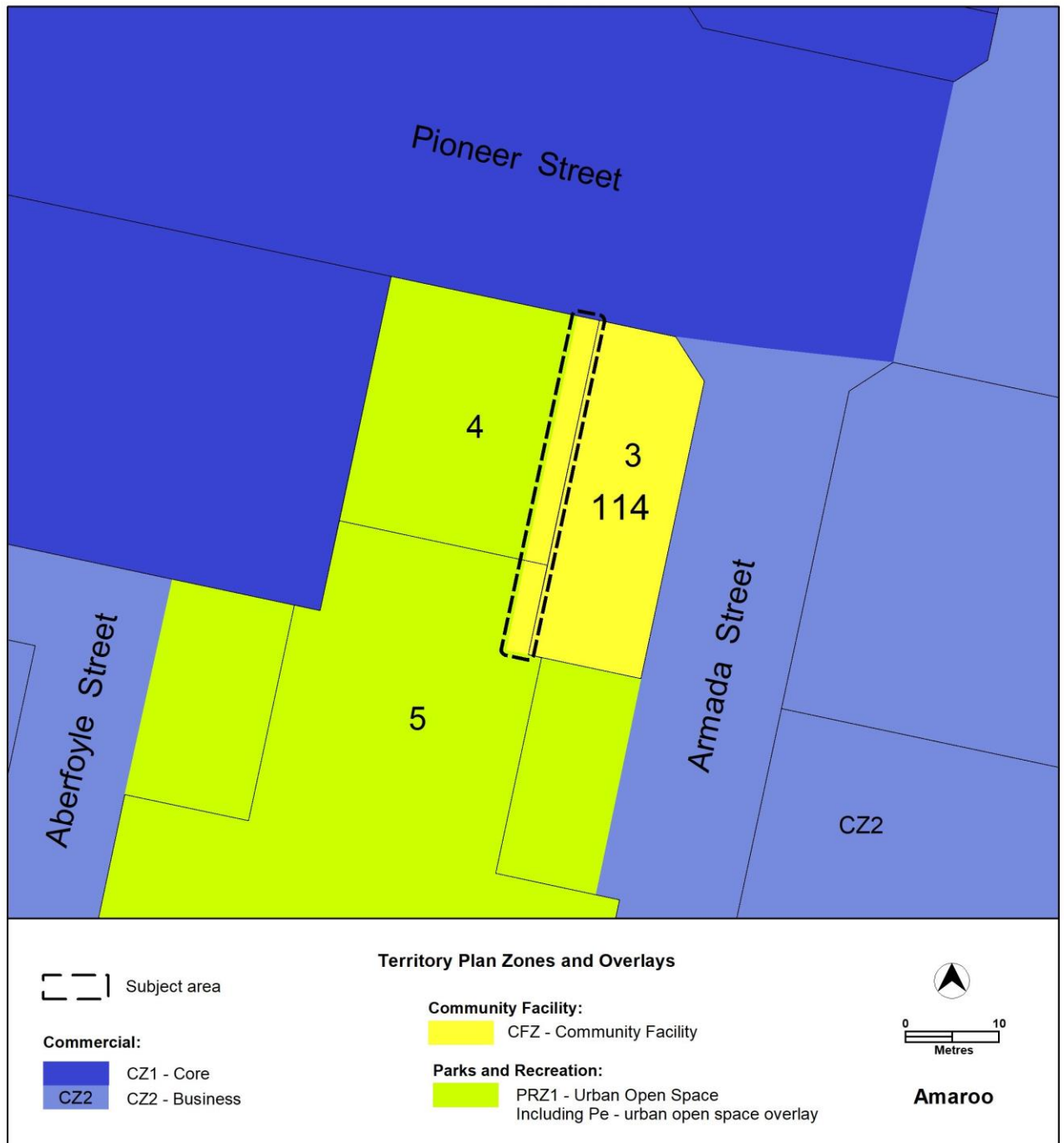
- Change the zone boundary by moving the Community Facility zone boundary 2.4 metres into Amaroo section 114 blocks 4 and part 5 along the block boundary of Section 114 block 3 into land that is currently zoned Parks and Recreation PRZ1 Urban Open Space.

Existing Territory Plan Map





Proposed Territory Plan Map



Section	Statement
<p>Section 87 (2) (b) a variation to change the boundary of a zone under section 90B (Rezoning – development encroaching on adjoining territory land)</p>	<p>Compliant. The adjoining PRZ1 land is Territory land.</p>
<p>Section 90B Rezoning – development encroaching on adjoining territory land</p> <p>(1) The planning and land authority may vary the territory plan under section 89 (Making technical amendments) to change the boundary of a zone consistent with a development proposal under section 137AC (Declaration for development encroaching on adjoining territory land if development prohibited) if the authority makes a declaration that the proposal satisfies the criteria in section 137AC (2)</p> <p>(2) However, the planning and land authority must not vary the territory plan under section 89 to change the boundary of the zone if the adjoining territory land is designated as a future urban area under the territory plan</p> <p>(3) In this section: <b><i>adjoining territory land</i></b>—see section 137AC (1) (a).</p>	<p>The planning and land authority made the declaration under section 137AC (NI2022-130).</p> <p>The land is not designated as future urban area under the Territory Plan</p>

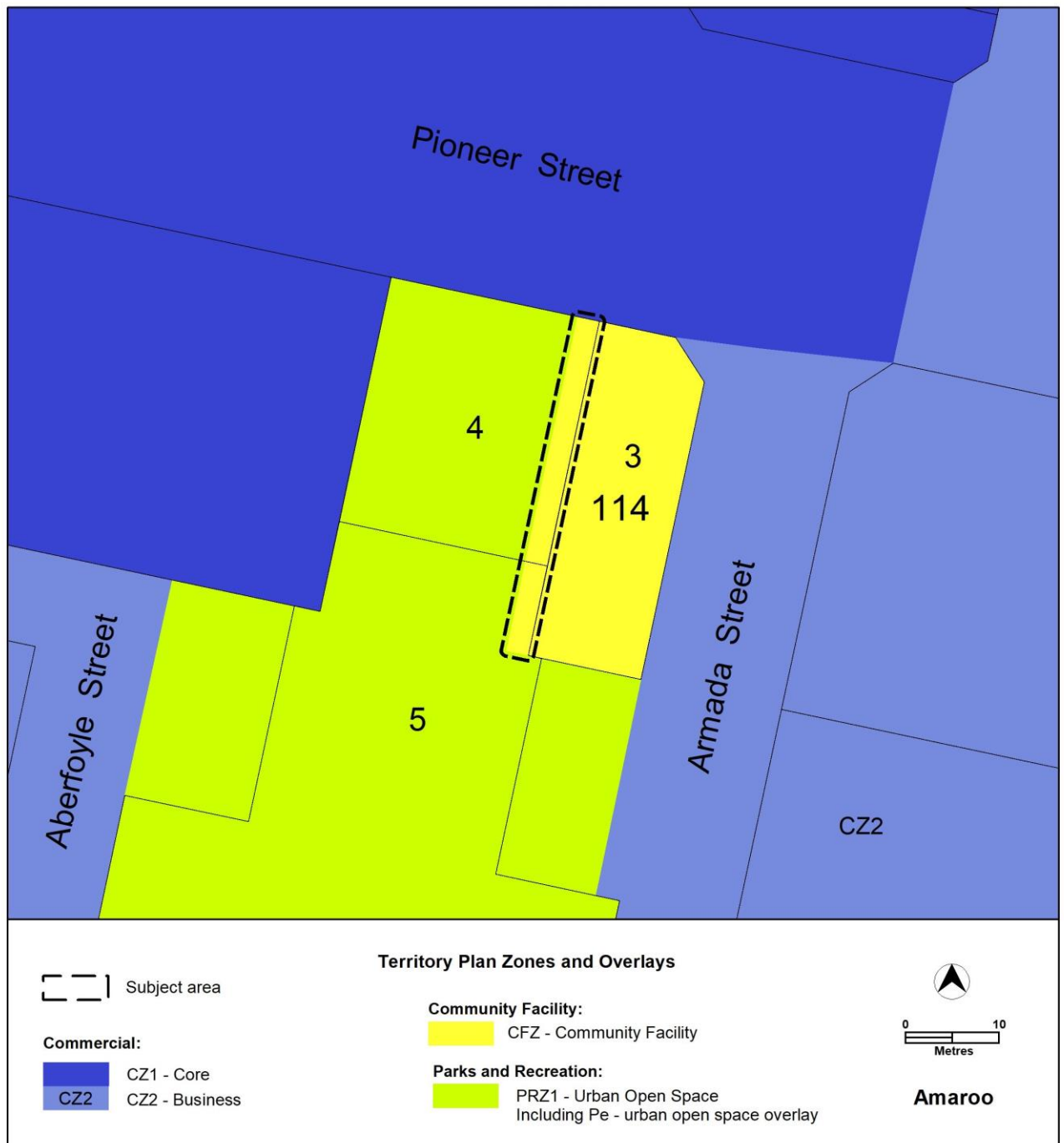
### 3. TECHNICAL AMENDMENT

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

#### 3.1 Variation to the Territory Plan Map

##### 1. Territory land adjoining Amaroo section 114 block 3

The Territory Plan map is varied as indicated below.



## Interpretation service

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GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε 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:
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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

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