

Planning and Development (Technical Amendment—FUA uplift and rezoning boundary and public land overlay changes) Plan Variation 2023

Notifiable instrument NI2023—215

Technical Amendment No 2023-03

made under the

Planning and Development Act 2007, s 89 (Making technical amendments), s 90A (Rezoning boundary changes) and s 96 (Effect of approval of estate development plan)

1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—FUA uplift and rezoning boundary and public land overlay changes) Plan Variation 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Technical amendment

I am satisfied under the *Planning and Development Act 2007*, section 89 (1) (a), that the FUA uplift and rezoning boundary and public land overlay changes plan variation is a technical amendment to the Territory Plan.

4 Dictionary

In this instrument:

FUA uplift and rezoning boundary and public land overlay changes plan variation means the technical amendment to the Territory Plan, variation 2023-03, as set out in the schedule.

Note No consultation was required in relation to this plan variation under the Act, s 87.

Freya O'Brien
Delegate of the planning and land authority
24 April 2023



ACT
Government

Environment, Planning and
Sustainable Development

Planning & Development Act 2007

Technical Amendment to the Territory Plan Variation 2023-03

FUA uplift and rezoning boundary and
public land overlay changes

April 2023

Table of Contents

1.	INTRODUCTION	1
1.1	Purpose	1
1.2	Public consultation	1
1.3	National Capital Authority	1
1.4	Process.....	1
1.5	Types of technical amendments under the Act	2
2.	EXPLANATION.....	3
2.1	Variation to the Territory Plan Map	3
3.	TECHNICAL AMENDMENT	15
3.1	Territory Plan Map	15
3.2	Strathnairn Precinct Map and Code.....	20

1. INTRODUCTION

1.1 Purpose

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

Territory Plan Map

- Remove the public land overlay 'Pi – a sport and recreation reserve' at Ainslie section 26 block 19 and Braddon section 30 block 6
- Add the public land overlay 'Pe – urban open space' at Dickson section 34 block 30
- Uplift the future urban area (FUA) overlay on land in the Divisions of Kenny and Strathnairn, as identified in Part 2 of this document
- Realign zone and overlay boundaries on the following blocks:
 - Strathnairn section 35 blocks 2, 3 and 4 (Strathnairn Arts Centre) and section 37 block 5

Kenny Precinct Map and Code

- Introduction of the Kenny Precinct Map and Code

Strathnairn Precinct Map and Code

- Replace the Strathnairn Precinct Map
- Add Table 1 – Additional merit track development
- Add RC2 – Strathnairn Arts Centre

1.2 Public consultation

Under section 87(1)(b) of the *Planning and Development Act 2007* (the Act) this type of technical amendment is not subject to public consultation.

1.3 National Capital Authority

The National Capital Authority does not need to be advised of this technical amendment as per 1.2.

1.4 Process

This technical amendment has been prepared in accordance with section 87 and made in accordance with section 89 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.

TA2023-03 has been prepared in accordance with section 87(1)(a), (b), (c) and (e) of the Act.

2. EXPLANATION

This part of the technical amendment document explains the changes to be made to the Territory Plan.

2.1 Variation to the Territory Plan Map

Variation to the Territory Plan Map

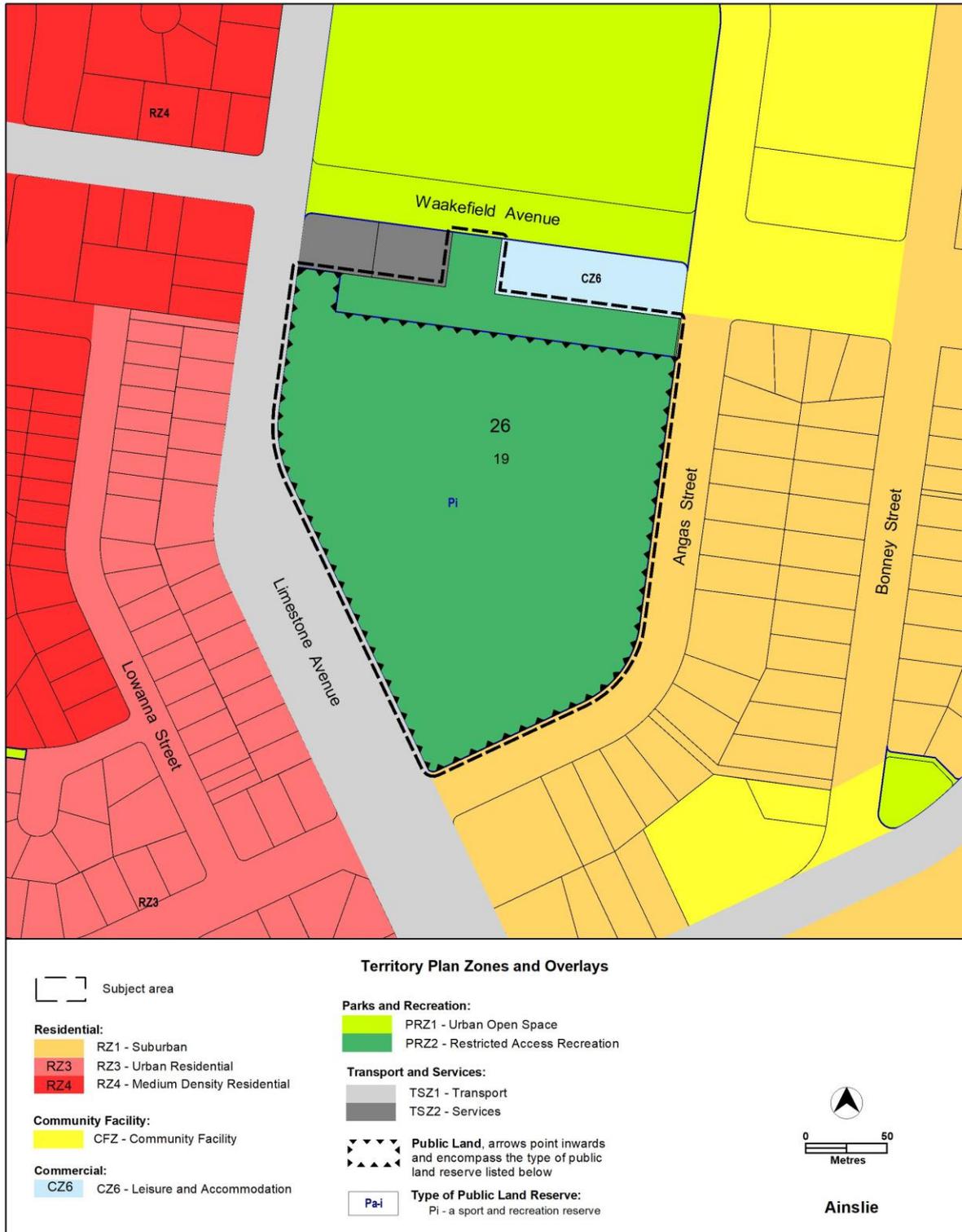
Ainslie and Braddon

The enclosed ovals at Ainslie section 26 block 19 and Braddon section 30 block 6 are zoned Parks and Recreation PRZ2 Restricted Access Recreation and have a public land ‘Pi – a sportsground or recreation reserve’ overlay.

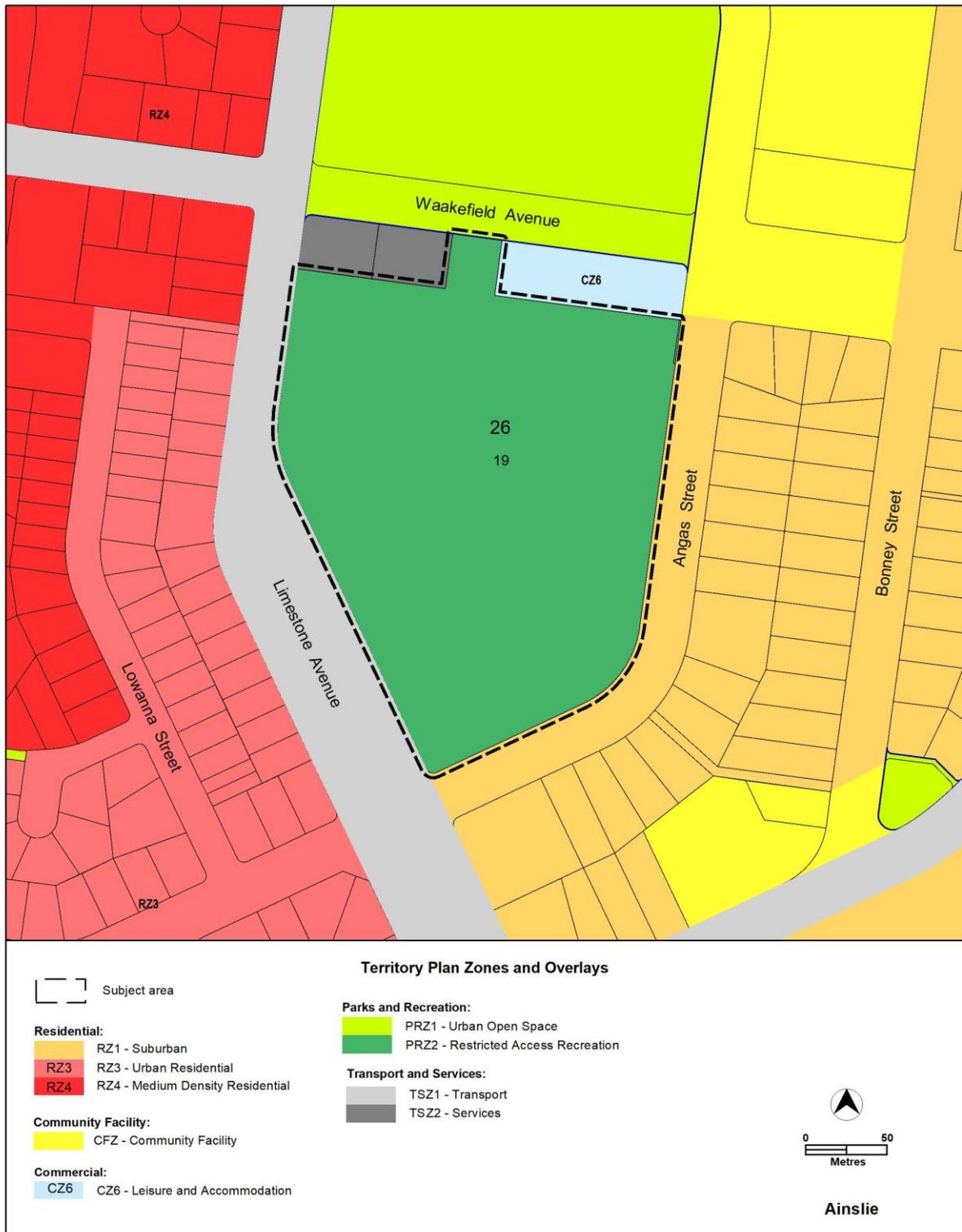
The *Planning and Development Act 2007*, section 321 states that the custodian of an area of public land must prepare a draft land management plan for the area. Section 333 defines custodian as “...an administrative unit or other entity with administrative responsibility for land in the ACT that is unleased land, public land or both.”, which effectively limits custodianship to government agencies. As the enclosed oval in Ainslie is leased to the Ainslie Football Club and the enclosed oval at Braddon is leased to the Canberra District Rugby League Football Club, there is no custodian. Therefore, as section 321 is not able to be achieved, the ‘Pi’ overlay on each oval is being removed.

Section	Statement
s87(1) (e) a variation to omit something that is obsolete or redundant in the territory plan.	Compliant. This amendment removes the Pi overlay on the enclosed ovals at Ainslie and Braddon as they are privately leased, and the overlay has become redundant. The Conservator of Flora and Fauna supports the removal of the overlay from both ovals.

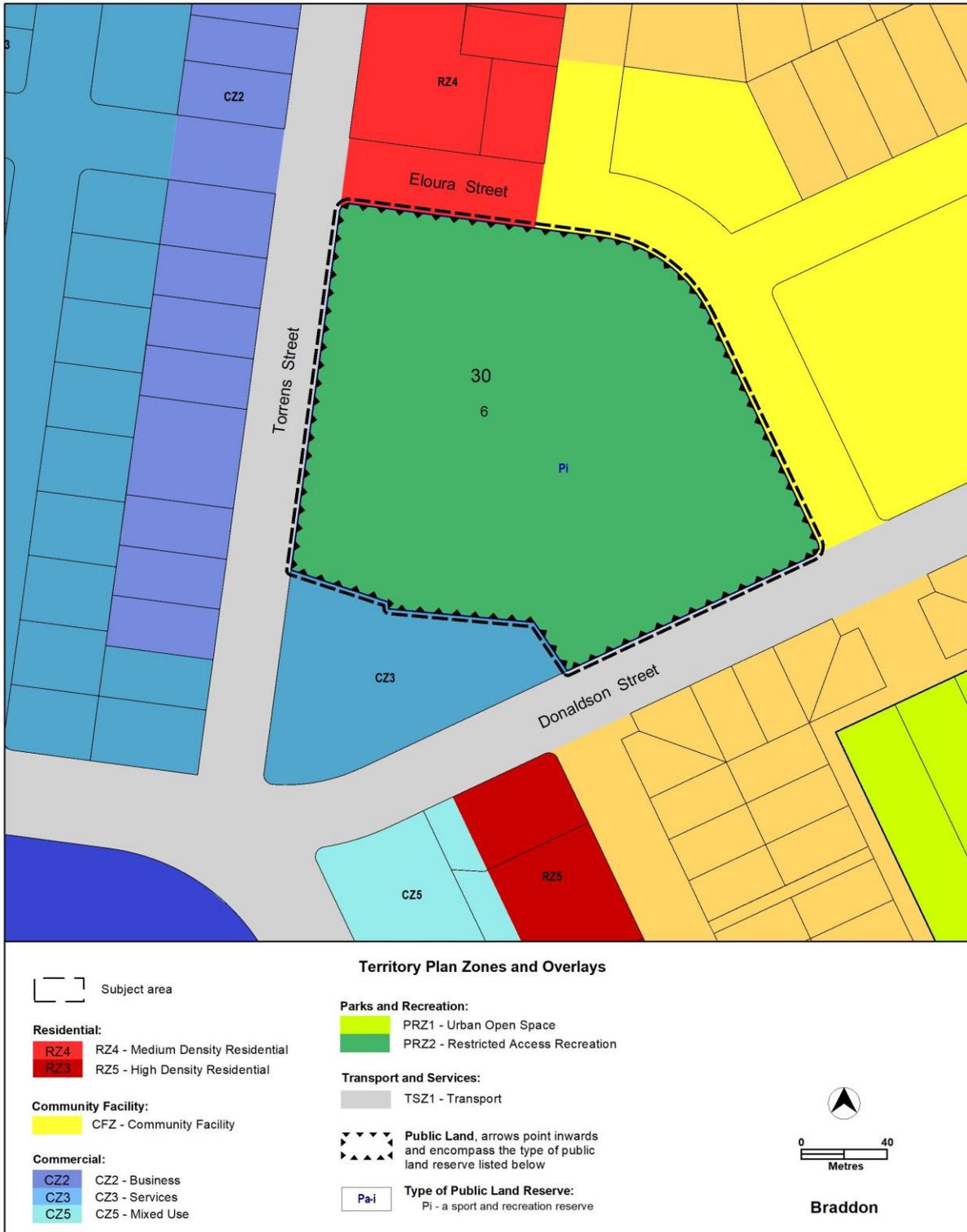
Ainslie – Existing Territory Plan Map



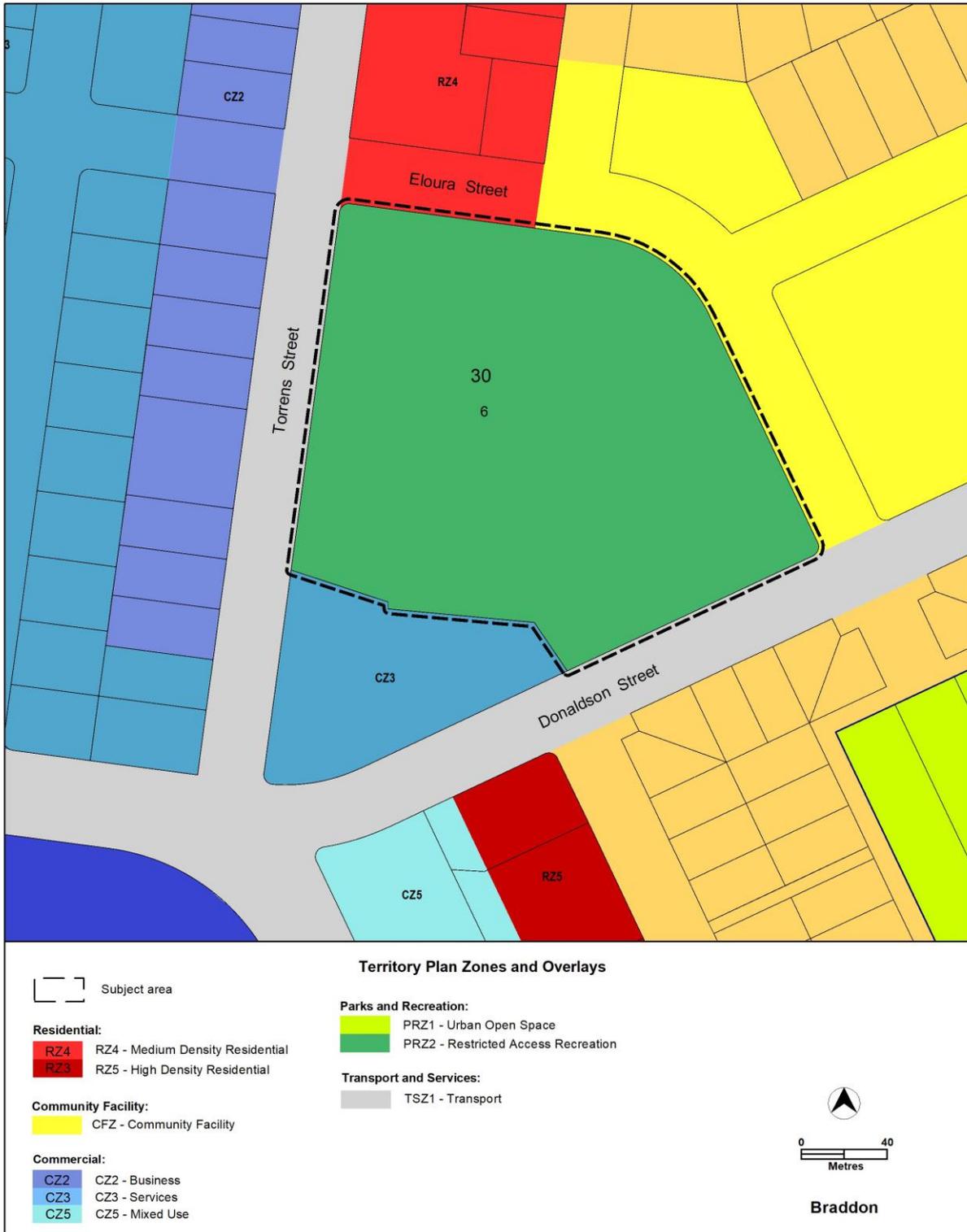
Ainslie – Proposed Territory Plan Map



Braddon – Existing Territory Plan Map



Braddon – Proposed Territory Plan Map



Dickson

Variation 311 implemented the findings of the Dickson centre master plan, which included adding the public land overlay 'Pe – an urban open space' to a portion of Dickson section 34 block 30. However, the Pe overlay was inadvertently omitted. This technical amendment rectifies the omission.

Dickson – Existing Territory Plan Map



Dickson – Proposed Territory Plan Map



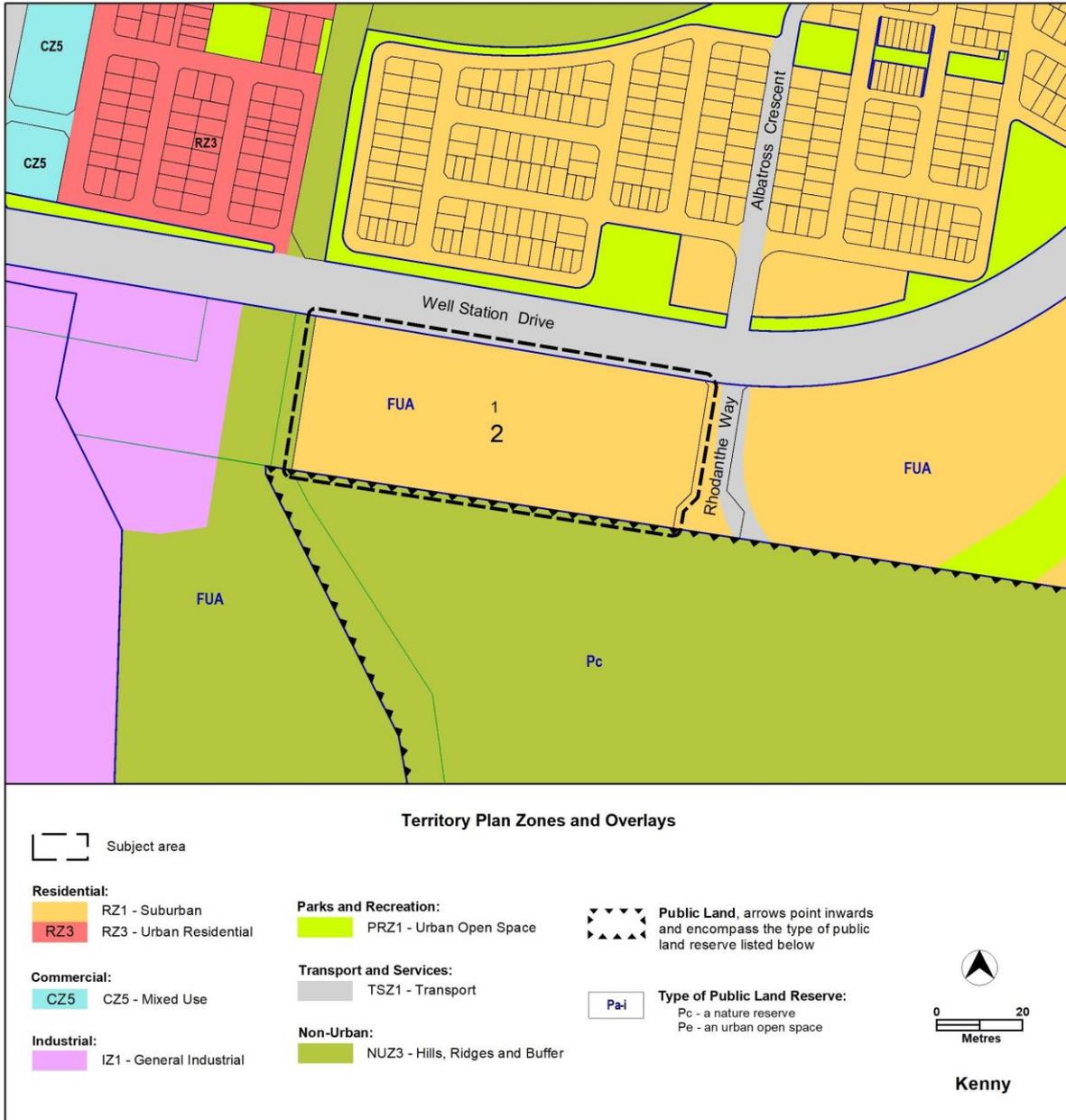
Compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(a) (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. This amendment corrects a formal error on the Territory Plan Map by rectifying an omission to include Pe – urban open space overlay in accordance with Variation 311 to the Territory Plan.

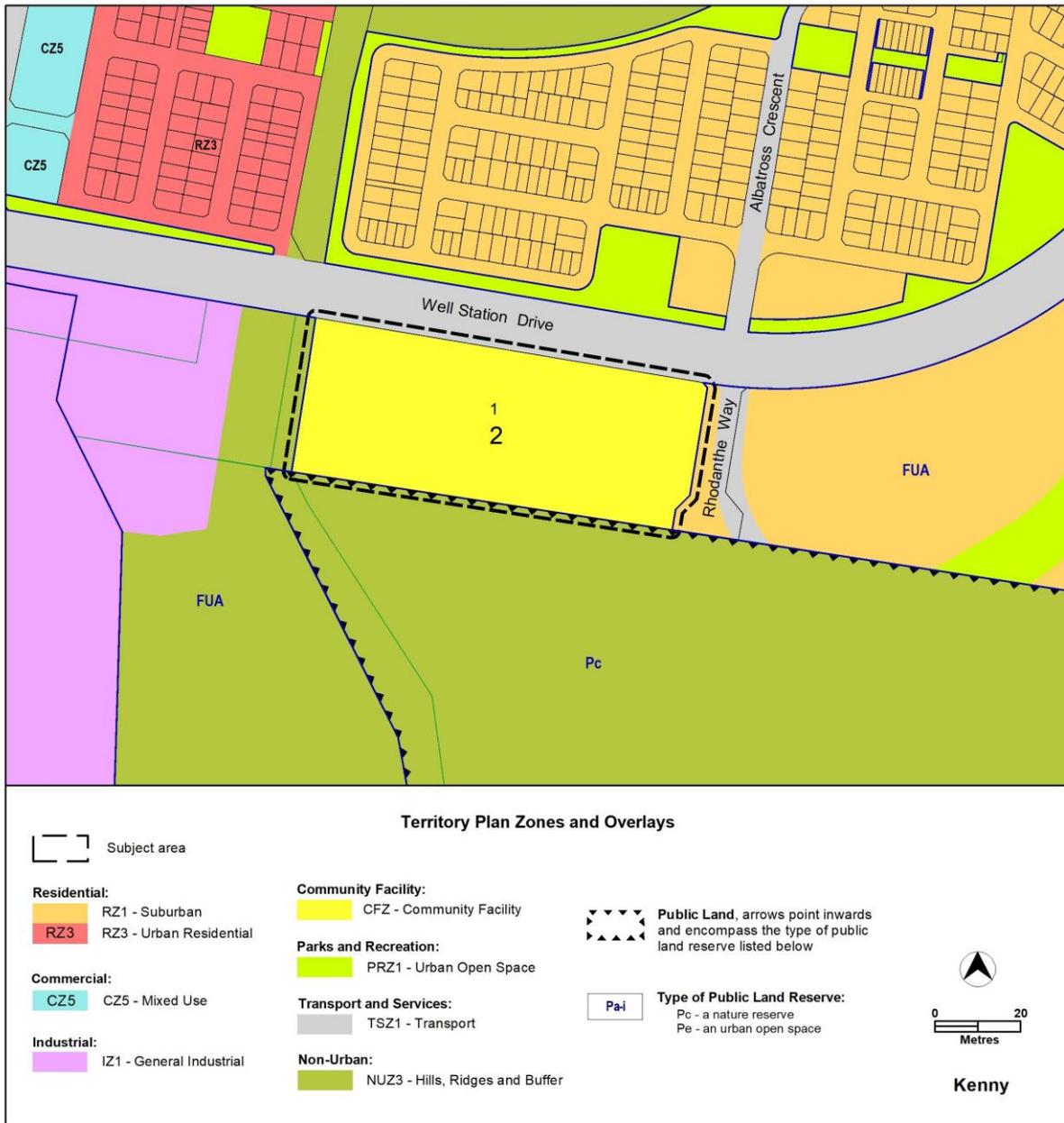
Kenny

The Territory Plan map is varied to identify the zone that applies to land ceasing to be in a future urban area.

Kenny - Existing Territory Plan Map



Kenny - Proposed Territory Plan Map



Compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(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);	Compliant. This amendment identifies the zone that will apply to the land and incorporates ongoing provisions consistent with the estate development plan.

Strathnairn

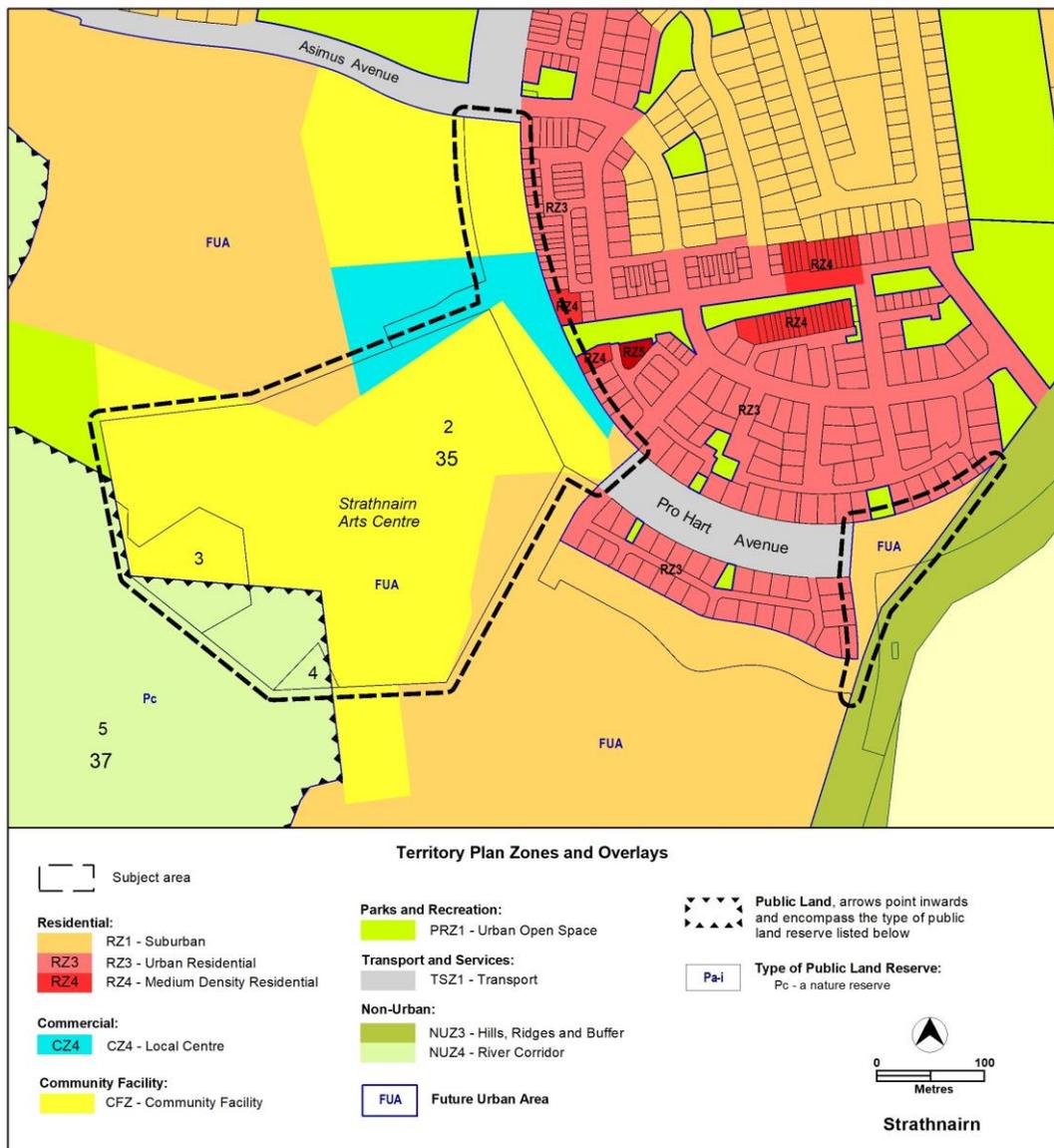
The Territory Plan map is varied to identify the zones and overlays that apply to land ceasing to be in a future urban area.

In accordance with section 90A of the *Planning and Development Act 2007* this technical amendment will realign the zone and overlay boundaries of the:

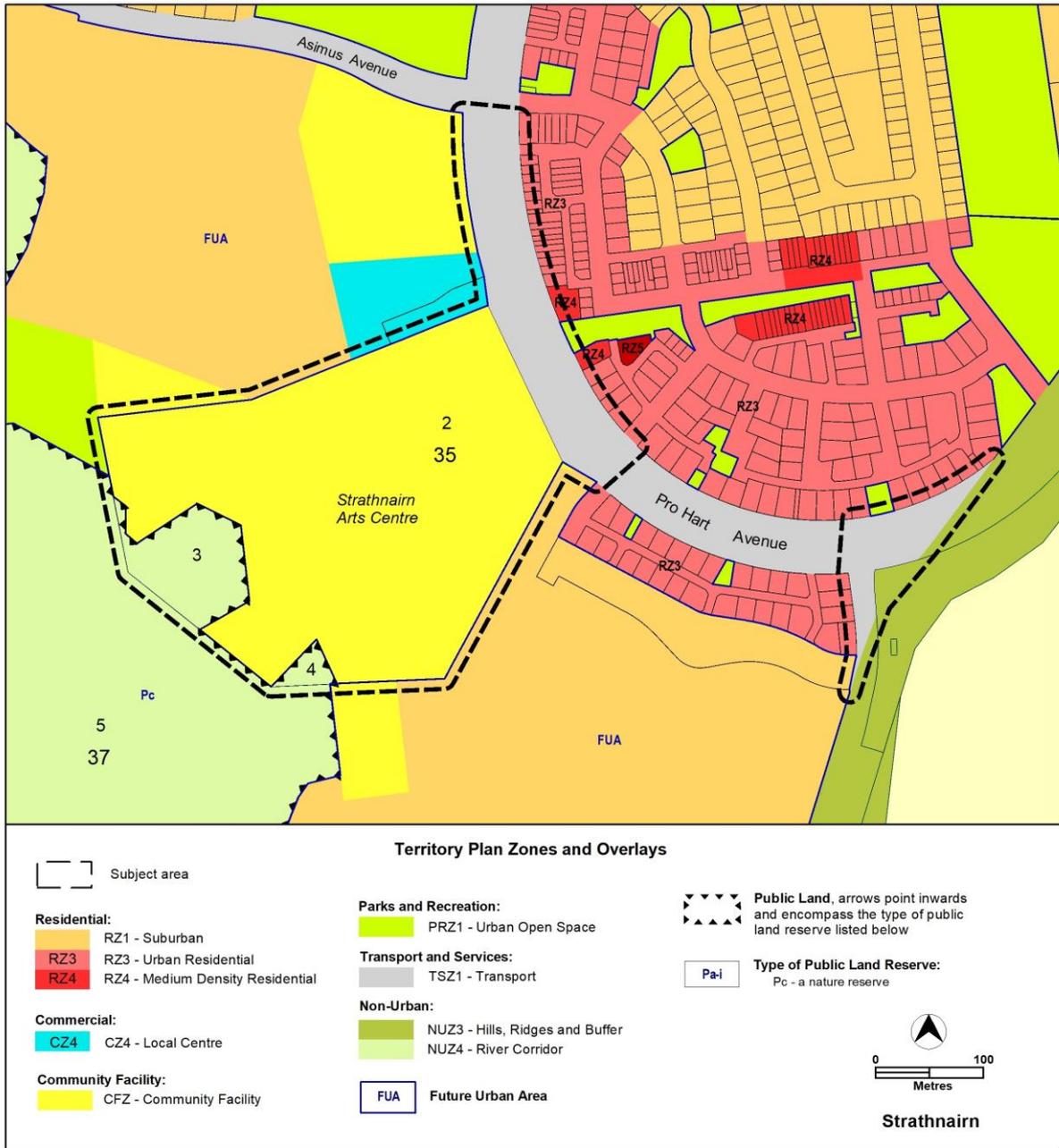
- Community Facility zone and Non-Urban NUZ4 River Corridor zone, and public land Pc nature reserve overlay at Strathnairn section 35 blocks 2 (Strathnairn Arts Centre), 3 and 4 and section 37 block 5

The zone and overlay boundaries are being adjusted to match the new block boundaries. Blocks 3 and 4 will be included in the expanded nature reserve and Ginninderry Conservation Corridor. The planning and land authority was requested to make changes to the zone and overlay boundaries by the relevant land custodians.

Strathnairn – Existing Territory Plan Map



Strathnairn - Proposed Territory Plan Map



Compliance with the *Planning and Development Act 2007*

Section	Statement
<p>Section 87(1)(b) - a variation to change the boundary of a zone or overlay under section 90A (Rezoning boundary changes)</p> <p>Section 90A</p>	
<p>(1) This section applies to a zone or overlay in relation to land if the land adjoins unleased territory land or land for which the Territory is the registered proprietor (the adjoining territory land).</p>	<p>This technical amendment proposes to adjust zoning on land which the Territory is the registered proprietor, and on unleased land at:</p> <ul style="list-style-type: none"> • Strathnairn section 35 blocks 2, 3 and 4 and section 37 block 5
<p>(2) The planning and land authority may vary the territory plan under section 89 (Making technical amendments) to change the boundary of the zone or overlay to encroach onto the adjoining territory land if the change is consistent with— (a) the apparent intent of the original boundary line; and (b) the objective for the zone.</p>	<p>The amendment is considered to be consistent with the apparent intent of the original zone and overlay boundaries. This technical amendment facilitates the achievement of the zone objectives. The amendment to the zone boundary results in an overall gain to the NUZ4 River Corridor zone and nature reserve.</p>
<p>(3) The planning and land authority may vary the territory plan under section 89 to change the boundary of an overlay to encroach onto the adjoining territory land if— (a) the authority is advised to do so by— (i) the conservator of flora and fauna; or (ii) the custodian of the land for the overlay; and (b) the conditions in subsection (2) (a) and (b) are satisfied.</p> <p>(4) In this section: overlay means an overlay identified in the territory plan.</p>	<p>The planning and land authority has been advised to make the changes by the land custodians Chief Minister, Treasury and Economic Development Directorate and the Environment, Planning and Sustainable Development Directorate.</p> <p>The conditions in subsection (2) (a) and (b) are satisfied as explained above.</p>

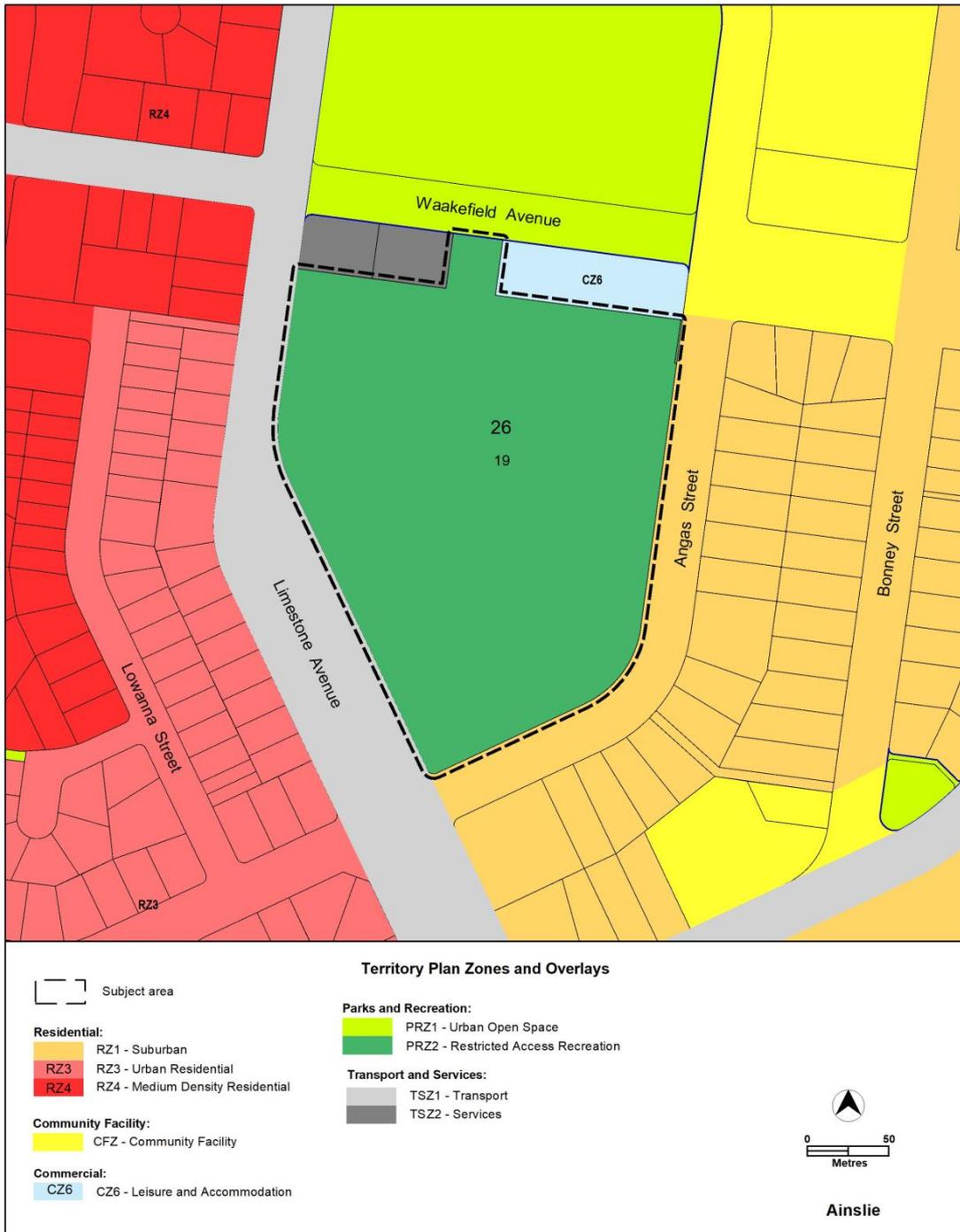
3. TECHNICAL AMENDMENT

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

3.1 Territory Plan Map

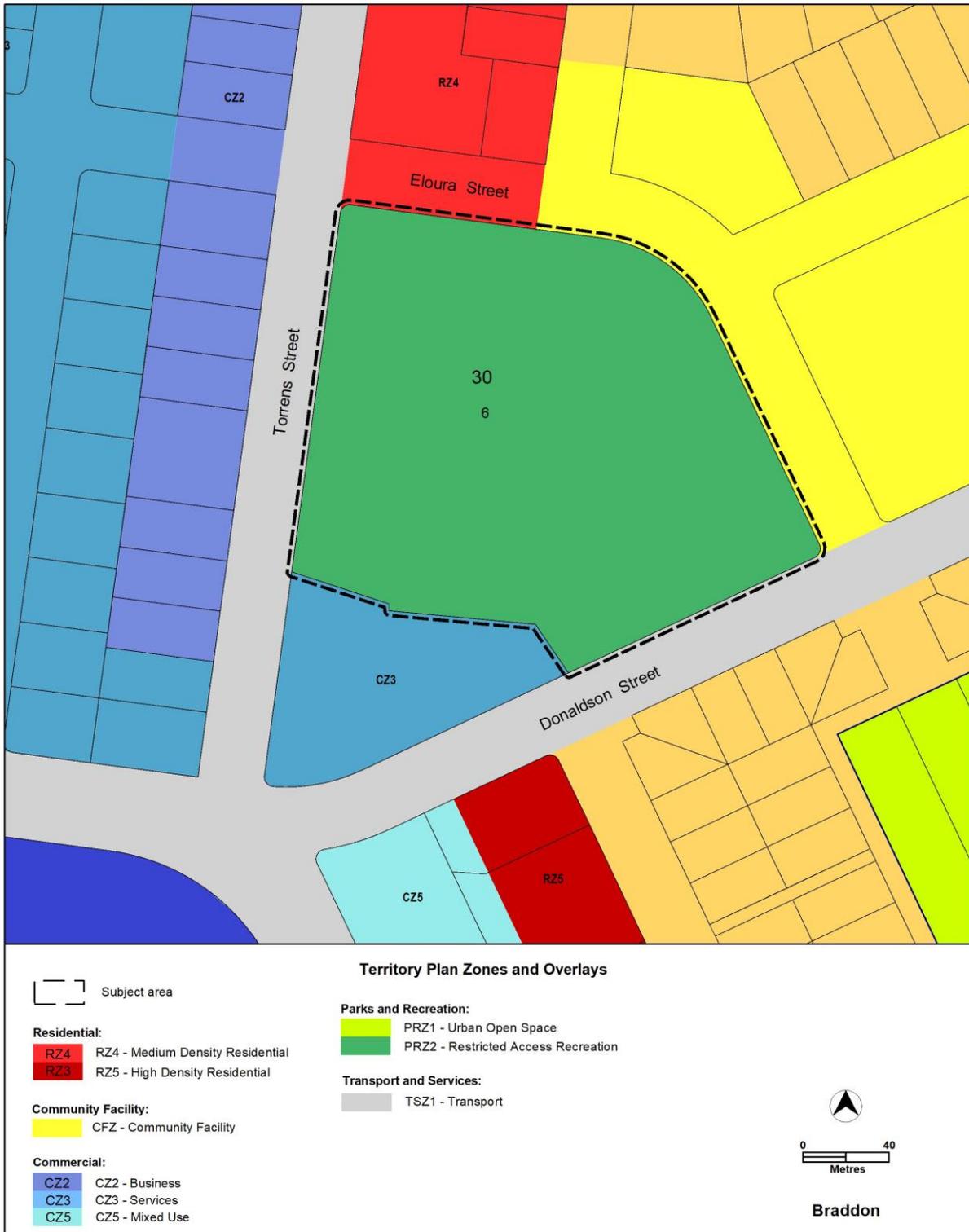
1. Ainslie

The Territory Plan map is varied as indicated below.



2. Braddon

The Territory Plan map is varied as indicated below.



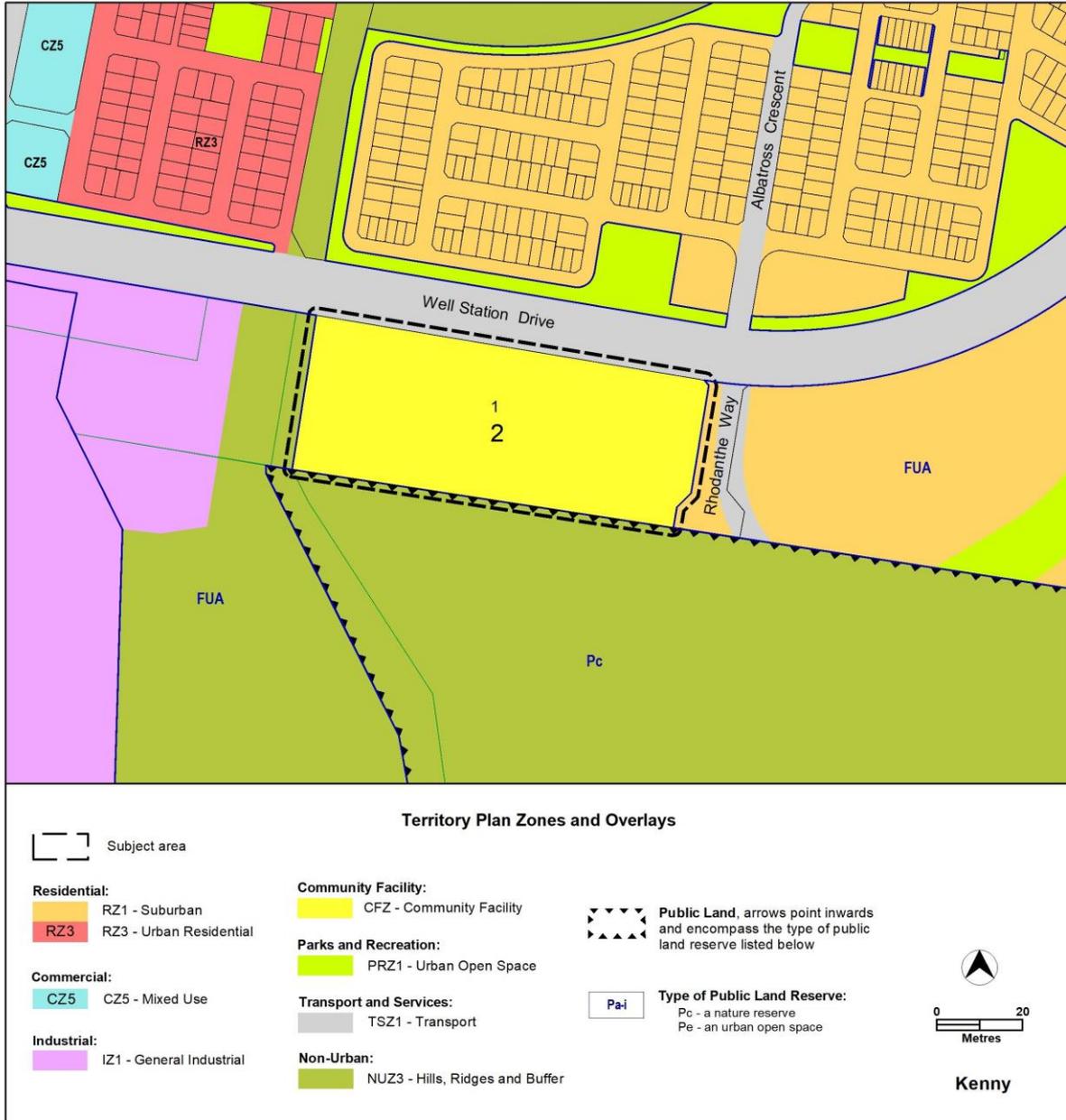
3. Dickson

The Territory Plan map is varied as indicated below.



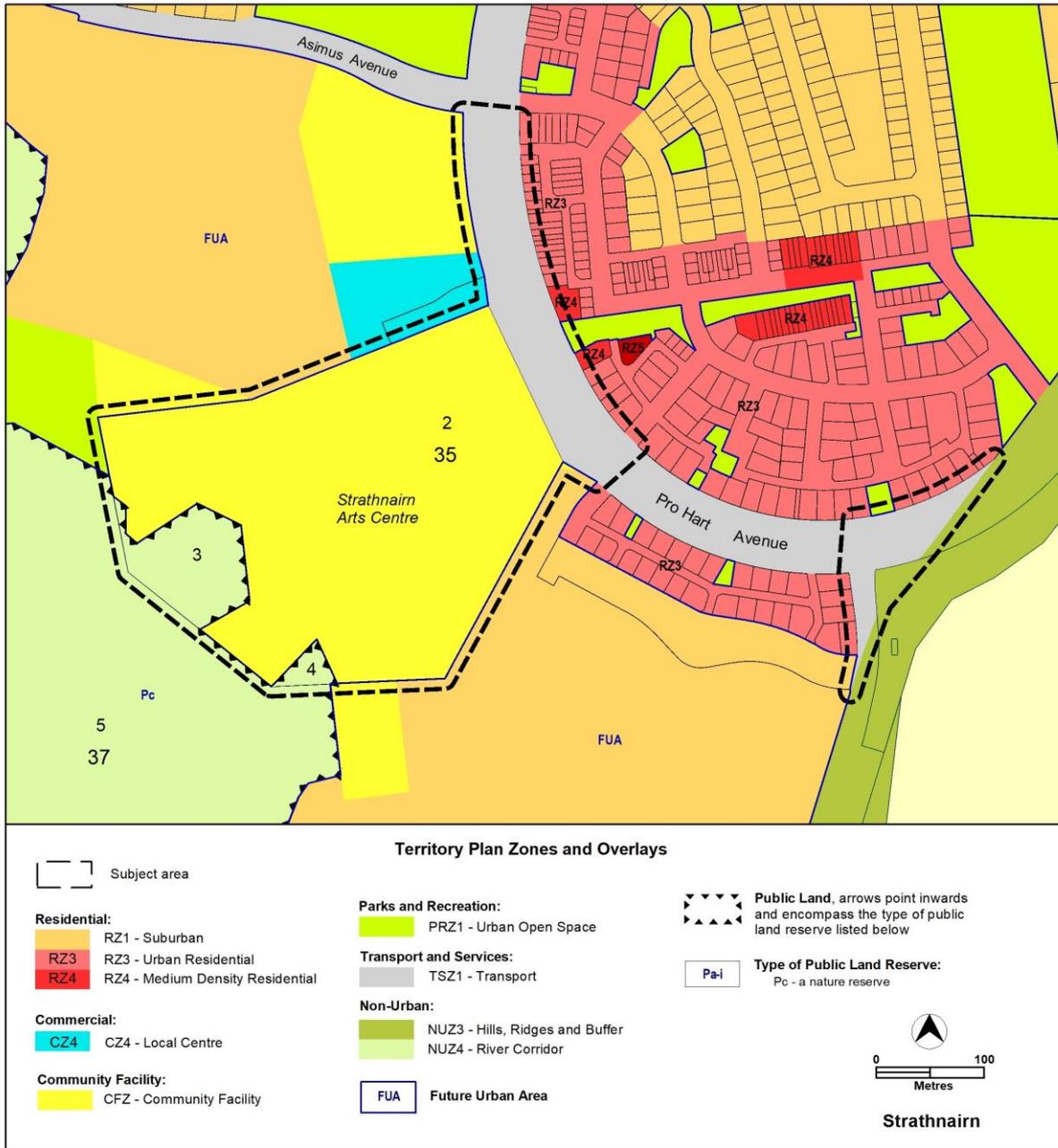
4. Kenny

The Territory Plan map is varied as indicated below.



5. Strathnairn

The Territory Plan map is varied as indicated below.



3.2 Precinct Maps and Codes

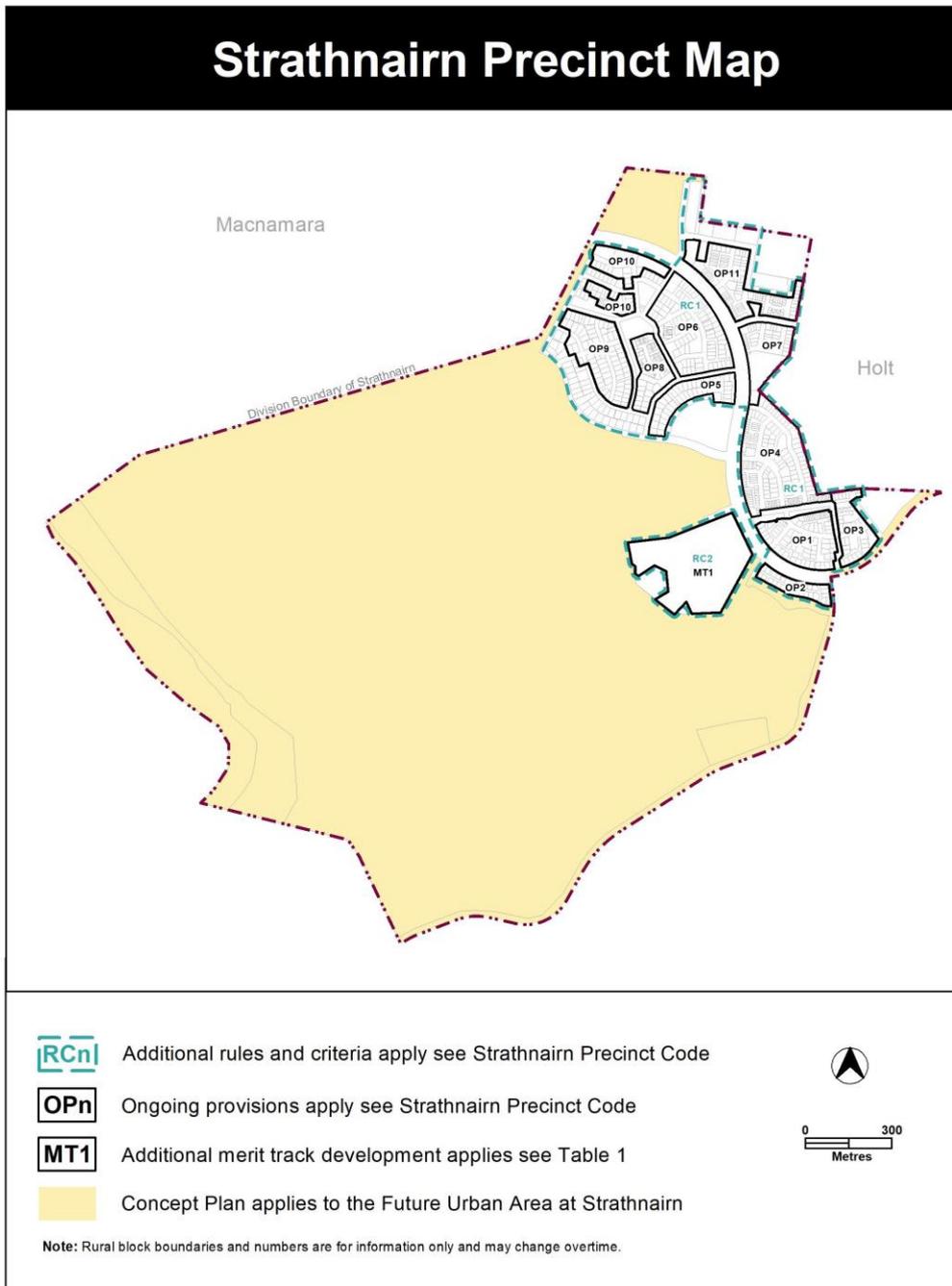
6. Suburb Precinct Maps and Codes, new Kenny Precinct Map and Code

insert Appendix A

3.3 Strathnairn Precinct Map and Code

7. Strathnairn Precinct Map

substitute



8. Strathnairn Precinct Map, new Assessment Tracks

after Strathnairn Precinct Map insert

Assessment Tracks

The following table identifies the additional merit track development for blocks and parcels shown in the Strathnairn Precinct Map (identified as MTn). Development that is exempt from requiring development approval, other prohibited development and the minimum assessment track applicable to each development proposal is set out in the relevant zone development table.

The following table constitutes part of the relevant zone development table.

Table 1 – Additional merit track development

Additional merit track development that may be approved subject to assessment		
Suburb precinct map label	Zone	Development
MT1	CFZ	<i>craft workshop place of assembly produce market restaurant shop</i>

9. Additional rules and criteria, Element 3: Home business provisions, new RC2

after rule R19 insert

RC2 – Strathnairn Arts Centre

This part applies to blocks and parcels identified in area RC2 shown on the Strathnairn Precinct Map.

Element 4: Use

Rules	Criteria
4.1 Floor area limits	
R20 Total maximum gross floor area across the RC2 area for: a) <i>Restaurant</i> – 250m ² b) <i>SHOP</i> (except where ancillary to the main use of the land for arts and craft) – 100m ² c) <i>Business agency</i> – 500m ²	This is a mandatory requirement. There is no applicable criterion.



ACT
Government

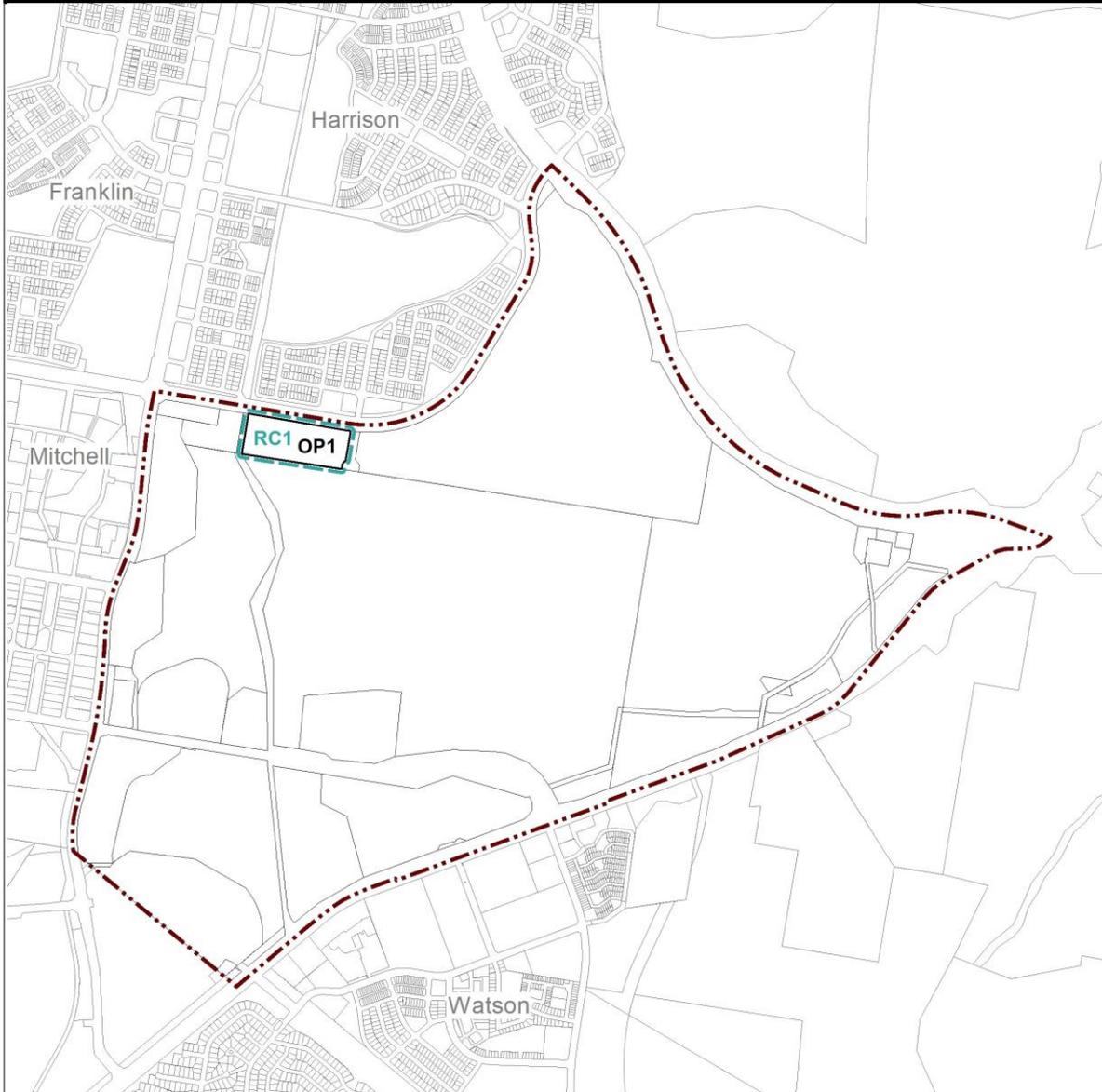
Environment, Planning and
Sustainable Development

Appendix A

Kenny Precinct Map and Code

This page is intentionally blank.

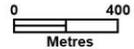
Kenny Precinct Map



Additional rules and criteria apply see Kenny Precinct Code



Ongoing provisions apply see Kenny Precinct Code



Kenny Precinct Code

Contents

Introduction.....	3
Additional rules and criteria	5
RC1 – Kenny school.....	5
Element 1: Building and site controls.....	5
1.1 On-site stormwater detention.....	5
Other ongoing provisions.....	6
OP1 – Kenny school.....	6

FIGURES

Figure 1 Kenny school.....	5
Figure 2 Kenny school ongoing provisions	6

Introduction

Name

The name of this code is the **Kenny Precinct Code**.

Application

The code applies to the Division of Kenny.

Purpose

This code provides additional planning, design and environmental controls for specific areas or blocks and may also contain references to provisions in other codes.

In conjunction with other relevant codes it will be used by the *Authority* to assess development applications and offer guidance to intending applicants in designing development proposals and preparing development applications.

Structure

This code contains additional rules and/or criteria for particular blocks or parcels identified as areas RCn on the precinct map, to be read in conjunction with the relevant development code. It may also contain sub-parts.

Each element has one or more rules and, unless the respective rule is mandatory, each rule has an associated criterion. Rules provide quantitative, or definitive, controls. By contrast, criteria are chiefly qualitative in nature.

In some instances rules are mandatory. Such rules are accompanied by the words “This is a mandatory requirement. There is no applicable criterion.” Non-compliance with a mandatory rule will result in the refusal of the development application. Conversely, the words “There is no applicable rule” are found where a criterion only is applicable.

Code hierarchy

Under the *Planning and Development Act 2007*, where more than one type of code applies to a development, the order of precedence if there is inconsistency of provisions between codes is: precinct code, development code and general code.

If more than one precinct code applies to the site, the most recent precinct code takes precedence to the extent of any inconsistency.

Definitions

Defined terms, references to legislation and other documents are italicised.

Definitions of terms used in this code are listed in part 13 of the Territory Plan or, for terms applicable only to this code, associated with the respective rule.

Acronyms

EPA	ACT Environment Protection Authority
ESA	ACT Emergency Services Agency
EPSDD	ACT Environment, Planning and Sustainable Development Directorate
NCA	National Capital Authority
P&D Act	Planning and Development Act 2007
TCCS	ACT Transport Canberra and City Services

Additional rules and criteria

This part applies to blocks and parcels identified in the Kenny Precinct Map (RCn). It should be read in conjunction with the relevant zone development code and related codes.

RC1 – Kenny school

This part applies to blocks and parcels identified in area RC1 shown on the Kenny Precinct Map.

Element 1: Building and site controls

Rules	Criteria
1.1 On-site stormwater detention	
<p>R1</p> <p>This rule applies to blocks or parcels identified in Figure 1.</p> <p>Onsite stormwater detention is to be provided in accordance with the rules for on-site stormwater detention in the Water Sensitive Urban Design General Code.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

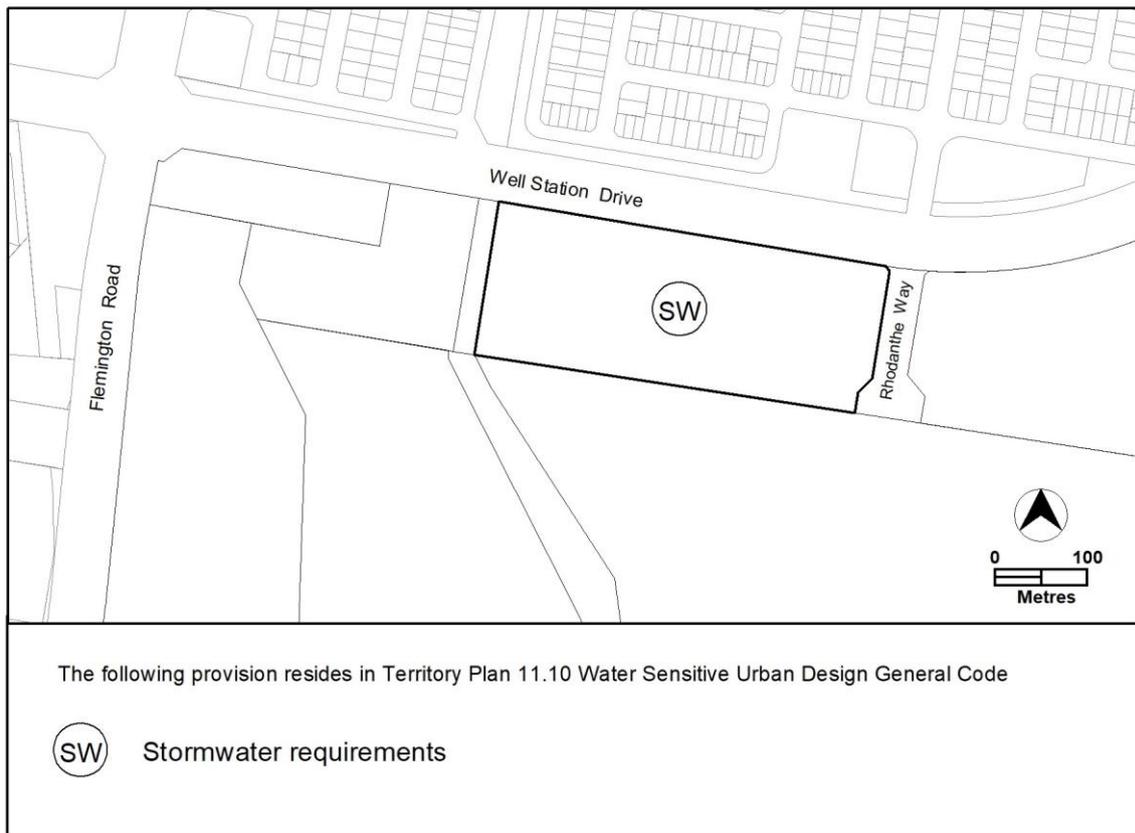


Figure 1 Kenny school

Other ongoing provisions

This part applies to blocks and parcels identified as ongoing provisions (OPn) in the Kenny Precinct Map. It should be read in conjunction with the relevant zone development code and related codes.

OP1 – Kenny school

This part applies to blocks and parcels identified in area OP1 shown on the Kenny Precinct Map.



Figure 2 Kenny school ongoing provisions

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-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	Ако вам је потребна помоћ преводиоца телефонирајте:
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

131 450

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