

Planning and Development (Technical Amendment—Code Amendments) Plan Variation 2023 (No 3)

Notifiable instrument NI2023–646

Technical amendment No 2023-07

made under the

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

1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—Code Amendments) Plan Variation 2023 (No 3)*.

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 Code amendments plan variation is a technical amendment to the Territory Plan.

4 Dictionary

In this instrument:

Code amendments plan variation means the technical amendment to the Territory Plan, variation 2023-07, as set out in the schedule.

Freya O’Brien
Delegate of the planning and land authority
13 October 2023



ACT
Government

Environment, Planning and
Sustainable Development

Schedule (see section 4)

Planning and Development Act 2007

Technical Amendment to the Territory Plan

2023-07

Various code amendments

October 2023

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 to make the following changes to the Territory Plan:

Denman Prospect Precinct Map and Code

- amend Figure 12 to add the mid size block provision to section 83 block 2.

Strathnairn Precinct Map and Code

- amend Figure 22 to remove the mesh fencing and screening requirement at the southern end of section 84 block 1.

Yarralumla Precinct Map and Code

- amend rule R1 to permit an alternative method for determining gross floor area.

1.2 Public consultation

Under section 87(2)(a) of the *Planning and Development Act 2007* (the Act) this type of technical amendment was subject to limited public consultation.

TA2023-07 was released for public consultation from 30 August 2023 to 27 September 2023.

No 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 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).

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.

TA2023-07 has been prepared in accordance with section 87(2)(a) of the Act.

2. EXPLANATORY STATEMENT

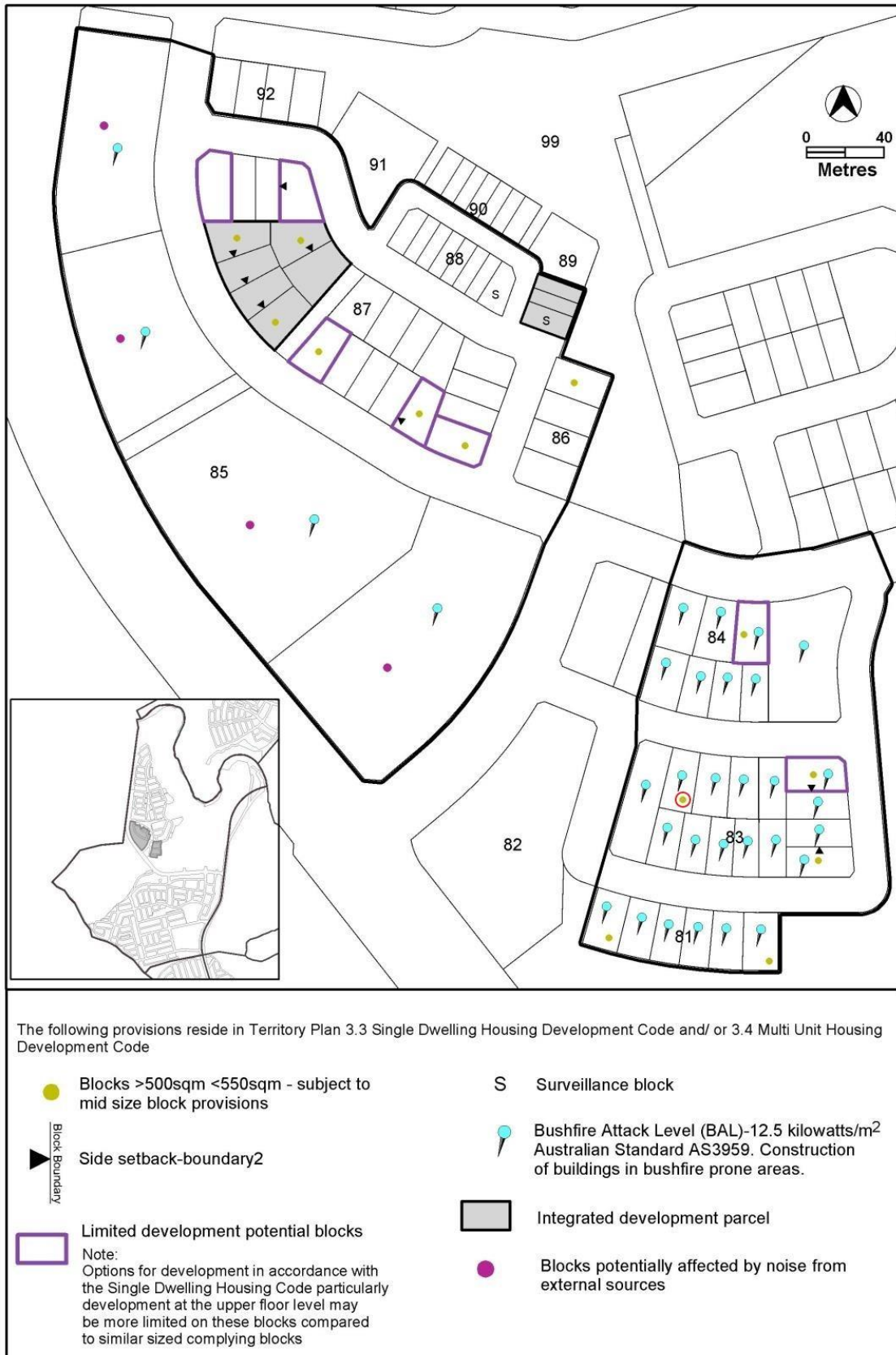
2.1 Background

This part of the technical amendment 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.

2.2 Denman Prospect Precinct Map and Code

Figure 12 is being amended to add the mid size block provision to section 83 block 2. The block was originally less than 500m² in the estate development plan (EDP). When the block was reconfigured as part of an amended EDP, it increased in size to 505m², making it a large block. The intent was that the block should be subject to the mid size provision, but this was not included in the amended EDP.

Denman Prospect – Existing Figure 12, addition of mid size provision identified in red circle



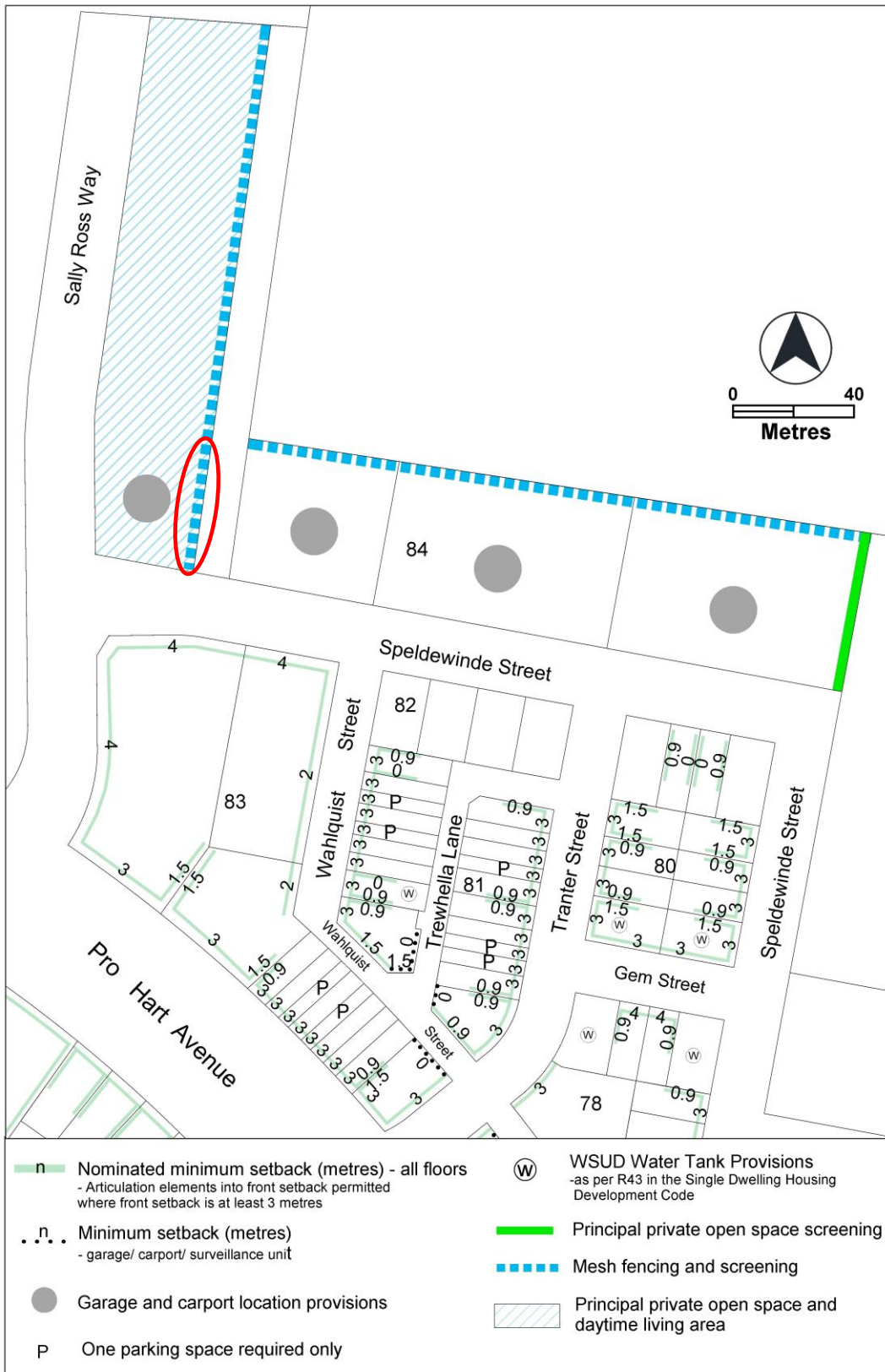
Section	Statement
<p>s87(2)(a) (a) a variation (a code variation) that— (i) would only change a code; and (ii) is consistent with the policy purpose and policy framework of the code; and (iii) is not an error variation</p>	<p>Compliant. The change is being made to Figure 12 in the Denman Prospect Precinct Map and Code. The change is consistent with the policy purpose as it adds the mid size provision to section 83 block 2, consistent with the intent of the amended EDP.</p>

2.3 Strathnairn Precinct Map and Code

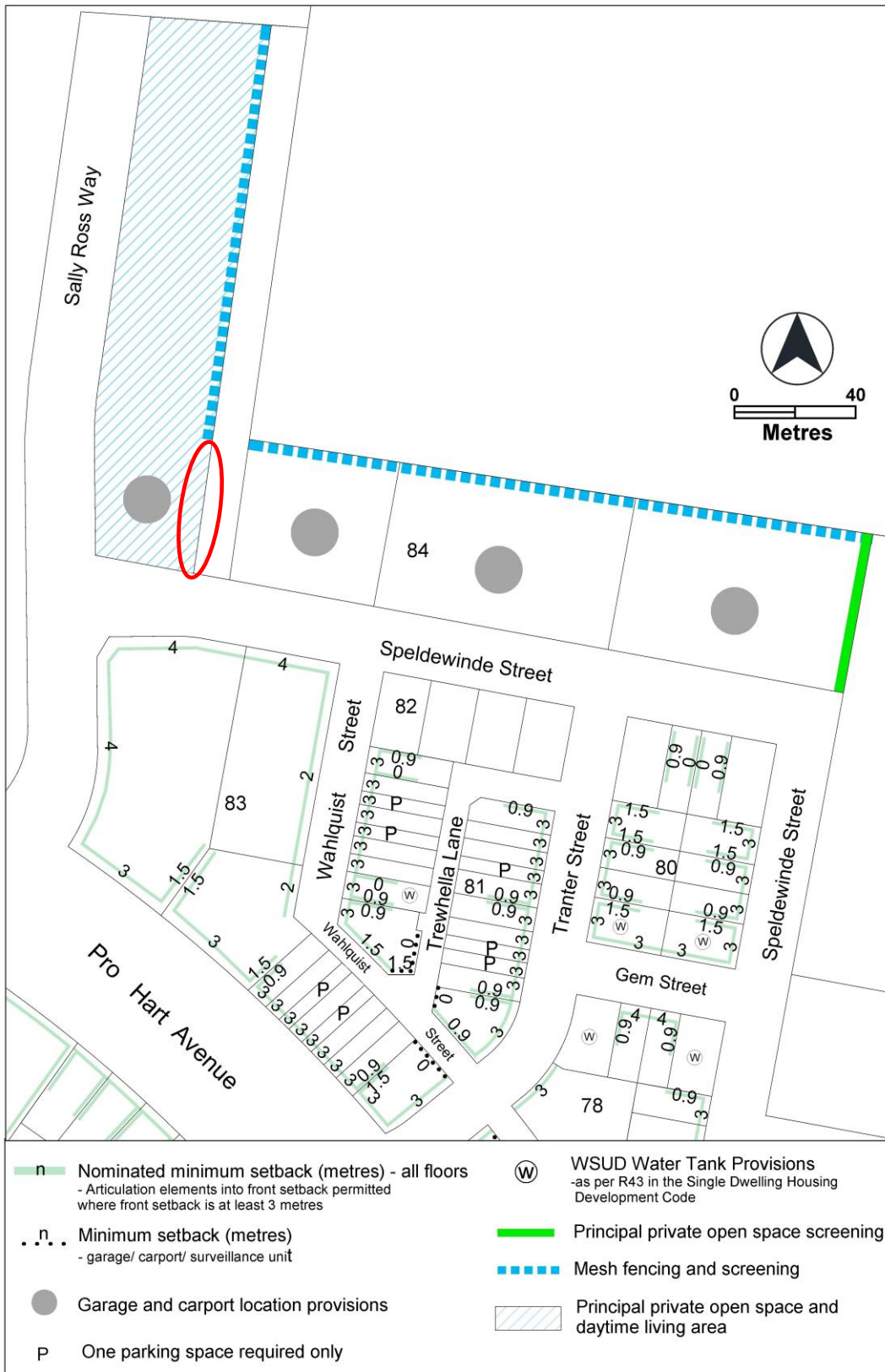
Figure 22 is being amended to remove the mesh fencing and screening requirements (as required in rule R16) at the southern end of section 84 block 1.

The intent of R16 is to provide screening of the adjacent electrical substation. However, the requirement to provide screening to the southern end of the block would only result in screening adjacent residential development which is not the intent of the rule. The area to be removed from mesh fencing and screening requirements is outlined in red in the figures below.

Existing Figure 22



Proposed Figure 22



Section	Statement
<p>s87(2)(a) (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</p>	<p>Compliant. The change is being made to Figure 22 in the Strathnairn Precinct Map and Code. The change is consistent with the policy purpose as it only removes the fencing and screening requirements on the portion of section 84 block 1 where the intent of the policy cannot be achieved.</p>

2.4 Yarralumla Precinct Map and Code

In recognition of the thickness of brick walls of multiple kilns on the former brickworks site – which are up to one metre thick – an alternative method for determining gross floor area (GFA) of the kilns is being introduced into rule R1. This change means that the permitted size of shop and office development will not be unduly restricted by the application of the general definition of GFA contained within the Territory Plan. That definition requires that GFA is measured from the external faces of exterior walls.

The text to be added is shown in red font below.

Rules	Criteria
1.1 SHOP and offices – floor area limit	
<p>R1</p> <p>Total maximum gross floor area across the RC1 area for all:</p> <p>a) <i>SHOP</i> except where associated with or related to entertainment, accommodation and leisure uses – 500m²</p> <p>b) <i>Office</i> – 1500m².</p> <p>For the purposes of this rule, gross floor area within the brick kilns is measured from the internal faces of brick kiln walls.</p>	<p>This is a mandatory requirement. There is no applicable rule.</p>

Section	Statement
<p>s87(2)(a) (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</p>	<p>Compliant. The change is being made to rule R1 in the Yarralumla Precinct Map and Code. The change is consistent with the policy intent of how gross floor area is calculated. In recognition of the thickness of the walls of kilns on the brickworks site, it is appropriate for the GFA to be measured from the internal faces of kiln walls, rather than the exterior faces.</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 Denman Prospect Precinct Map and Code

1. Figure 12 Denman Prospect residential area ongoing provisions

substitute

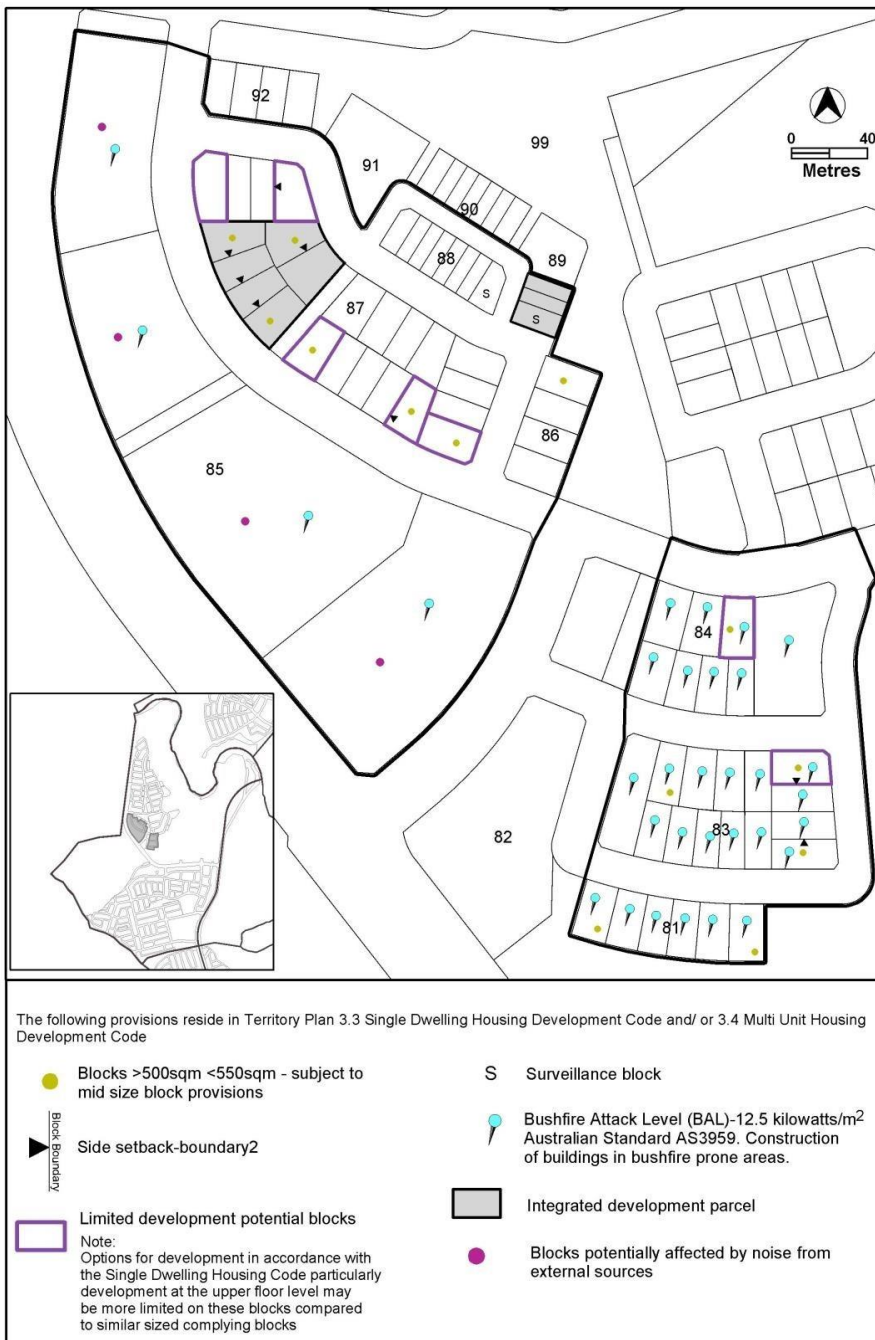


Figure 12 Denman Prospect residential area ongoing provisions

3.2 Variation to Strathnairn Precinct Map and Code

2. Figure 22 Strathnairn residential area 18

substitute



Figure 22 Strathnairn residential area 18

3.3 Variation to Yarralumla Precinct Map and Code

3. Rule R1

substitute

Rules	Criteria
1.1 SHOP and offices – floor area limit	
<p>R1</p> <p>Total maximum <i>gross floor area</i> across the RC1 area for all:</p> <p>a) <i>SHOP</i> except where associated with or related to entertainment, accommodation and leisure uses – 500m²</p> <p>b) <i>Office</i> – 1500m².</p> <p>For the purposes of this rule, gross floor area within the brick kilns is measured from the internal faces of brick kiln walls.</p>	<p>This is a mandatory requirement. There is no applicable rule.</p>

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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-għajjuna t'interpretu, ċempel:
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TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

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