

Planning and Development (Plan Variation 379) Approval 2021

Notifiable instrument NI2021-469

made under the

Planning and Development Act 2007, s 76 (Minister's powers in relation to draft plan variations)

1 Name of instrument

This instrument is the *Planning and Development (Plan Variation 379) Approval 2021*.

2 Approval of draft plan variation

(1) I approve under section 76 (2) (a) of the *Planning and Development Act 2007* the draft plan variation 379 to the Territory Plan.

(2) In this section:

draft plan variation 379 to the Territory Plan means the draft plan variation in the schedule.

Mick Gentleman MLA
Minister for Planning and Land Management
2 August 2021



ACT
Government

Environment, Planning and
Sustainable Development

Schedule (See section 2(2))

Planning and Development Act 2007

Variation to the Territory Plan 379

Nature Reserve - Kenny Environmental Offsets Site

Final variation prepared under s76 of the
Planning and Development Act 2007

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1. EXPLANATORY STATEMENT

1.1 Background

Gungahlin Strategic Assessment

The Gungahlin Strategic Assessment 2013 assessed the potential impacts from development of the then remaining identified greenfield sites in Gungahlin, on Matters of National Environmental Significance protected under the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999. The Gungahlin Strategic Assessment required the:

'creation of Kenny Nature Reserve (160 hectares) from the south western part of the suburb of Kenny in recognition of significant box gum woodland and striped legless lizard habitat. This action will avoid a potentially significant impact to striped legless lizard and retain most (90%) of Kenny's box gum woodland and the majority of the 300 old, large trees.'

Under the Gungahlin Strategic Assessment, the land 'avoided from development' is to be incorporated into nature reserves and in selected instances, added to the Hills, Ridges and Buffers Zone of the Territory Plan. Specifically, the Gungahlin Strategic Assessment undertakes to commence management of a nature reserve in Kenny, "prior to commencement of construction in Kenny".

The actions related to rural block 820 identified in the Gungahlin Strategic Assessment will be achieved through this variation by including the site in the NUZ3 Hills Ridges and Buffers Zone and classifying the site as a nature reserve on the Territory Plan Map as 'Pc – a nature reserve' Public Land Reserve.

The full report of the Gungahlin Strategic Assessment 2013 can be found on the Australian Government website via the following link:

<http://www.environment.gov.au/protection/assessments/strategic/act-gungahlin>

The Gungahlin Strategic Assessment makes provision for future infrastructure and services (water, sewer, stormwater, access and the like) to traverse the nature reserve primarily to service the future suburb of Kenny. The area anticipated to be impacted by this future development is approximately 6ha.

These services constitute assessable development in the NUZ3 Hills Ridges and Buffer Zone of the Territory Plan and for that reason their alignments, extent and locations have not been determined as part of Territory Plan Variation V379. The precise location of these services is to be determined as part of the ongoing planning for the suburb of Kenny and will be subject to future development applications.

East Gungahlin Structure Plan

The subject site is currently included in the Future Urban Area Overlay for the suburb of Kenny. The land was originally intended to be the future commercial centre for Kenny and currently contains a number of urban zones. These include the Residential RZ1 Suburban zone, the RZ4 Medium Density Residential zone, the Commercial CZ5 Mixed Use zone, the CFZ Community Facility zone; the TSZ1 Transport zone; the NUZ1 Broadacre zone and the PRZ1 Urban Open Space zone.

The East Gungahlin Structure Plan includes the suburbs of Kenny, Throsby, part of Harrison and Goorooyarroo Nature Reserve. The variation is consistent with the Structure Plan's general planning principles for East Gungahlin to practice:

Avoidance of development on lands that support core, well connected habitat of Matters of National Environmental Significance.

The East Gungahlin Structure Plan specifies a number of general and specific policies relating to the future development of 'Kenny and part Harrison'. These policies are broad in nature and importantly do not apply to any specific sites. As part of on-going and future planning for the suburbs of Kenny and part Harrison, these policies will be implemented. The inclusion of the subject site into a nature reserve does not prevent the implementation of the East Gungahlin Structure Plan.

1.2 Summary of the Proposal

This Territory Plan Variation V379 implements the outcomes of the Gungahlin Strategic Assessment 2013 for Matters of National Environmental Significance protected under the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999. Accordingly, this variation rezones Gungahlin rural block 820 and part of the Old Well Station Road Track identified in Figure 1, from a range of existing urban zonings to the Non Urban NUZ3 Hills Ridges and Buffers zone. It also replaces the Future Urban Area Overlay with a Nature Reserve Public Land Overlay on the Territory Plan Map.

1.3 The National Capital Plan

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

The NCP, which was published in the Commonwealth Gazette on 21 January 1990 is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The Planning and Land Management Act 1988 also required that the Territory Plan is not inconsistent with the NCP.

In accordance with section 10 of the *Australian Capital Territory (Planning and Land Management) Act 1988*, the NCP defines the planning principles and policies for Canberra and the Territory, for giving effect to the object of the NCP and sets out the general policies to be implemented throughout the Territory, including the range and nature of permitted land uses.

It also sets out the detailed conditions of planning, design and development for areas that have special significance to the National Capital known as designated areas and identifies special requirements for the development of some other areas.

1.4 Site Description

This variation relates to Gungahlin rural block 820 and part of Old Well Station Road as identified on Figure 1.

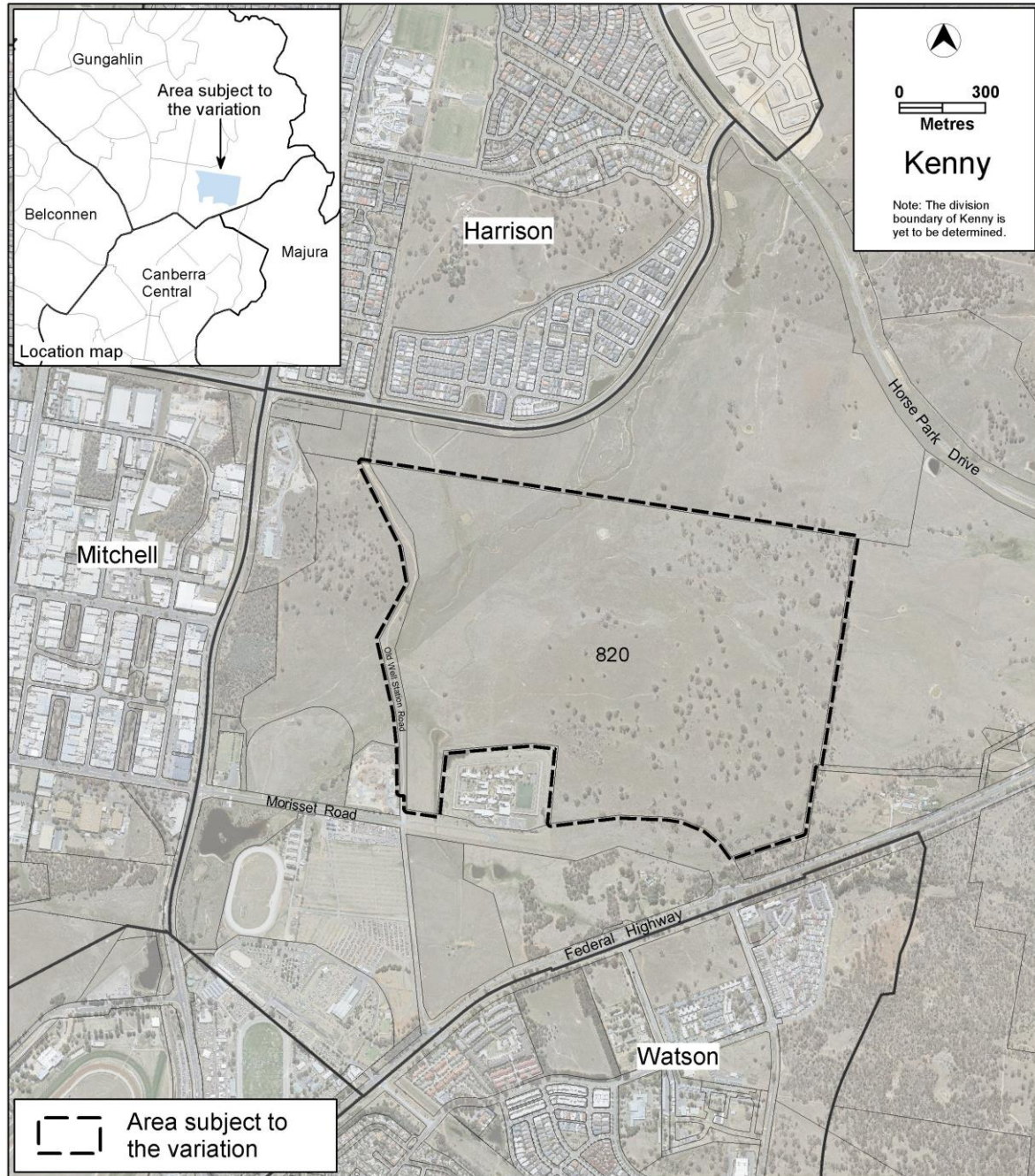


Figure 1 Site Plan

1.5 Current Territory Plan Provisions

The Territory Plan map for the area subject to this variation is shown in Figure 2.

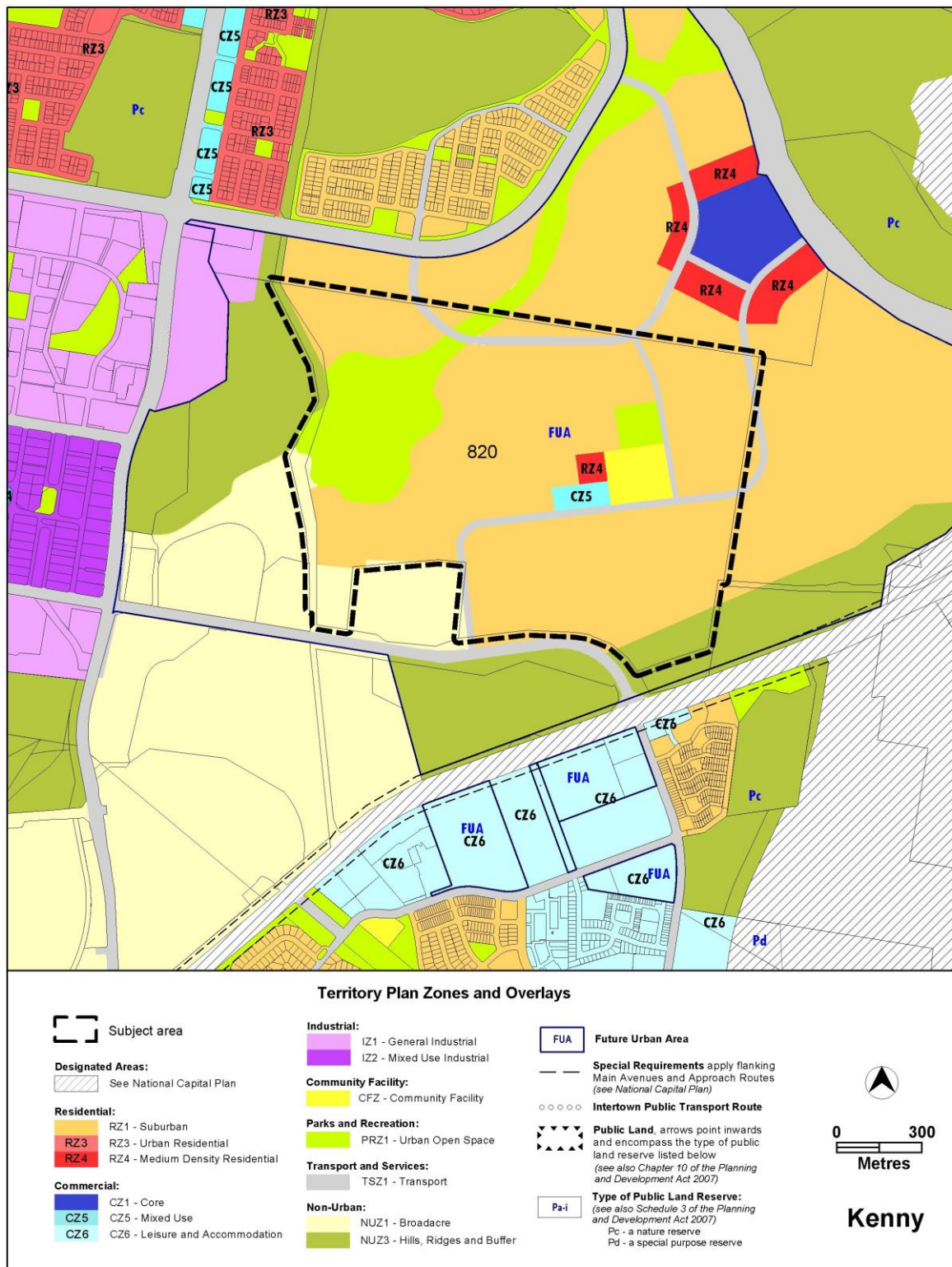


Figure 2 Territory Plan Zones Map

1.6 Changes to the Territory Plan

Detailed changes to the Territory Plan are noted in section 2 of this document.

1.7 Consultation on the Draft Variation

Draft Variation 379 (DV379) was released for public comment between 8 December 2020 and 1 February 2021. A consultation notice under section 63 of the *Planning and Development Act 2007* (P&D Act) was published on the ACT Legislation Register on 9 December 2021.

A total of four submissions were received, which included submissions from the ACT Equestrian Association Incorporated (ACTEA); the Friends of Grasslands (FOG); The Australian Native Plants Society Canberra Region Incorporated; and the Conservation Council ACT Region. There were no submissions received from individual members of the public.

Main issues raised by submitters are detailed in the following table:

Issue	Number of Submissions
Support for DV379	4
Extend the nature reserve to surrounding rural blocks	3
A Ngunnawal name should be used for the reserve	3
Allow equestrian trail through the nature reserve	1
Introduce cat containment provisions on surrounding residential areas	1

The above issues were considered and are detailed in a report on consultation. No changes were made to the variation as a result of consultation. The outcomes of consultation were considered by the Minister for Planning and Land Management prior to approval of this variation.

1.8 Revisions to the Draft Variation Recommended to the Minister

Minor changes were made to the zone boundary to protect existing access to an adjoining rural block and consistent with the existing fencing and gates, as shown on Figure 3.

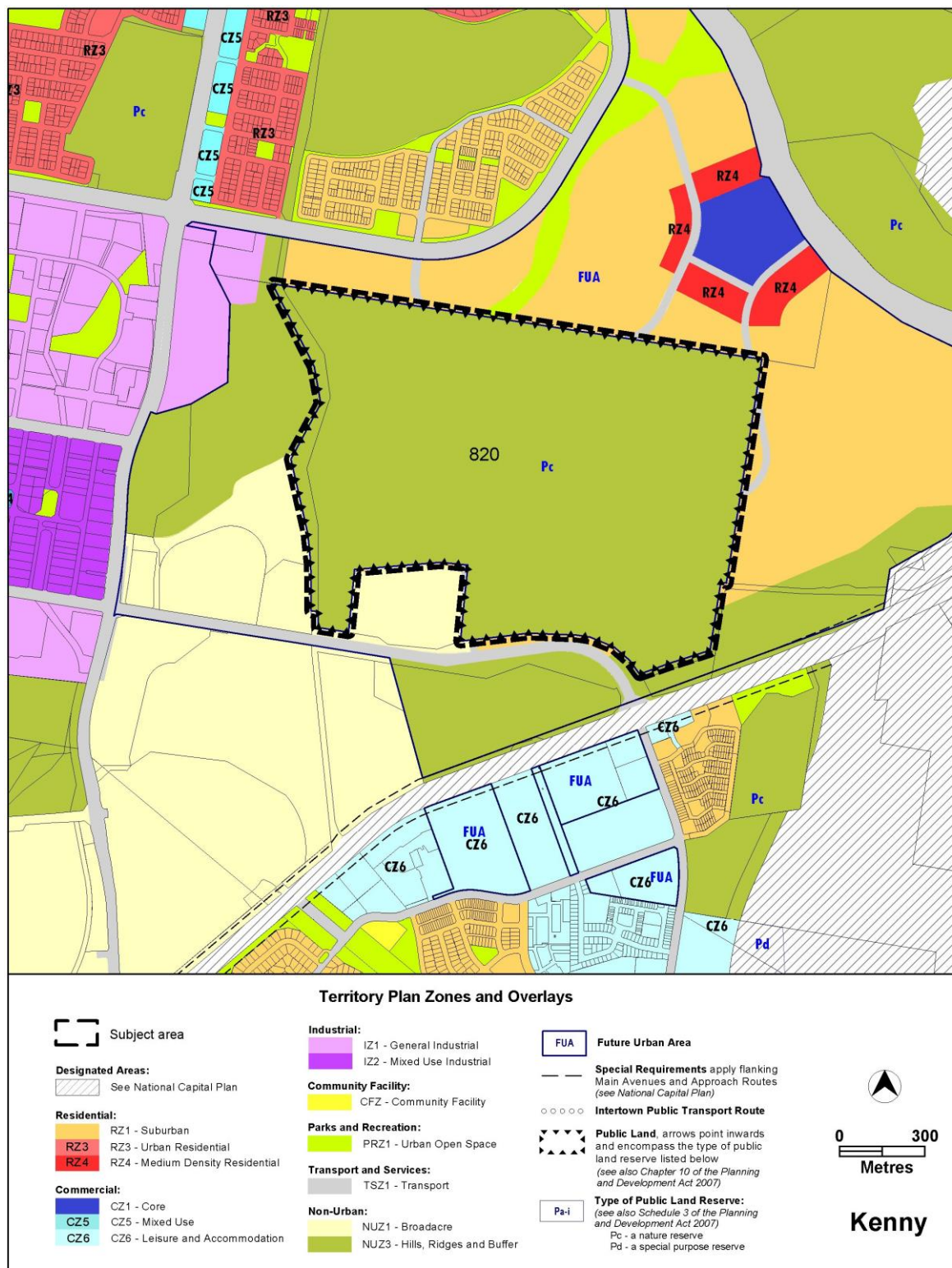


Figure 3: Minor boundary amendment at Old Well Station Road.

2. VARIATION

2.1 Variation to the Territory Plan Map

The Territory Plan map is varied in all of the following ways:



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