

# Planning and Development (Technical Amendment—West Belconnen) Plan Variation 2017 (No 1)

Notifiable Instrument NI2017—20

Technical Amendment No 2016-16

made under the

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

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## 1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—West Belconnen) Plan Variation 2017 (No 1)*.

## 2 Technical amendment

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

## 3 Commencement

This instrument commences on the day after its notification day.

## 4 Meaning of *City plan variation*

For this instrument:

***West Belconnen plan variation*** means the technical amendment to the Territory plan, variation 2016-16, in the schedule.

Brett Phillips  
Delegate of the planning and land authority  
16 January 2017



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Planning & Development Act 2007

# Technical Amendment to the Territory Plan Variation 2016-16

West Belconnen Concept Plan  
Minor code changes to provisions regarding  
Strathnairn Arts Precinct and the Little Eagle  
research clearance zone

November 2016

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# 1. INTRODUCTION

## 1.1 Purpose

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

*West Belconnen Concept Plan*

- Amendments to provisions relating to the Little Eagle research clearance zone
- Addition of paragraph 'u' to the 'Desired planning outcomes'
- Minor adjustments to, and clarification of wording in criterion C12, rule R13, rule R26 and criterion C26
- Addition of rule R26A and criterion C26A relating to vehicular access to Strathnairn Arts Precinct
- Clarification of wording in rule R44 and criterion C44
- Addition of rule R44A and criterion C44A to differentiate between the requirements for development outside the Strathnairn Arts Precinct (R44 and C44), and development within Strathnairn (R44A and C44A) but still within the Little Eagle clearance zone.

## 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, representations were considered by the planning and land authority (the Authority) within the Environment, Planning and Sustainable Development 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.

TA2016-16 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 West Belconnen Concept Plan

The 2012 ACT Planning Strategy earmarks the land area now known as West Belconnen as a 'future urban investigation area' for future possible settlement. Variation to the Territory Plan No. 351 which commenced in July 2016 put the intent of this aspect of the Planning Strategy into effect. Part of the variation was the introduction of the West Belconnen Structure Plan and West Belconnen Concept Plan.

The West Belconnen Concept Plan was prepared in accordance with the principles and policies of the West Belconnen Structure Plan to provide guidance for the design and assessment of estate development plans for the West Belconnen future urban development area.

This West Belconnen Concept Plan code technical amendment is intended primarily to remove the potential for conflict between two existing code provisions in the West Belconnen Concept Plan.

By way of background, rule R44 and criterion C44 place a moratorium on development until the research within the Little Eagle clearance zone has been completed. This area includes a portion of the southern part of the existing Strathnairn Arts Precinct. Mandatory Rule R26 of this concept plan binds development of Strathnairn to the 2015 Master Plan for the site. This means that development of Strathnairn may not be able to comply with the 2015 Master Plan for the site, if the results of the Little Eagle research place restrictions on future development within the clearance zone.

A key consideration within the Little Eagle clearance zone is the location of the proposed future second vehicular access to Strathnairn and any future road intersection with the surrounding urban development.

Mandatory rule R26 is replaced with a criterion C26. This will allow development to occur within Strathnairn in accordance with the 2015 master plan or its successors. In this way, future master plans for Strathnairn can be prepared in response to the requirements within the Little Eagle clearance zone, or alternatively to provide for refinements to the existing master plan consistent with its overall intent. An additional rule and criterion (R26A and C26A) are also introduced which specifically address the key issues of the future vehicular access to Strathnairn Arts Precinct taking into regard the Little Eagle clearance zone and compliance with road and intersection design requirements for the surrounding residential estate.

A new rule (R44A) and criterion (C44A) are introduced relating specifically to development within the 200m Little Eagle clearance zone within Strathnairn. The new criterion allows flexibility that may provide for development within the 200m



clearance zone subject to agreement from the Conservator of Flora and Fauna to accommodate expansion of the Strathnairn Arts Precinct.

R44 and C44 have been clarified to applying outside Strathnairn but still within the 200m clearance zone, and the Conservator of Flora and Fauna will confirm whether the land outside Strathnairn is suitable for development following the Little Eagle research.

Other minor adjustments to, and clarification of, the wording of some provisions are made in order to clarify the intent and improve the application of the provisions. These include rule R12 and criterion C13. A new paragraph has been added under 'Desired Planning Outcomes'; to specifically address the intent for the Transport and Services Zone.

## Changes to provisions

### *Existing provision*

<b>12. Interface with Strathnairn Arts Precinct (Block 1332 Belconnen)</b>	
<p>R26</p> <p>The interface with the Strathnairn Arts Precinct will have regard for compatibility between adjacent land uses:</p> <p><b>BUFFER:</b> A buffer zone or other appropriate treatment is required between Strathnairn and adjacent development to provide acoustic and visual separation from surrounding roads and other estate infrastructure. The buffer will enable continued passive artistic endeavour at the site and measures shall be external to the Strathnairn site boundary.</p> <p><b>ACCESS:</b> Provide one primary (public use) and one secondary (user and emergency egress) point of access to the Precinct consistent with outcomes of the Strathnairn 2015 Master Plan.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

### *New provisions (C26, R26A, C26A)*

<b>12. Interface with Strathnairn Arts Precinct (Block 1332 Belconnen or successor)</b>	
<p>There is no applicable rule.</p>	<p>C26</p> <p>There is an appropriate buffer zone or interface treatment between the Strathnairn Arts Precinct and surrounding development including roads, which takes all of the following into consideration:</p> <p>a) the intent of the Strathnairn 2015 Master</p>

	<p>Plan (or successor)</p> <ul style="list-style-type: none"> <li>b) operations of Strathnairn</li> <li>c) visual separation</li> <li>d) compatibility of adjacent land uses</li> </ul> <p>The buffer zone is to be located outside the Strathnairn Arts Precinct's block boundary, whereas the treatment may be located on the Strathnairn block boundary.</p>
<p>R26A</p> <p>Two vehicular access locations are to be provided to service the Strathnairn Arts Precinct consistent with the Strathnairn 2015 Master Plan (or successor).</p>	<p>C26A</p> <p>The vehicular access locations achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) generally consistent with the intent of the Strathnairn 2015 Master Plan (or successor)</li> <li>b) maintains the Little Eagle clearance zone consistent with the requirements of this concept plan</li> <li>c) compliance with road and intersection design requirements</li> <li>d) endorsement from ArtsACT.</li> </ul>

*New provisions R44A and C44A*

23. Little Eagle Clearance Zone	
<p>R44A</p> <p>This rule applies to development within Strathnairn that is within the 200m Little Eagle clearance zone:</p> <p>No development will be permitted within Block 1332 or successor (Strathnairn Arts Precinct) inside the 200m Little Eagle clearance zone indicated in <b>Figure 2</b>.</p>	<p>C44A</p> <p>Pending the outcomes of the Little Eagle research, the Conservator of Flora and Fauna may agree to development within Block 1332 or successor (Strathnairn Arts Precinct) inside the 200m Little Eagle clearance zone.</p>

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

Section	Statement
<p>s87 (2)(a) a variation (a code variation) that –</p> <ul style="list-style-type: none"> <li>(i) would only change a code</li> <li>(ii) is consistent with the policy purpose and policy framework of the code; and</li> <li>(iii) is not an error variation.</li> </ul>	<p>Compliant. The changes to the concept plan provide opportunity for flexibility when developing the Strathnairn site in response to the Little Eagle nesting and foraging area research outcomes. These changes are consistent with the policy purpose and policy framework of the code</p>

Other minor amendments have been made to the code to clarify the intent and to improve the application of the provisions. These include:

- the addition of paragraph ‘u’ to the ‘Desired planning outcomes’ in response to criterion C12,
  - “u. Provide for roads, utilities and infrastructure, such as a new zone electrical substation, to service the new development and adjacent areas, as required”
- minor changes to criterion C12 and rule R13 (see underlined/struck through)

<p>R12 Transport and Services (TSZ2 Services) zone shown on a land use plan lodged with an Estate Development Plan is consistent with the Territory Plan map.</p>	<p>C12 <del>The Services zone is consistent with the objectives of the zone.</del> <u>The Transport and Services Zone achieves all of the following:</u> a) <u>the objectives of the zone</u> b) <u>consistency with the desired planning outcomes.</u></p>
<p>R13 <u>No new</u> residential, community and other sensitive uses are <del>not</del> permitted within the clearance zones associated with Parkwood Egg Farm, the Belconnen Land Fill, the Lower Molonglo Water Quality Control Centre and the Green waste facility, as shown in <b>Figure 1, 2 and 3.</b></p>	<p>C13 Clearance zones may be adjusted subject to an appropriate audit process and approval from the Environment Protection Authority.</p>

- minor adjustment and clarification to wording in rule R44 and criterion C44(see underlined)

<b>23. Little Eagle Clearance Zone</b>	
<p>R44</p> <p><u>This rule applies to development outside Strathnairn but still within the 200m Little Eagle clearance zone:</u></p> <p>No development including infrastructure and construction related activities will be permitted <u>outside Block 1332 or successor (Strathnairn Arts Precinct) within the 200m Little Eagle clearance zone</u> indicated in <b>Figure 2.</b></p>	<p>C44</p> <p>Development is not permitted until such time as research on the Little Eagle has been completed <u>and the Conservator of Flora and Fauna confirms that the area is suitable for development.</u></p>

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

<b>Section</b>	<b>Statement</b>
<p>s87 (2)(a) a variation (a code variation) that –</p> <p>(i) would only change a code</p> <p>(ii) is consistent with the policy purpose and policy framework of the code; and</p> <p>(iii) is not an error variation.</p>	<p>Compliant. The minor adjustments, amendments and clarifications to the concept plan (Desired planning outcome ‘u’; criterion C12; rule R13, rule R44 and criterion C44 clarify the intent and improve the application of the provisions. These changes are consistent with the policy purpose and policy framework of the code</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 West Belconnen Concept Plan

##### 1. Desired planning outcomes

*Add*

- u. Provide for roads, utilities and infrastructure, such as a new zone electrical substation, to service the new development and adjacent areas, as required

##### 2. Part A – Land Use; 1. Land Use Plan; C12

*Substitute*

R12 Transport and Services (TSZ2 Services) zone shown on a land use plan lodged with an Estate Development Plan is consistent with the Territory Plan map.	C12 The Transport and Services Zone achieves all of the following: a) the objectives of the zone b) consistency with the desired planning outcomes.
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##### 3. Part A – Land Use; 1. Land Use Plan; R13

*Substitute*

R13 No new residential, community and other sensitive uses are permitted within the clearance zones associated with Parkwood Egg Farm, the Belconnen Land Fill, the Lower Molonglo Water Quality Control Centre and the Green waste facility, as shown in <b>Figure 1, 2 and 3</b> .	C13 Clearance zones may be adjusted subject to an appropriate audit process and approval from the Environment Protection Authority.
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**4. Part B – Subdivision; 12. Interface with Strathnairn Arts Precinct (Block 1332 Belconnen); R26**

*Substitute*

<b>12. Interface with Strathnairn Arts Precinct (Block 1332 Belconnen or successor)</b>	
<p>There is no applicable rule.</p>	<p><b>C26</b></p> <p>There is an appropriate buffer zone or interface treatment between the Strathnairn Arts Precinct and surrounding development including roads, which takes all of the following into consideration:</p> <ul style="list-style-type: none"> <li>a) the intent of the Strathnairn 2015 Master Plan (or successor)</li> <li>b) operations of Strathnairn</li> <li>c) visual separation</li> <li>d) compatibility of adjacent land uses</li> </ul> <p>The buffer zone is to be located outside the Strathnairn Arts Precinct’s block boundary, whereas the treatment may be located on the Strathnairn block boundary.</p>
<p><b>R26A</b></p> <p>Two vehicular access locations are to be provided to service the Strathnairn Arts Precinct consistent with the Strathnairn 2015 Master Plan (or successor).</p>	<p><b>C26A</b></p> <p>The vehicular access locations achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) generally consistent with the intent of the Strathnairn 2015 Master Plan (or successor)</li> <li>b) maintains the Little Eagle clearance zone consistent with the requirements of this concept plan</li> <li>c) compliance with road and intersection design requirements</li> <li>d) endorsement from ArtsACT.</li> </ul>

**5. Part B – Subdivision; 23. Little Eagle Clearance Zone**

*Substitute*

<b>23. Little Eagle Clearance Zone</b>	
<p><b>R44</b></p> <p>This rule applies to development outside Strathnairn but still within the 200m Little Eagle clearance zone:</p> <p>No development including infrastructure and construction related activities will be permitted outside Block 1332 or successor (Strathnairn Arts Precinct), within the 200m Little Eagle clearance zone indicated in <b>Figure 2</b>.</p>	<p><b>C44</b></p> <p>Development is not permitted until such time as research on the Little Eagle has been completed and the Conservator of Flora and Fauna confirms that the area is suitable for development.</p>
<p><b>R44A</b></p> <p>This rule applies to development within Strathnairn that is within the 200m Little Eagle clearance zone:</p> <p>No development will be permitted within Block 1332 or successor (Strathnairn Arts Precinct) inside the 200m Little Eagle clearance zone indicated in <b>Figure 2</b>.</p>	<p><b>C44A</b></p> <p>Pending the outcomes of the Little Eagle research, the Conservator of Flora and Fauna may agree to development within Block 1332 or successor (Strathnairn Arts Precinct) inside the 200m Little Eagle clearance zone.</p>

## 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-għajjnuna 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	Ako vam je potrebna pomoć prevodioca telefoniрајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

### TRANSLATING AND INTERPRETING SERVICE

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