

Australian Capital Territory

Planning and Development (Technical Amendment—Throsby) Plan Variation 2017 (No 1)

Notifiable instrument NI2017—72

Technical Amendment No 2017-04

made under the

Planning and Development Act 2007, s 89 (Making technical amendments) and s 90A (Rezoning—boundary changes)

1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—Throsby) 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 Throsby 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 *Throsby plan variation*

For this instrument:

Throsby plan variation means the Technical Amendment to the Territory Plan, Variation 2017-04, in the schedule.

Note: No consultation was required in relation to the Throsby plan variation under section 87 of the Act.

Brett Phillips
Delegate of the planning and land authority
13 February 2017



ACT
Government

Environment, Planning and
Sustainable Development

Planning & Development Act 2007

**Technical
Amendment
to the Territory Plan
Variation 2017-04**

Rezoning – boundary changes

February 2017

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1. INTRODUCTION

1.1 Purpose

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

Territory Plan Map

- Realign the boundaries of the Throsby FUA overlay, the public land overlay, the Pc nature reserve overlay, and the NUZ3 zone, with the division boundary of Throsby.

1.2 Public consultation

Under section 87 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 *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.

TA2017-04 has been prepared in accordance with section 87 (1) (b).

In Part 2 Explanation of this technical amendment there is a statement of compliance against the specific criteria for the relevant category of technical amendment.

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 Background

The boundaries of the future urban area (FUA) overlay, the public land overlay and the Pc nature reserve overlay in the division of Throsby do not align with the current Throsby division boundary. The overlays were based on the previously proposed division boundary for Throsby, as detailed in the Throsby Concept Plan of November 2014. Since then, a revised division boundary has been registered and consequently the overlays do not align with the new division boundary.

The extent of the environmental offsets sites adjoining Throsby in the Mulligans Flat and Goorooyaroo Nature Reserves, and the approved estate development plan for the suburb, are based on the current division boundary.

2.2 Changes to the Territory Plan Map

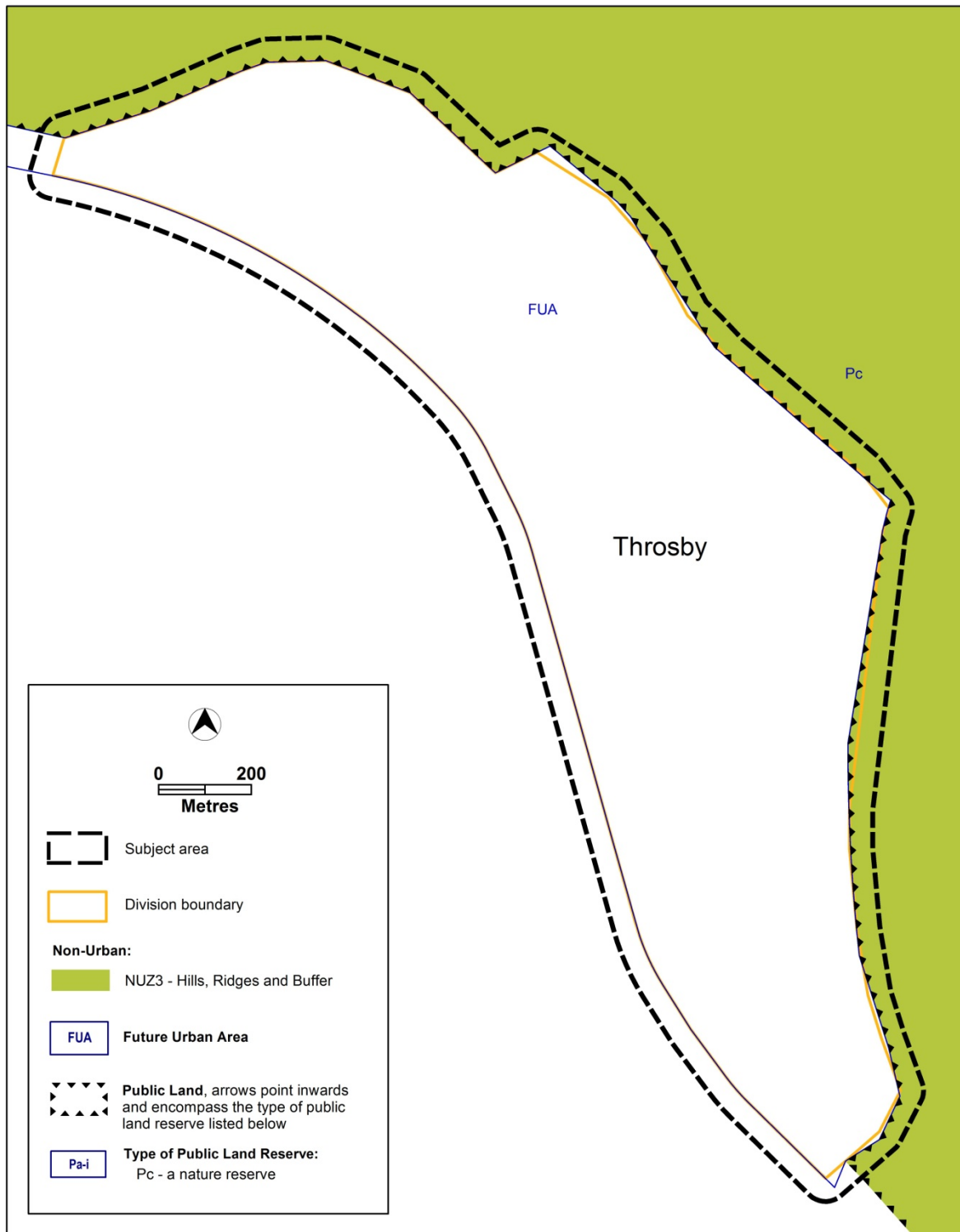
In accordance with section 90A of the *Planning and Development Act 2007* this technical amendment will realign the boundaries of the Throsby FUA overlay, the public land overlay, the Pc nature reserve overlay, and the NUZ3 zone, with the division boundary of Throsby.

The planning and land authority has been advised to make the changes by the land custodian, the Land Development Agency (LDA), and the Conservator of Flora and Fauna.

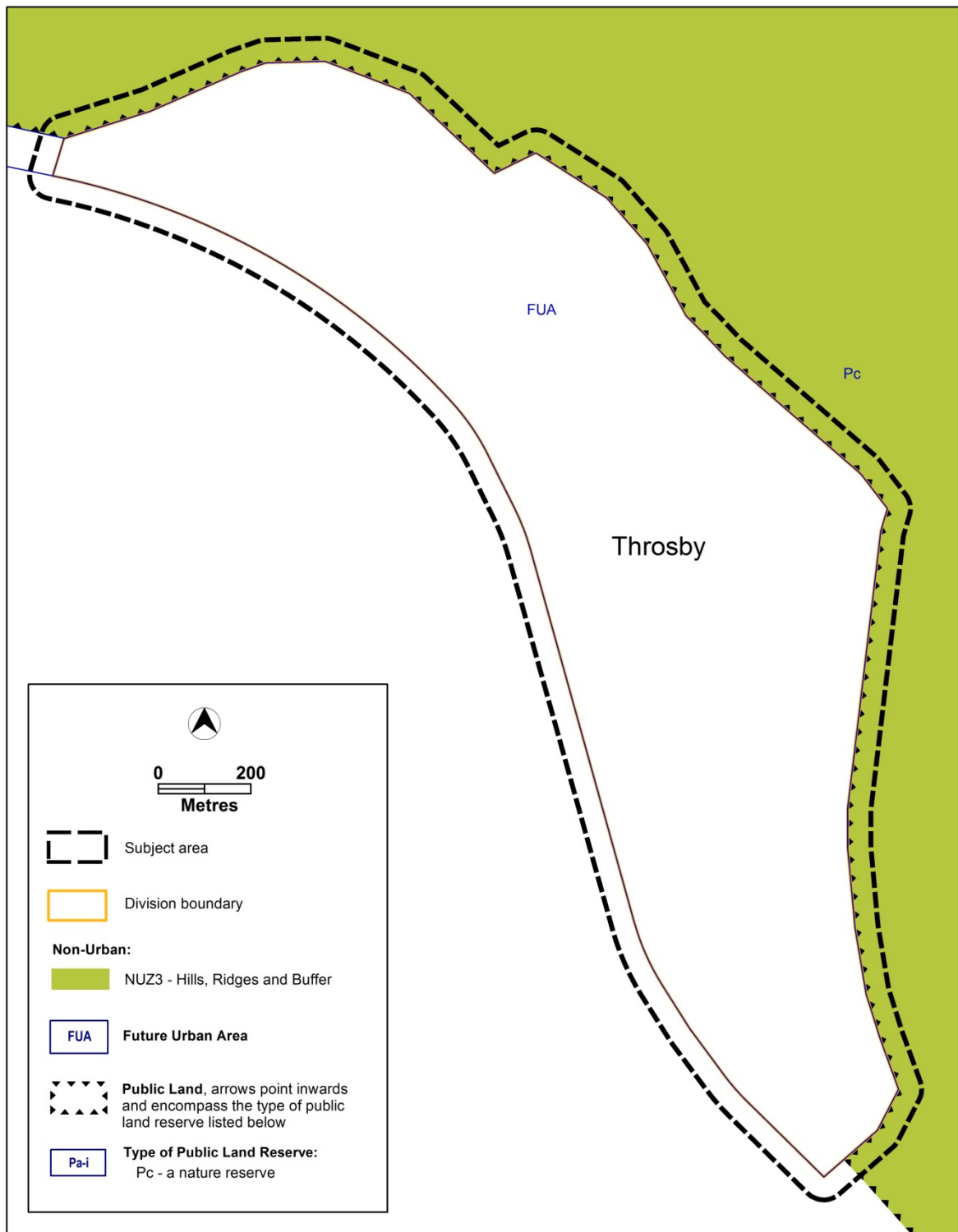
Compliance with the *Planning and Development Act 2007*

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 and overlays under FUA on land which the Territory is the registered proprietor, and on unleased land adjoining the eastern boundary of Throsby.</p>
<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 proposed amendment is considered to be consistent with the apparent intent of the original respective overlay boundary lines and the objective for the NUZ3 zone.</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>The planning and land authority has been advised to make the changes by the Conservator of Flora and Fauna and the land custodian (LDA).</p> <p>The conditions in subsection (2) (a) and (b) are satisfied as explained above.</p>
<p>(4) In this section: overlay means an overlay identified in the territory plan.</p>	<p>The overlays affected by this technical amendment include the FUA overlay, the public land overlay and the Pc nature reserve overlay.</p>

Existing Territory Plan Map



Proposed Territory Plan Map



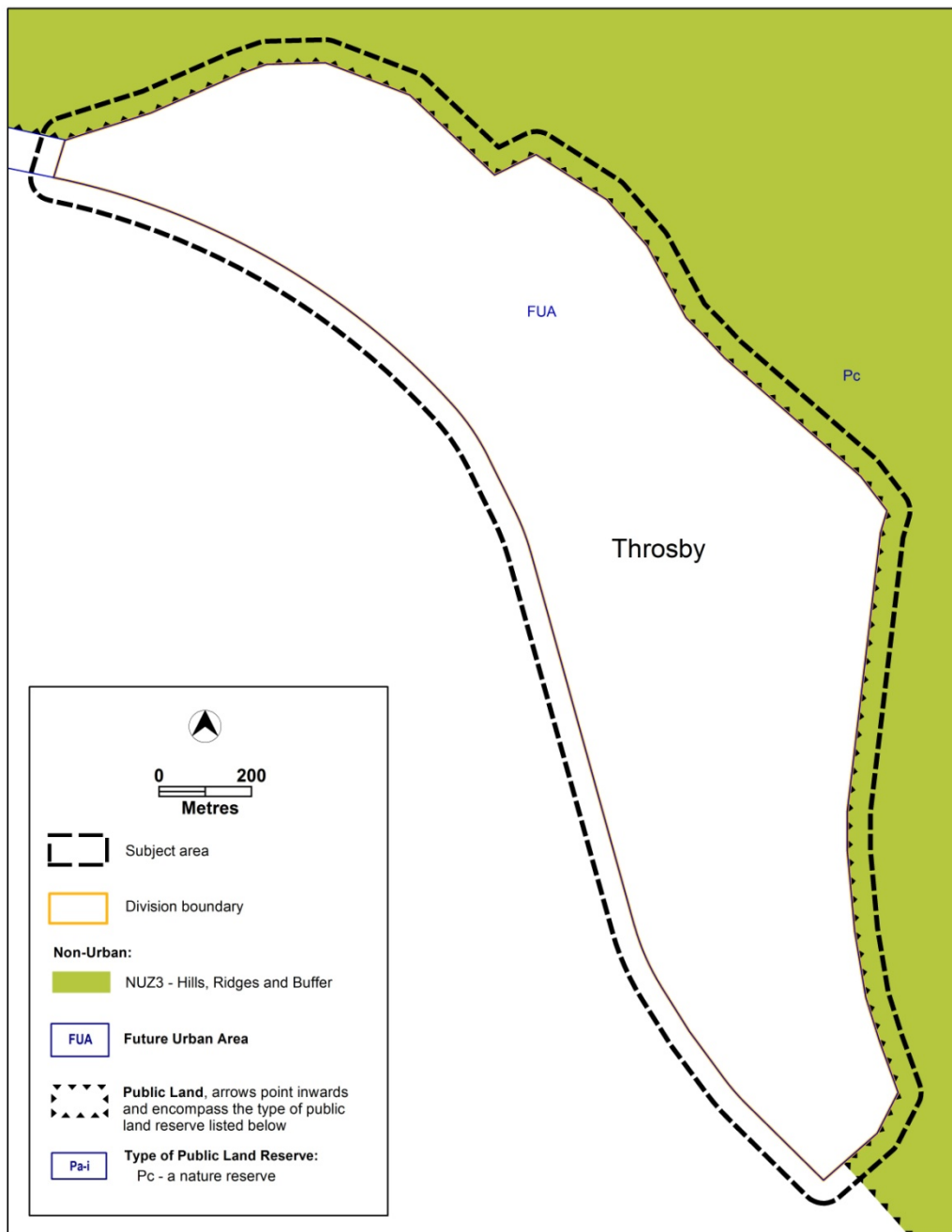
3. TECHNICAL AMENDMENT

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. Territory Plan Map

The Territory Plan map is varied as indicated below to realign the FUA boundary, the public land overlay, the Pc nature reserve overlay, and the NUZ3 zone, with the Throsby division boundary.



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