

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

Notifiable Instrument NI2017—90

Technical Amendment No 2016-17

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—City) 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 City 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:

*City plan variation* means the technical amendment to the Territory plan, variation 2016-17, in the schedule.

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



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Planning & Development Act 2007

# **Technical Amendment to the Territory Plan Variation 2016-17**

Territory land adjoining blocks 3, 5 and 13  
Section 3 City  
Zone adjustment to address minor encroachment

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*

- Rezone territory land adjoining part Blocks 3,5 and 13 Section 3 City from TSZ1 transport zone to commercial CZ1 core 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 and Planning 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.

TA2016-17 has been prepared in accordance with section 87 (2) (b) 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 Rezoning of territory land adjoining part Blocks 3,5, and 13 Section 3 City**

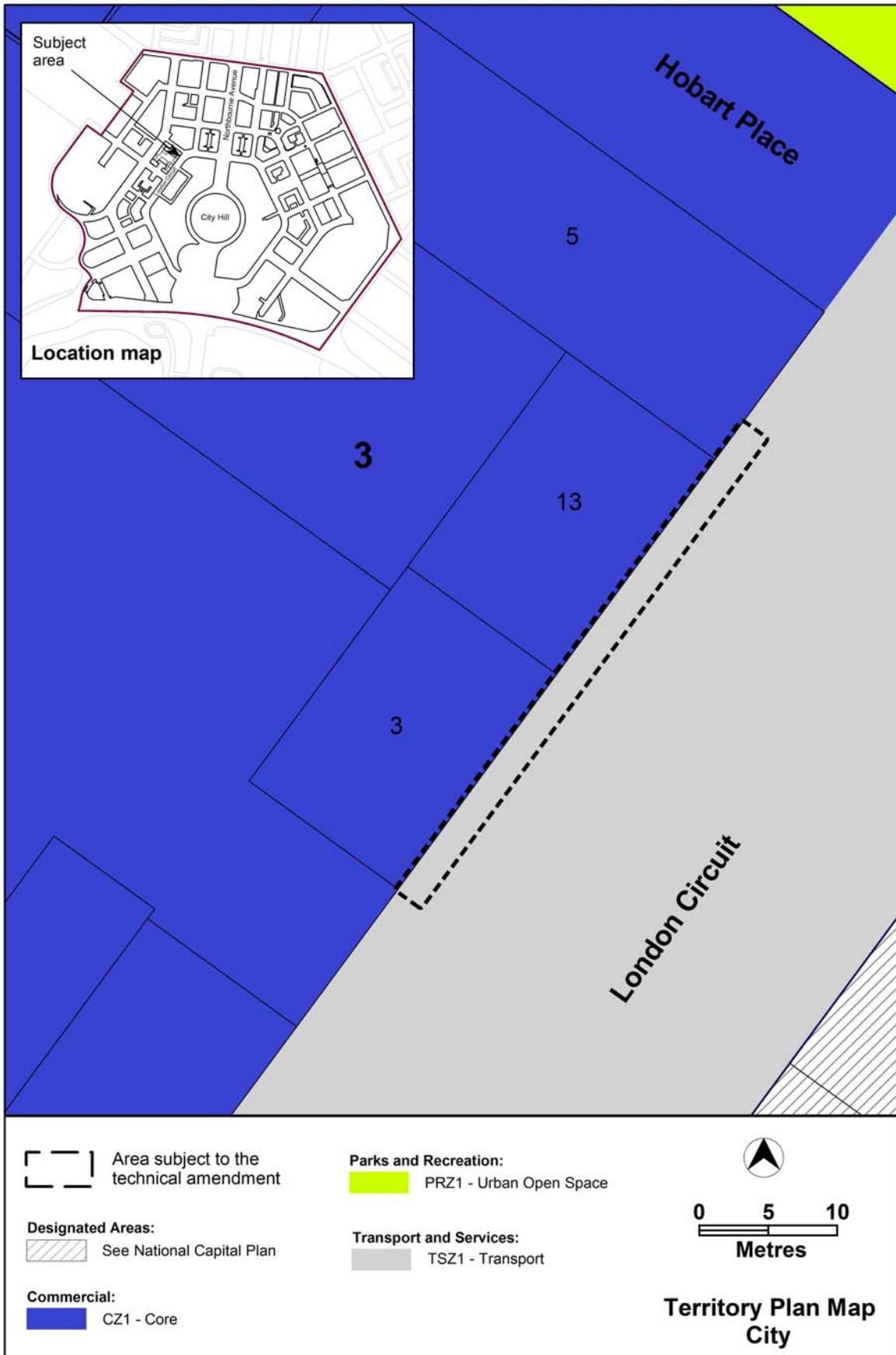
The Environment and Planning Directorate has received a development proposal to redevelop blocks 3, 5 and 13 Section 3 City for a mixed use building comprising commercial uses at ground level and multi-unit housing above. The site is predominantly within the commercial CZ1 Core Zone. The proponent contends that in order to achieve a building design that is workable and feasible the proposal will result in part of the development fronting London Circuit extending into the transport and services TSZ1 Transport Zone (Territory land) for a depth of 2 metres at level 4 and above, and for a length of 42.3 metres along the London Circuit frontage.

Multi-unit housing is a prohibited use in the TSZ1 zone and this triggers the requirement for a technical amendment under section 90B of the Act for rezoning where a development encroaches onto adjoining territory land.

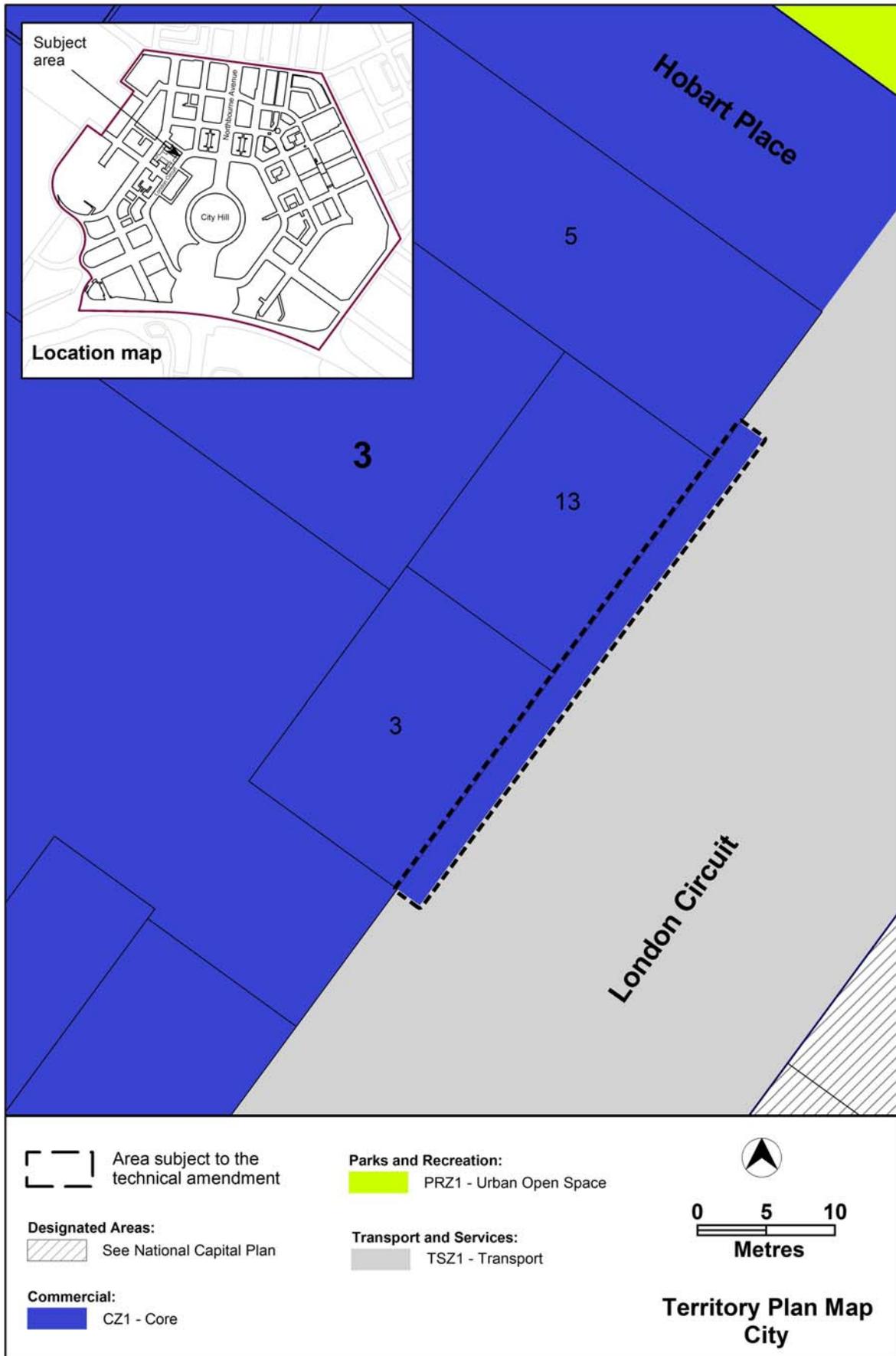
Under the Act section 90B permits the changing of the boundary of a zone where development is deemed to be encroaching onto adjoining territory land provided that the change is consistent with a development proposal under section 137AC of the Act. Section 137AC requires the planning and land authority to make a declaration for development encroaching on adjoining territory land if development is prohibited provided that the proposal satisfies the criteria in section 137AC (2) of the Act. The proposal was assessed by the planning and land authority and deemed to comply with the requirements under section 137AC. The declaration was approved by the chief planning executive of the planning and land authority on 31 August 2016 and the notifiable instrument took effect on the legislation register on 6 September 2016.

The encroachment into the TSZ1 zone is considered a minor part of the development as it is only the part of the proposed building on the London Circuit frontage to a depth of 2m. Pedestrian activity along London Circuit will not be negatively impacted as the encroachment is above ground level. The new uses at ground level will activate the surrounding streets and enliven the London Circuit frontage, thereby improving the current use of the site.

Existing Territory Plan Map



Proposed Territory Plan Map



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

<b>Section</b>	<b>Statement</b>
<p>s87(2)(b) a variation to change the boundary of a zone under section 90B (Rezoning – development encroaching on adjoining territory land)</p> <p>90B Rezoning – development encroaching on adjoining territory land</p> <p>(1) The planning and land authority may vary the territory plan under section 89 (Making technical amendments) to change the boundary of a zone consistent with a development proposal under section 137AC (Declaration for development encroaching on adjoining territory land if development prohibited) if the authority makes a declaration that the proposal satisfies the criteria in section 137AC (2)</p> <p>(2) However, the planning and land authority must not vary the territory plan under section 89 to change the boundary of the zone if the adjoining territory land is designated as a future urban area under the territory plan</p> <p>(3) In this section: <b><i>adjoining territory land</i></b>—see section 137AC (1)(a).</p>	<p>Compliant. The adjoining TSZ1 land is Territory land.</p> <p>The planning and land authority has made the declaration under section 137AC.</p> <p>The land is not designated as future urban area under the Territory Plan</p>

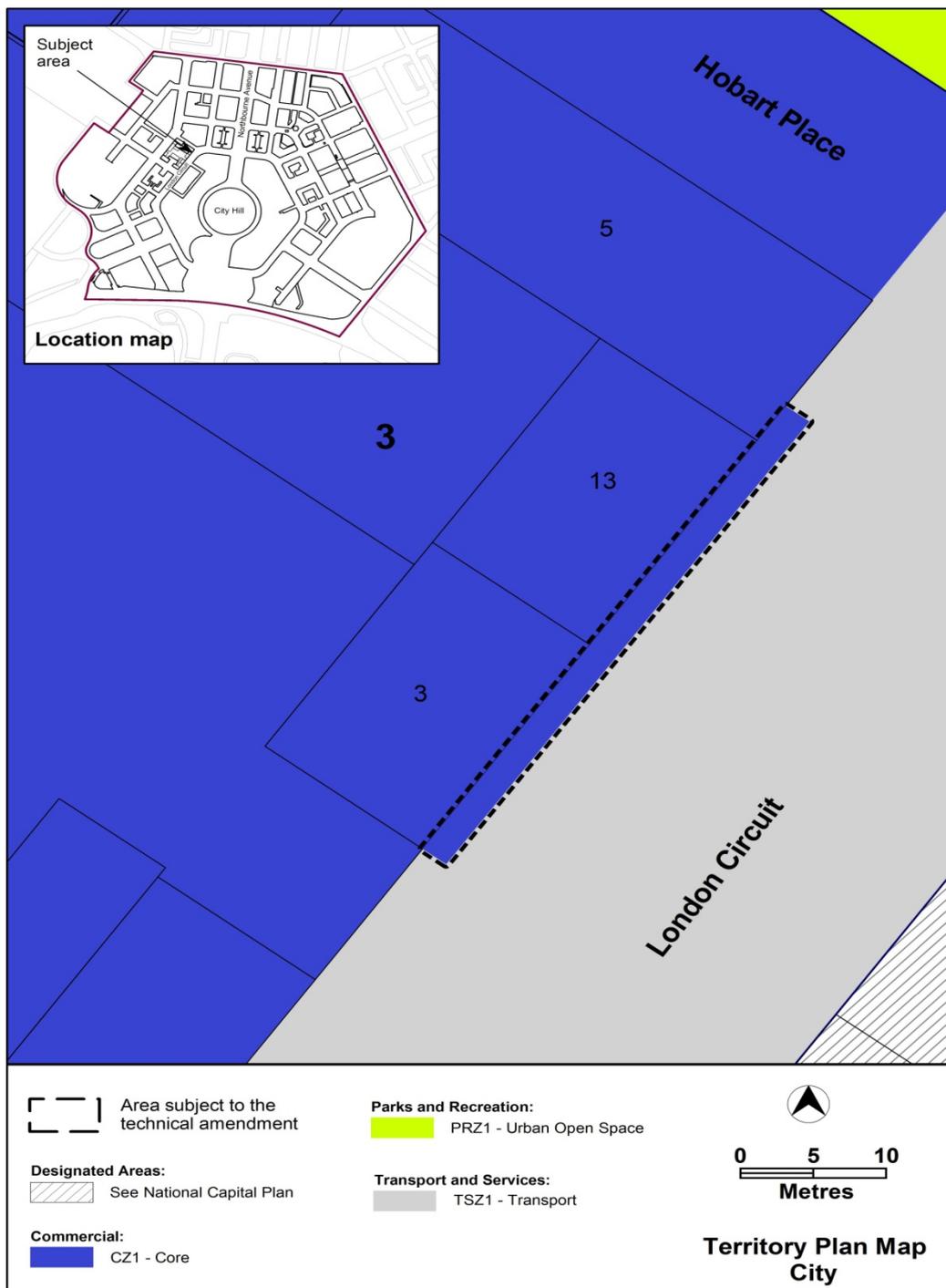
### 3. TECHNICAL AMENDMENT

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. Territory land adjoining part Blocks 3,5, and 13 Section 3 City

*Substitute*



## 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:
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PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
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TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
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