

Australian Capital Territory

Planning and Development (Technical Amendment—Throsby) Plan Variation 2022 (No 1)

Notifiable instrument NI2022–290

Technical Amendment No 2021-16

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—Throsby) Plan Variation 2022 (No 1)*.

2 Commencement

This instrument commences on the day after its notification day.

3 Technical amendment

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

4 Dictionary

For this instrument:

Throsby plan variation means the technical amendment to the Territory plan, variation 2021-16, in the schedule.

Dr Erin Brady
Delegate of the planning and land authority
26 May 2022

Planning and Development Act 2007

Technical Amendment to the Territory Plan

2021-16

Changes to the Throsby Precinct Map and Code
and Throsby Concept Plan, and rezoning of land
within the future urban area of Throsby

May 2022

Commencement version

under section 89 of the *Planning and Development Act 2007*

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1. INTRODUCTION

1.1 Purpose

Part of the district playing fields in Throsby is proposed to be used for an enclosed recreation area and will include an oval and grandstand intended to be used mainly for football (soccer) and a building proposed to be used for futsal purposes. To achieve this, it is proposed to rezone part of the playing fields from urban open space to restricted access recreation. In addition to this rezoning, it is proposed to amend the Throsby Concept Plan by removing the option to develop the site for residential uses. The Throsby Precinct Map and Code will be amended to prohibit uses usually allowed in the restricted access recreation zone that are not intended for this site.

This technical amendment proposes to make the following changes to the Territory Plan:

Territory Plan Map

- At Throsby section 65 block 1, change part of the zoning of the block which is a future urban area (FUA) from Parks and Recreation PRZ1 Urban Open Space to Parks and Recreation PRZ2 Restricted Access Recreation, to reflect proposed land uses.

Throsby Concept Plan

- Remove the option to develop the site for residential uses.

Throsby Precinct Map and Code

- Include additional prohibited uses.
- Include criteria to minimise potential light spill from the sporting facilities into the Mulligans Flat Nature Reserve and adjacent residential areas.

1.2 Public consultation

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

TA2021-16 was released for public consultation from 17 December 2021 to 28 January 2022. No public submissions were received. Internal comments have been considered in preparation of the final version of TA2021-16 and criteria has been added to the Throsby Precinct Map and Code to address potential light spill from the sporting facilities into the Mulligans Flat Nature Reserve and adjacent residential areas.

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 Plan 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 advised that it has no concerns with 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).

Comments received from the public and the National Capital Authority will be taken into account before the planning and land authority “makes” the technical amendment under section 89 of the Act. The planning and land authority must then notify the public of its decision.

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.

TA2021-16 has been prepared in accordance with section 87(2)(a) and (c) of the Act.

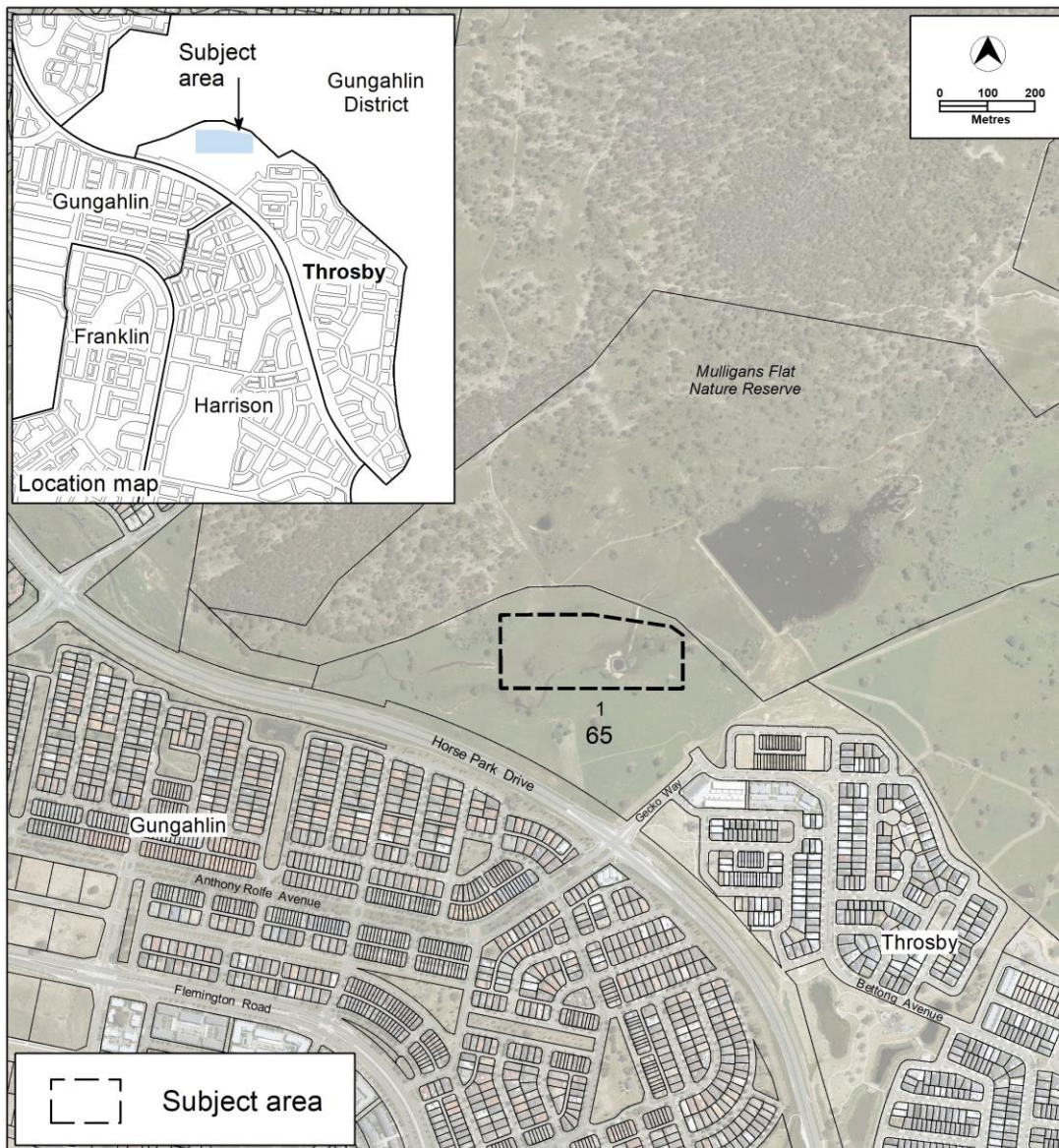
2. EXPLANATORY STATEMENT

2.1 Background

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.

2.2 Throsby Future Urban Area (FUA)

The area subject to this technical amendment is located at Throsby section 65 block 1, at the northern end of the suburb. The site is known as the district playing fields. Part of the site is proposed to be used by Capital Football as the Home of Football in the ACT. The proposed area to be rezoned is approximately 50,000m².



Location map

The site is bounded by Mulligans Flat Nature Reserve to the north, Horse Park Drive to the south, the residential areas of Throsby to the east and Gungahlin and Forde to the west.

In June 2019, the ACT Government announced its commitment and funding for the proposed Home of Football to be located at the district playing fields in Throsby. The current zoning of Throsby section 65 block 1 is PRZ1 Urban Open Space zone. It is proposed that a portion of the block is rezoned to PRZ2 Restricted Access Recreation zone to accommodate a futsal building, grandstand, enclosed football field and an area for future growth.

Changes can be made to the zones shown within a future urban area overlay via technical amendment, provided the rezoning is consistent with the principles and policies of the overarching structure plan. The East Gungahlin Structure Plan (the Structure Plan) commenced in 2006 and sets out the principles and policies that apply to Throsby, as well as Kenny, part of Harrison and Goorooyaroo Nature Reserve. A concept plan for Throsby commenced in 2014. Concept plans apply the principles and policies found in a structure plan and are used to guide the preparation and assessment of development in the area to which the concept plan applies.

2.3 Consistency with Structure Plan principles

The rezoning is consistent with the principles and policies for Throsby in the East Gungahlin Structure Plan, in particular Specific Policies 5 and 6:

5. Suitable site to be identified for District Playing Fields.
6. The land uses for the northern part of Throsby adjacent to Goorooyaroo and Mulligans Flat Nature Reserves will be confirmed closer to land release, following an assessment of the environmental values within the reserves.

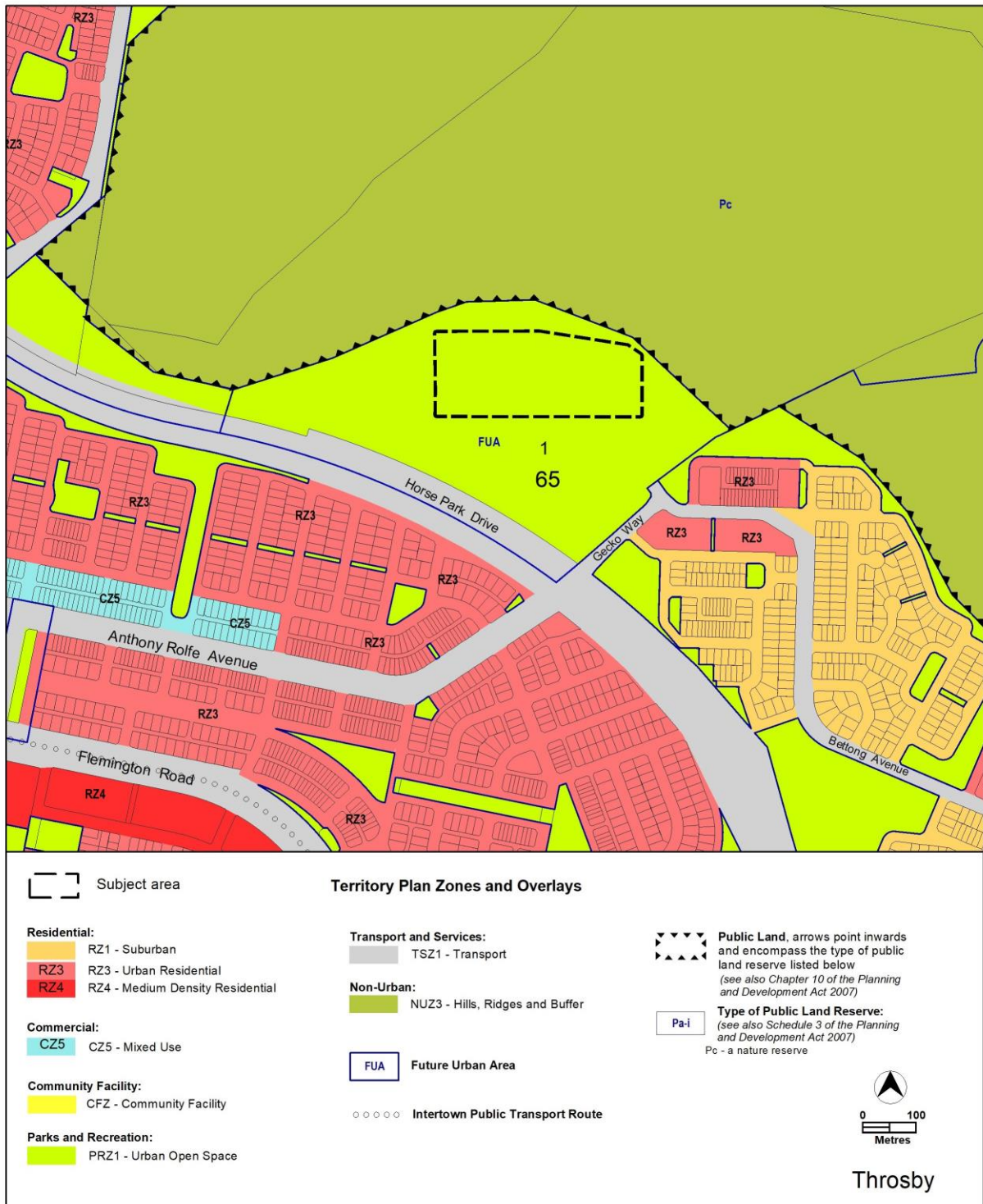
Throsby section 65 block 1 has been identified as a suitable site for district playing fields and the proposed changes will permit additional recreation uses on the site (Specific Policy 5). As part of the estate development planning process, the adjacent Goorooyaroo and Mulligans Flat Nature Reserves will be taken into consideration as part of detailed site investigation studies and planning for the proposed land uses (Specific Policy 6).

To address external lighting and minimise the effects of light spill into the Mulligans Flat Nature Reserve and adjacent residential areas, additional criteria are to be included in the Throsby Precinct Map and Code. The criteria are consistent with the principles and policies in the East Gungahlin Structure Plan, in particular General Principle 3:

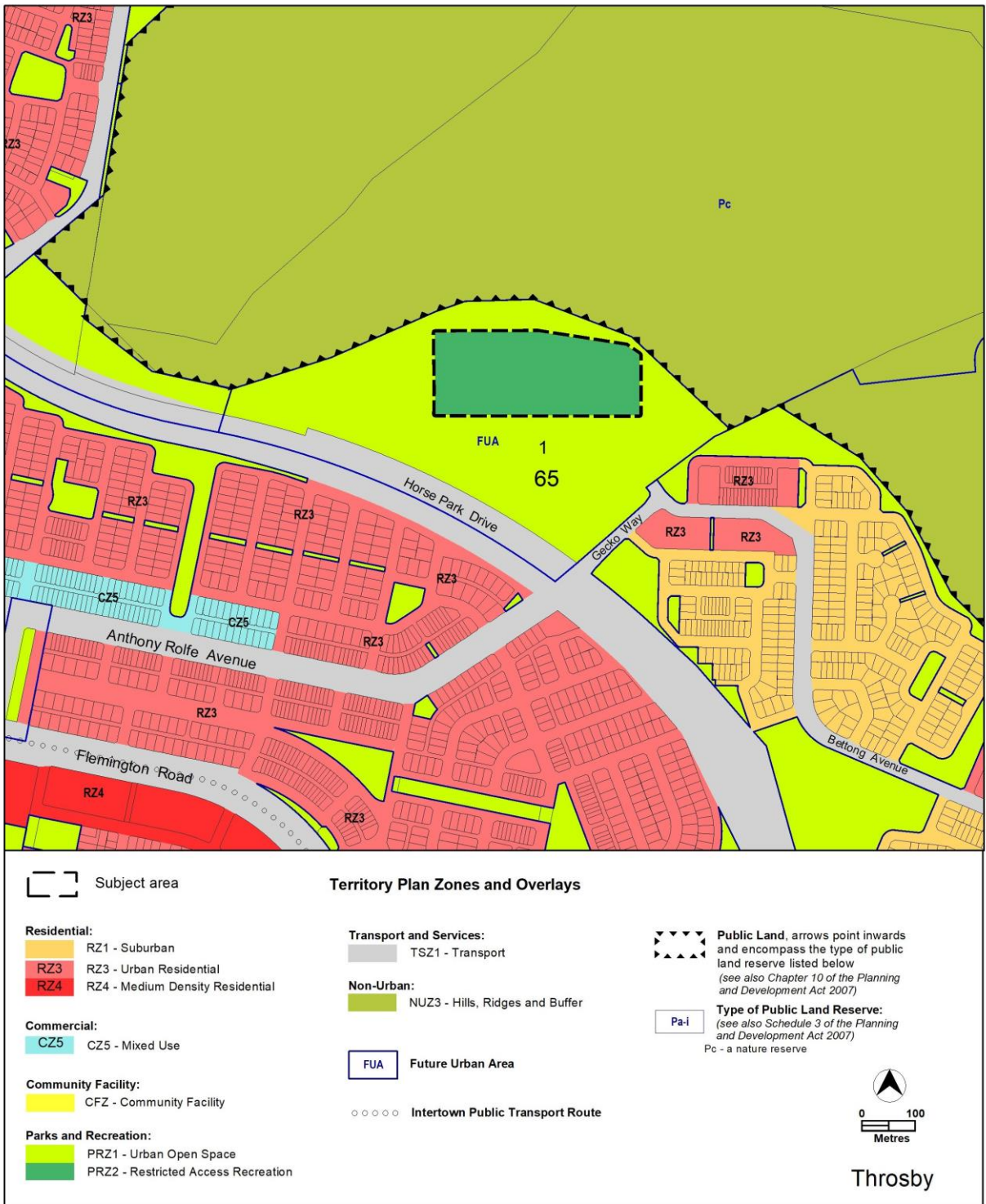
3. To ensure land uses adjacent to conservation areas do not have significant adverse impacts on threatened species.

2.4 Changes to the Territory Plan Map

Existing Territory Plan Map



Proposed Territory Plan Map



Compliance with the *Planning and Development Act 2007*

Section	Statement
Section 87(2)(c) - a variation in relation to a future urban area under section 90C (Technical amendments – future urban areas) Section 90C -	
(1) The planning and land authority may vary the territory plan under section 89 (Making technical amendments) to rezone land in a future urban area, and establish or vary a precinct code in relation to the land, unless the variation is inconsistent with the principles and policies in the structure plan for the area.	This technical amendment rezones land that is within the future urban area of Throsby as shown on the Territory Plan Map. The rezoning is not inconsistent with the principles and policies of the East Gungahlin Structure Plan.
(2) The planning and land authority may vary the territory plan under section 89 to change the boundary of a future urban area if the change is consistent with the structure plan for the area.	The amendment is consistent with the East Gungahlin Structure Plan as described in section 2.3 of this TA. Rezoning to PRZ2 within this site is consistent with the structure plan because it meets the requirements for providing recreation uses as required by the structure plan.
(3) However, the planning and land authority must not vary the territory plan under section 89 to change the boundary of a future urban area if part of the boundary proposed to be changed is aligned with the boundary of an existing leasehold.	The boundary of the future urban area is not aligned to the boundary of an existing leasehold.

2.5 Variation to the Territory Plan

Throsby Precinct Map and Code

The following uses are to be listed as prohibited development in the PRZ2 Restricted Access Recreation Zone, identified by PD1 on the Throsby Precinct Map:

- aquatic recreation facility
- child care centre
- educational establishment
- guest house
- hotel
- motel

Compliance with the *Planning and Development Act 2007*

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. Inserting additional prohibited uses into the Throsby Precinct Map and Code for the area to be zoned as PRZ2 makes it clear that only sporting related recreation uses can occur within the site and will assist with assessment of the estate development plan. These changes are consistent with the policy purpose and policy framework of the code.</p>

The following criteria are to be included in the Throsby Precinct Map and Code to address external lighting and minimise the effects of light spill into the Mulligans Flat Nature Reserve and adjacent residential areas:

1.1 External lighting	
There is no applicable rule.	<p>C12</p> <p>External lighting for sporting and ancillary facilities is to be designed in accordance with Australian Standard (AS) 2560 Sports Lighting and AS 4282 Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>Note: Post-construction testing to be undertaken to ensure compliance with AS 2560 and AS 4282.</p>
There is no applicable rule.	<p>C13</p> <p>Lighting shrouds are to be installed on all external lighting to direct light away from the Mulligans Flat Nature Reserve and adjacent residential development.</p>

Section	Statement
<p>Section 87(2)(c) - a variation in relation to a future urban area under section 90C (Technical amendments – future urban areas)</p> <p>Section 90C -</p>	
<p>(1) The planning and land authority may vary the territory plan under section 89 (Making technical amendments) to rezone land in a future urban area, and establish or vary a precinct code in relation to the land, unless the variation is inconsistent with the principles and policies in the structure plan for the area.</p>	<p>Inserting criteria will address external lighting and seeks to mitigate light spill into the Mulligans Flat Nature Reserve and adjacent residential areas. The proposal is not inconsistent with the principles and policies of the East Gungahlin Structure Plan.</p>
<p>(2) The planning and land authority may vary the territory plan under section 89 to change the boundary of a future urban area if the change is consistent with the structure plan for the area.</p>	<p>The amendment is consistent with the East Gungahlin Structure Plan as described in section 2.3 of this TA. Rezoning to PRZ2 within this site is consistent with the structure plan because it meets the requirements for providing recreation uses as required by the structure plan.</p>
<p>(3) However, the planning and land authority must not vary the territory plan under section 89 to change the boundary of a future urban area if part of the boundary proposed to be changed is aligned with the boundary of an existing leasehold.</p>	<p>The boundary of the future urban area is not aligned to the boundary of an existing leasehold.</p>

Throsby Concept Plan

The notes in rule R4 of the Throsby Concept Plan refer to the possibility of residential development occurring on the site of the district playing fields subject to the agreement of the Territory agency responsible for provision of sport and recreation facilities. Sport and Recreation within the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) has confirmed that it does not support residential development on the site of the district playing fields and has recommended that the notes be removed.

Rule R4 is to be amended as follows:

<p>R4</p> <p>Parks and recreation (PRZ1 urban open space and PRZ2 restricted access recreation) zones shown on a land use plan lodged with an <i>Estate Development Plan</i> is are consistent with Territory Plan map.</p> <p>Notes: Gungahlin part Block 718, which is the proposed site of district playing fields, will be available for housing where all of the following is achieved:</p> <ul style="list-style-type: none"> i. support for the development from the Territory agency responsible for provision of sport and recreation facilities ii. completion of a report prepared by a suitably qualified engineer and endorsed by the Territory endorsing the site is suitable for housing 	<p>C4</p> <p>Urban open space and restricted access recreation achieves all of the following:</p> <ul style="list-style-type: none"> a) retention of cultural heritage items b) opportunities for connectivity and flight paths for the superb parrot through the suburb to other nesting grounds in the ACT c) opportunities for pedestrian and cyclist paths that connect to existing networks in adjoining suburbs d) consistency with the desired planning outcomes.
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Compliance with the *Planning and Development Act 2007*

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. This change confirms zoning of the site and clarifies that residential uses will no longer be considered for the site. The changes are consistent with the policy purpose and policy framework of the code.</p>

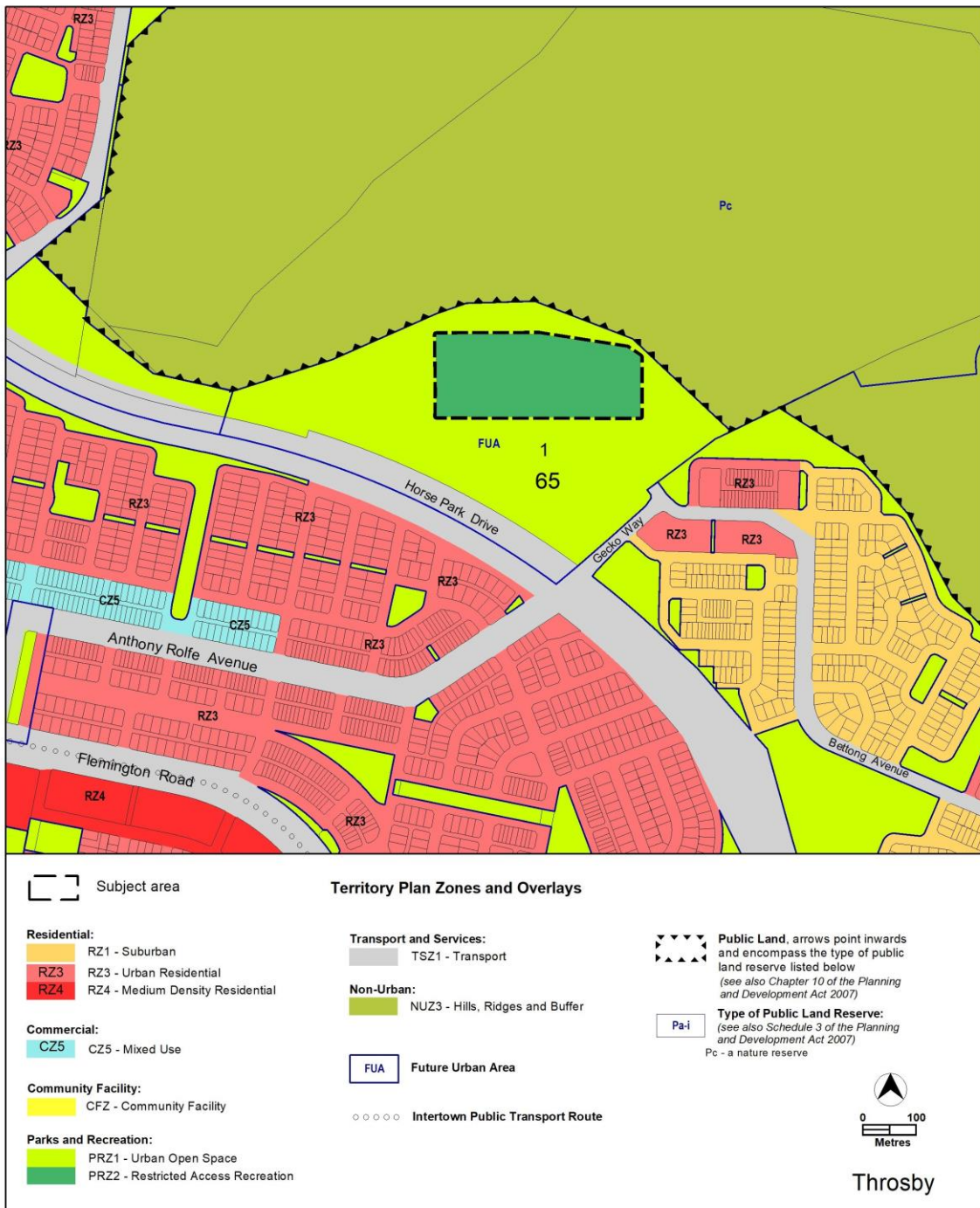
3. TECHNICAL AMENDMENT

This section of the technical amendment document provides the actual instructions for implementing the changes to the Territory Plan.

3.1 Variation to Territory Plan Map

1. Territory Plan Map

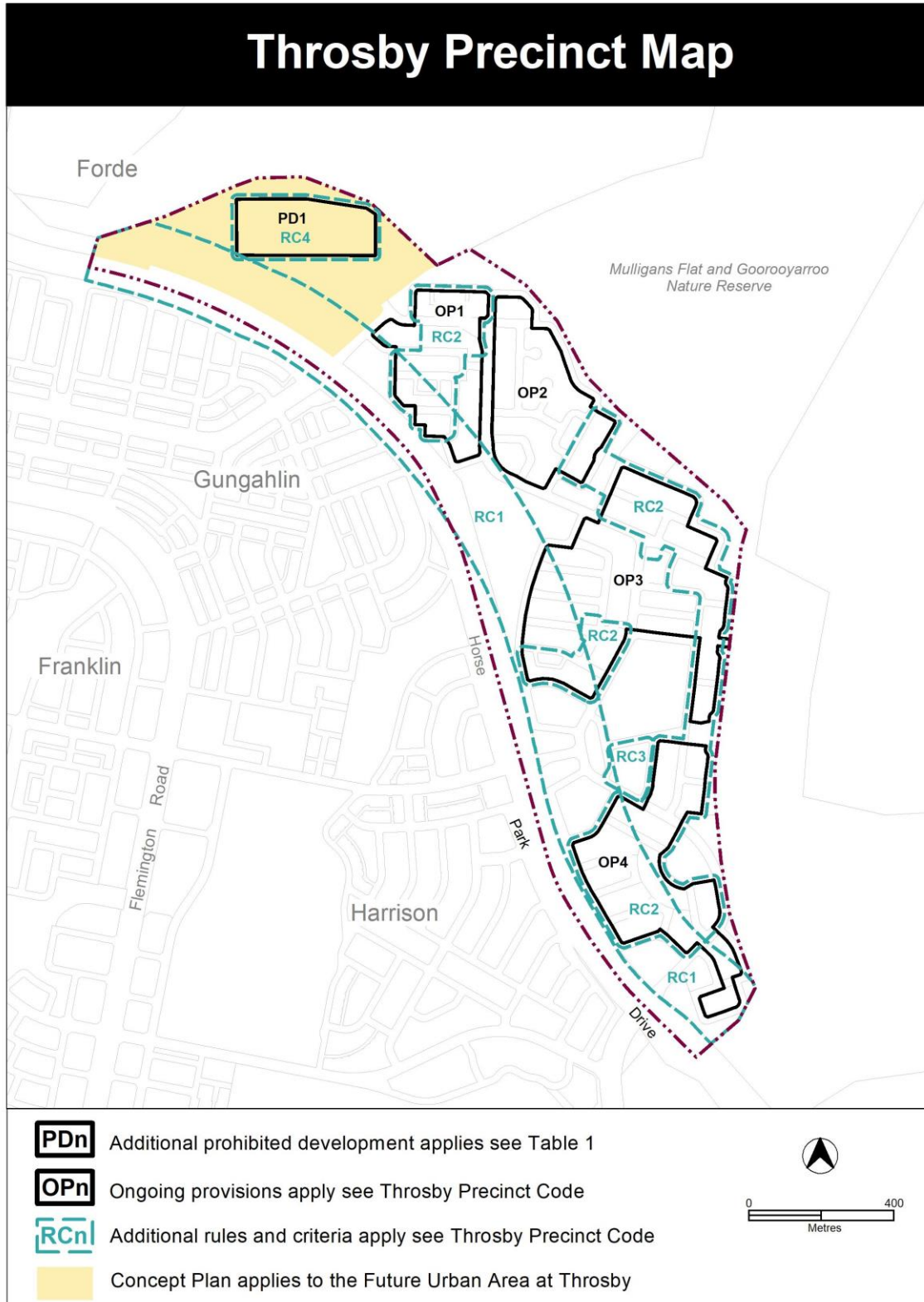
The Territory Plan Map is varied in all of the following ways:



3.2 Variation to Throsby Precinct Map and Code

2. Throsby Precinct Map

Substitute



3. Assessment Tracks

Substitute

No additional provisions apply.

with:

The following table identifies additional prohibited development for blocks and parcels shown in the Throsby Precinct Map (identified as PDn).

The following table constitutes part of the relevant zone development table.

Table 1 – Additional prohibited development

Additional prohibited development		
Suburb precinct map label	Zone	Development
PD1	PRZ2	<i>aquatic recreation facility child care centre educational establishment guest house hotel motel</i>

4. Additional rules and criteria, RC3 – Mixed use commercial, Rule R11

Insert after Rule R11

RC4 – Restricted access recreation

This part applies to blocks and parcels identified in area RC4 shown on the Throsby Precinct Map.

Element 1: Site controls

1.1 External lighting	
There is no applicable rule.	<p>C12</p> <p>External lighting for sporting and ancillary facilities is to be designed in accordance with Australian Standard (AS) 2560 Sports Lighting and AS 4282 Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>Note: Post-construction testing to be undertaken to ensure compliance with AS 2560 and AS 4282.</p>
There is no applicable rule.	<p>C13</p> <p>Lighting shrouds are to be installed on all external lighting to direct light away from the Mulligans Flat Nature Reserve and adjacent residential development.</p>

3.3 Variation to Throsby Concept Plan

5. Part A – Land Use, Rule R4

Substitute

<p>R4</p> <p>Parks and recreation (PRZ1 urban open space and PRZ2 restricted access recreation) zones shown on a land use plan lodged with an <i>Estate Development Plan</i> are consistent with Territory Plan map.</p>	<p>C4</p> <p>Urban open space and restricted access recreation achieves all of the following:</p> <ol style="list-style-type: none"> retention of cultural heritage items opportunities for connectivity and flight paths for the superb parrot through the suburb to other nesting grounds in the ACT opportunities for pedestrian and cyclist paths that connect to existing networks in adjoining suburbs consistency with the desired planning outcomes.
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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 τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna 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:
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SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
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