

Australian Capital Territory

Planning and Development (Technical Amendment—Code Amendments) Plan Variation 2023 (No 5)

Notifiable instrument NI2023–713

Technical amendment No 2023-12

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—Code Amendments) Plan Variation 2023 (No 5)*.

2 Commencement

This instrument commences on the day after its notification day.

3 Technical amendment

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

4 Dictionary

In this instrument:

Code amendments plan variation means the technical amendment to the Territory Plan, variation 2023-12, as set out in the schedule.

Freya O'Brien
Delegate of the planning and land authority
17 November 2023



ACT
Government

Environment, Planning and
Sustainable Development

Planning and Development Act 2007

Technical Amendment to the Territory Plan

2023-12

Various code changes

November 2023

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

Table of Contents

1. INTRODUCTION	1
1.1 Purpose	1
1.2 Public consultation	1
1.3 National Capital Authority	1
1.4 Process	1
1.5 Types of technical amendments under the Act	2
2. EXPLANATORY STATEMENT	3
2.1 Background.....	3
2.2 Fyshwick Precinct Map and Code.....	3
2.3 Lyneham Precinct Map and Code.....	5
3. TECHNICAL AMENDMENT.....	7
3.1 Variation to Fyshwick Precinct Map and Code.....	7
3.2 Variation to Lyneham Precinct Map and Code.....	8

1. INTRODUCTION

1.1 Purpose

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

Fyshwick Precinct Map and Code (Dairy Road precinct)

- introduce additional prohibited development area (PD5)
- include additional merit track development MT7 within the PD5 area
- reduce the extent of the additional prohibited PD3 area
- add prohibited uses (PD5) to Table 1 – Additional prohibited development

Lyneham Precinct Map and Code (Yowani redevelopment precinct)

- amend rule R33 to reduce the front boundary setback requirement from 6m to 4m along Swinden Street

1.2 Public consultation

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

TA2023-12 was released for public consultation from 18 October 2023 to 15 November 2023.

No submissions were received.

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 NCP 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 has been advised of 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).

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.

TA2023-12 has been prepared in accordance with section 87(2)(a) of the Act.

2. EXPLANATORY STATEMENT

2.1 Background

This part of the technical amendment 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 Fyshwick Precinct Map and Code

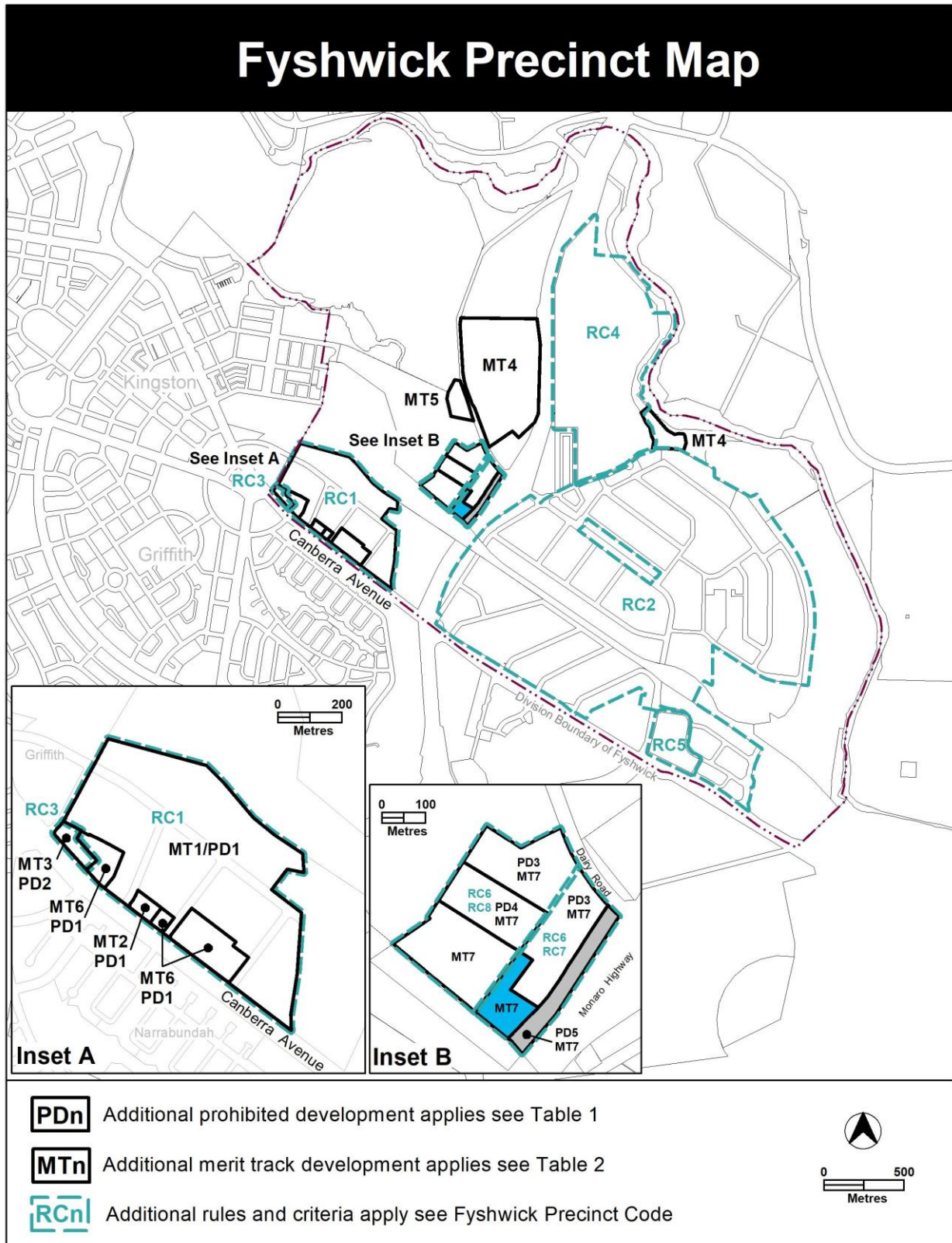
The precinct map is being amended to include an additional prohibited development area, PD5, along the eastern edge of the Dairy Road development area, Fyshwick section 38 block 11. The extent of the proposed western boundary of PD5 is 55m which runs parallel to the gas main located within the verge of the Monaro Highway. The prohibited uses in PD5 will be listed in Table 1 - Additional prohibited development.

Prohibited development area PD3 is being amended to reduce its eastern and southern extent. This will permit residential uses in this area.

The Dairy Road Development Safety Management Study 2022 prepared by Asset Engineering Solutions confirms that a 55m setback for both commercial accommodation and residential use is appropriate within the Dairy Road precinct and meets the requirements of *AS2885.1 Pipelines - gas and liquid petroleum*.

Fyshwick Precinct Map

- new PD5 area and area to be removed from PD3 shaded in grey
- area to be removed from PD3 and included in MT7 shaded in blue



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. The changes are proposed to be made to the Fyshwick Precinct Map and Code. The proposed changes are consistent with the policy purpose and policy framework of the code. The proposed changes seek to improve built-form outcomes. No increase is proposed to the maximum number of 1300 dwellings.</p>

2.3 Lyneham Precinct Map and Code

Rule R33 is being amended to reduce the front boundary setback from 6m to 4m along Swinden Street. Rule R33 applies to the area identified by rules and criteria RC1 – East Yowani Estate. It is considered that a setback of 4m will strike the right balance of being consistent with setbacks for similar types of development and provide an adequate landscaped corridor to suit the surrounding character of the area.

Existing rule R33

<p>R33</p> <p>This rule applies to the following <i>front boundaries</i>:</p> <ul style="list-style-type: none"> a) Barton Highway b) proposed, approved or built Swinden Street extension <p>Minimum <i>front boundary</i> setback – 6m.</p> <p>Note: <i>The front boundary setback to Northbourne Avenue is contained within the National Capital Plan.</i></p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
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Proposed rule R33 - changes shown in red text.

<p>R33</p> <p>This rule applies to the following <i>front boundaries</i>:</p> <ul style="list-style-type: none"> a) Barton Highway Minimum <i>front boundary</i> setback – 6m. b) proposed, approved or built Swinden Street extension Minimum <i>front boundary</i> setback – 4m. <p>Note: <i>The front boundary setback to Northbourne Avenue is contained within the National Capital Plan.</i></p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
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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. The changes are proposed to be made to the Lyneham Precinct Map and Code. The proposed changes are consistent with the policy purpose and policy framework of the code. The proposed change to rule R33 will permit a reduced setback, however appropriate built form outcomes can still be achieved and adequate space for landscaping can be maintained.</p>

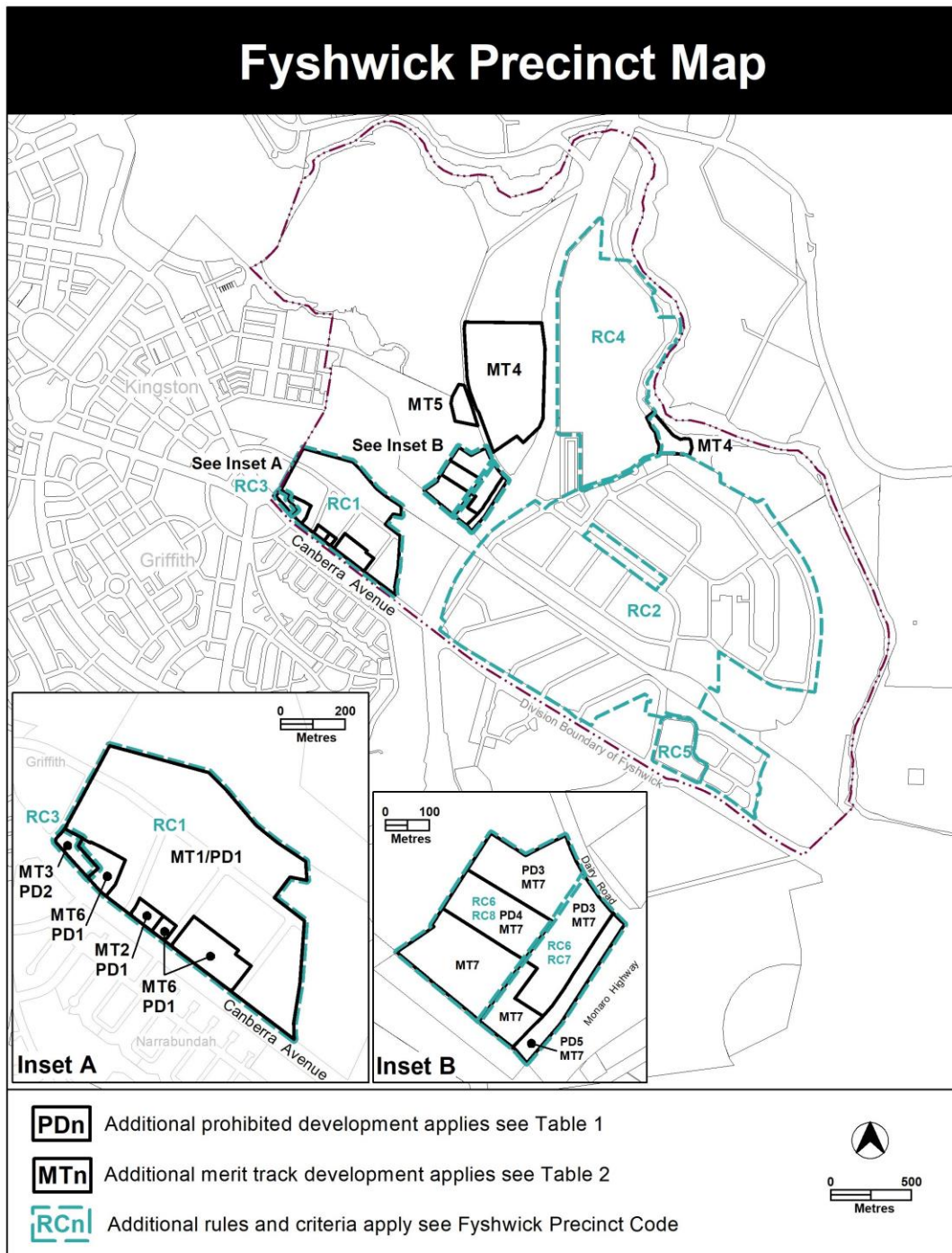
3. TECHNICAL AMENDMENT

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

3.1 Variation to Fyshwick Precinct Map and Code

1. Fyshwick Precinct Map

substitute



2. Assessment Tracks, Table 1 – Additional prohibited development, new PD5

insert

PD5	CZ3	<p><i>child care centre</i></p> <p>COMMERCIAL ACCOMMODATION USE</p> <p><i>hospital</i></p> <p>RESIDENTIAL USE</p>
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3.2 Variation to Lyneham Precinct Map and Code

3. Additional rules and criteria, RC1 – East Yowani Estate, rule R33

substitute

<p>R33</p> <p>This rule applies to the following <i>front boundaries</i>:</p> <p>a) Barton Highway</p> <p>Minimum <i>front boundary</i> setback – 6m.</p> <p>b) proposed, approved or built Swinden Street extension</p> <p>Minimum <i>front boundary</i> setback – 4m.</p> <p>Note: <i>The front boundary setback to Northbourne Avenue is contained within the National Capital Plan.</i></p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
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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-għajnunja t'interpretu, ċempel:
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SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
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