

Planning and Development (Plan Variation 384) Approval 2023

Notifiable instrument NI2023-244

made under the

Planning and Development Act 2007, s 76 (Minister's powers in relation to draft plan variations)

1 Name of instrument

This instrument is the *Planning and Development (Plan Variation 384) Approval 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Approval of draft plan variation

(1) I approve under the *Planning and Development Act 2007*, section 76 (2) (a), plan variation 384 to the Territory Plan.

(2) In this section:

plan variation 384 to the Territory Plan means the plan variation set out in the schedule.

Mick Gentleman MLA
Minister for Planning and Land Management
8/5/2023



ACT
Government

Environment, Planning and
Sustainable Development

Schedule (See section 3)

Planning and Development Act 2007

Variation to the Territory Plan 384

Federal Golf Course
Red Hill section 56 parts of block 1
and
Garran section 10 part of block 76

Final variation prepared under s76 of the
Planning and Development Act 2007

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1. EXPLANATORY STATEMENT

1.1 Background

The ACT Government prepared an Integrated Plan for the Red Hill Nature Reserve and surrounds in response to the resolution of the Legislative Assembly of 25 October 2017 to complete the Integrated Plan prior to preparing and determining any proposed Territory Plan variation for or adjoining the Red Hill Nature Reserve.

The integrated planning process was conducted over several years and involved extensive input from local and surrounding community and stakeholder groups in late 2019 and early 2020. The Integrated Plan made a number of recommendations about future development within the area adjoining and surrounding the Red Hill Nature Reserve.

This variation (V384) implements recommendation 7 of the Red Hill Integrated Plan June 2021:

- a) *Limit the range of commercial and entertainment uses permitted on the golf course under the existing PRZ2 Restricted Access Recreation Zone potentially excluding hotels and motels and further clubs.*
- b) *Retain sufficient land for an 18-hole golf course on the site as well as associated uses.*
- c) *Provide for a 125-unit retirement village at the southern portion of the site.*
- d) *Provide access as follows:*
 - i. *access to the retirement village via Kitchener Street*
 - ii. *retain access to the golf club via Gowrie Drive*
 - iii. *no public access road between the retirement village and the golf club.*
- e) *Protect key ecological values on the site, particularly hollow bearing trees, the interface with the Red Hill Nature Reserve, and where continuous ecological corridors can be provided. This should be managed through careful location and design of:*
 - i. *the retirement village*
 - ii. *the golf course greens and associated infrastructure; and*
 - iii. *the external access road from Kitchener Street and the internal roads.*

- f) *Implement a minimum 50 metre buffer around the golf course and the retirement village adjacent to existing development to:*
 - i. *provide and protect ecological corridors and values*
 - ii. *maintain amenity of surrounding residential areas.*
- g) *Future development of the land should not result in a net loss of canopy coverage or should provide at least 30% canopy coverage, whichever is greater.*

1.2 Summary of the Proposal

This Variation 384 (V384) proposes to implement a key recommendation of the Red Hill Integrated Plan June 2021. In particular, V384 amends the Red Hill and Garran Precinct Maps and Codes consistent with the Integrated Plan – recommendation 7 in relation to future development for a retirement village at the Federal Golf Course (Red Hill section 56 parts of block 1) with access off Kitchener Street (Garran section 10 block 76) Figure 1 refers. The variation also rezones approximately 10ha of land considered to be of high ecological value in the north-west portion of the site to NUZ3 hills ridges and buffer zone and includes this land in the Red Hill Nature Reserve.

1.3 The National Capital Plan

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 (NCP) and to keep the NCP under constant review and to propose amendments to it when necessary.

The NCP, which was published in the Commonwealth Gazette on 21 January 1990 is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The Planning and Land Management Act 1988 also requires that the Territory Plan is not inconsistent with the NCP.

In accordance with section 10 of the *Australian Capital Territory (Planning and Land Management) Act 1988*, the NCP defines the planning principles and policies for Canberra and the Territory, for giving effect to the object of the NCP and sets out the general policies to be implemented throughout the Territory, including the range and nature of permitted land uses.

It also sets out the detailed conditions of planning, design and development for areas that have special significance to the National Capital known as designated areas and identifies special requirements for the development of some other areas.

1.4 Site Description

The Federal Golf Course is located off Gowrie Drive at Red Hill and includes all of Red Hill section 56, block 1. The site is bounded by the Red Hill Nature Reserve to the north and east. To the west and south the site is bounded by the suburbs of Hughes and Garran respectively. While the existing access to the golf course via Gowrie Drive will be retained, a new access will be provided to the proposed retirement village via Kitchener Street through Garran section 10 block 76.

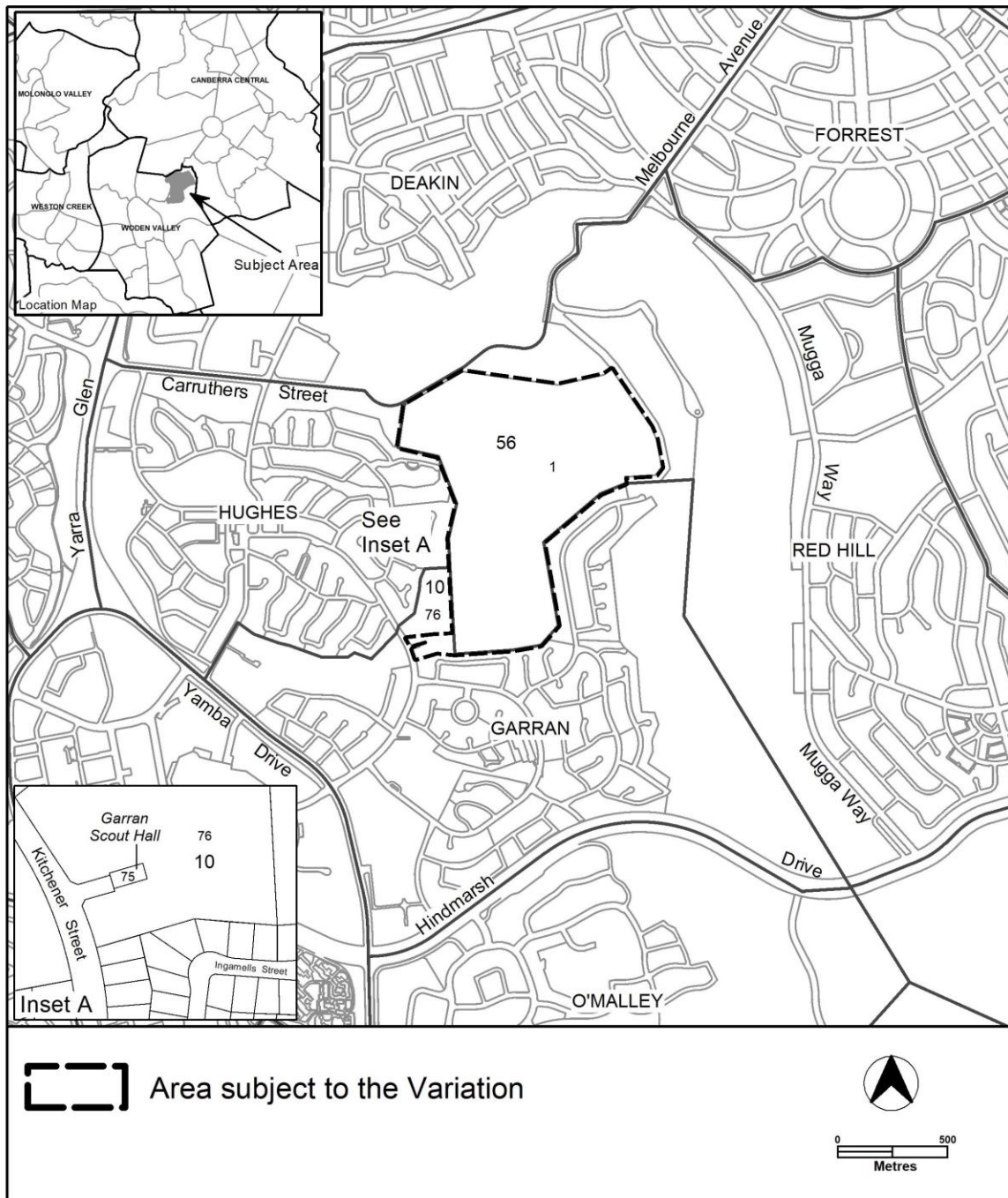


Figure 1 Site Plan

1.5 Current Territory Plan Provisions

The Territory Plan map for the area subject to this variation is shown in Figure 2.

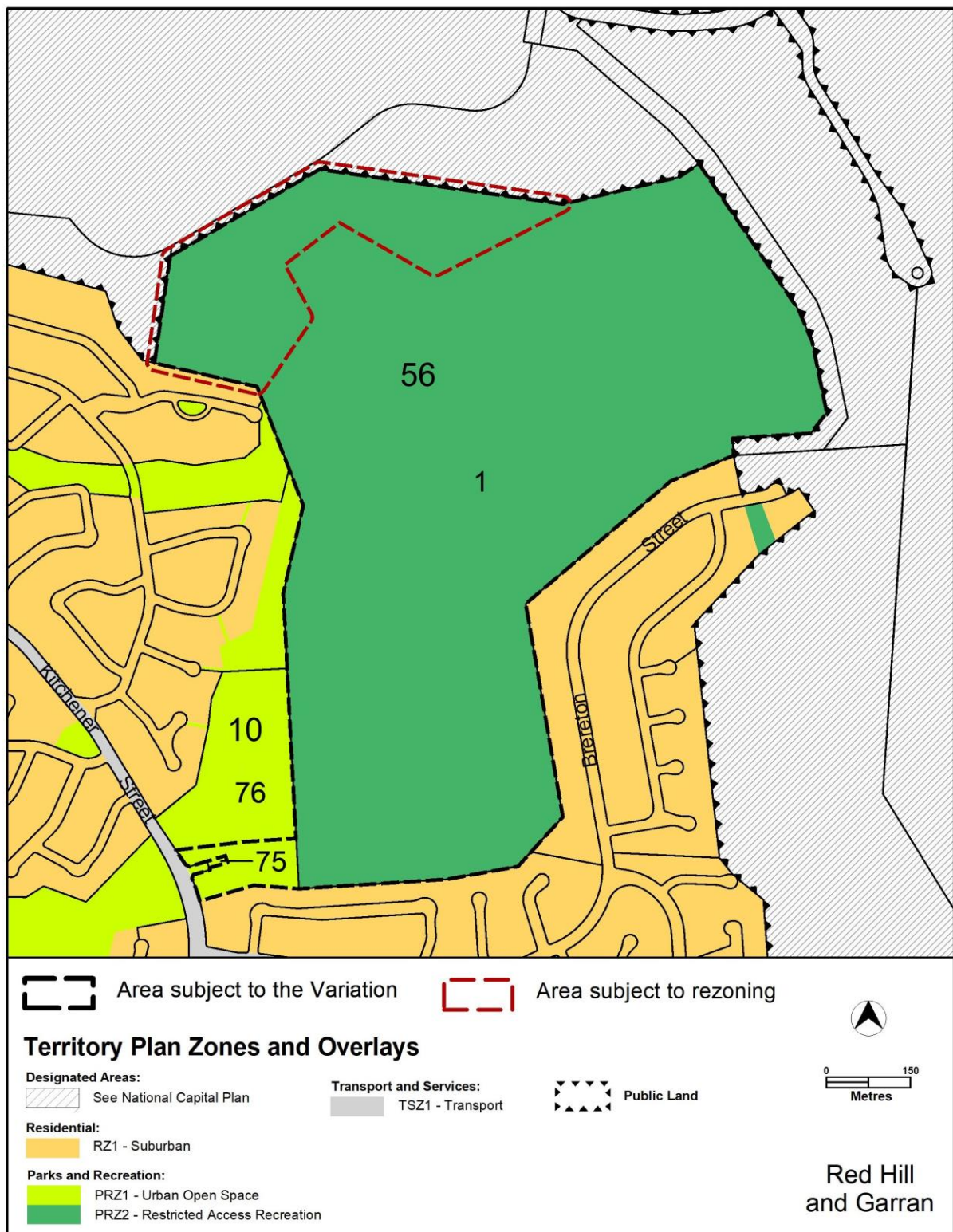


Figure 2 Territory Plan Zones Map

1.6 Changes to the Territory Plan

Detailed changes to the Territory Plan are noted in section 2 of this document.

1.7 Consultation on the Draft Variation

Draft Variation 384 (DV384) was released for public comment between 20 October 2022 and 2 December 2022. A consultation notice under section 63 of the *Planning and Development Act 2007* (P&D Act) was published on the ACT Legislation Register on 21 October 2022.

A total of 510 written submissions were received. There were 69 individual submissions and 4 form letters (441 responses). Three of the form letters objected to DV384 (32 submitters) and one form letter supported DV384 (409 submitters). There was a split of views in individual submissions, with 41 objecting, 21 supporting and seven that partially supported DV384 and or raised issues, concerns and questions.

Submissions in support of DV384 was received from the following groups:

- Conservation Council ACT Region
- Canberra Ornithologists Group (COG)
- National Parks Association of the ACT Inc.
- Friends of Grasslands
- Red Hill Bush Regenerators ParkCare Group Inc (Red Hill Regenerators)
- Federal Golf Club

One submission provided qualified support for DV384:

- Friends of the Hughes Grassy Woodlands (support if there is no other option than building a retirement village with strict restrictions to reduce impact on neighbours and guaranteed protection of significant trees)

The following groups did not support DV384:

- Garran Residents' Association
- Hughes Residents' Association

Main issues raised by submitters included:

Issue	Number of submissions
1. Support for the draft variation for the following reasons: a) It is consistent with the Red Hill Integrated Plan and achieves a good balance between considerations needs, sensible and needed aged care accommodation and protection of current residents and survival of the golf course b) Thorough and professional investigations informed	430 (incl. 409 form letters)

<p>DV384 and the directorate is congratulated</p> <ul style="list-style-type: none"> c) Support for the new rules and criteria proposed in the Red Hill and Garran precinct codes d) Support the addition to the nature reserve at the north-eastern part of the golf course e) Proposal is not likely to have significant impact on any matters of national environmental significance, including the Gang-gang Cockatoo, the Superb Parrot and the Grassy Woodland, as determined by EPBC referral f) The Conservator of Flora and Fauna in an Environment Significance Opinion (ESO) determined that the proposed development is not likely to have a significant adverse environmental impact. g) Proposal protects local amenity h) Strong support for the preservation of mature trees for nesting i) While the proposal may not suit everyone the community can come together and be involved with the development to enhance the landscape cooperatively with neighbours and the golf club to provide bigger and better natural habitat j) Will support the long-term viability of the golf course 	
<p>2. Object to the draft variation for the following reasons:</p> <ul style="list-style-type: none"> a) For ecological reasons including wildlife and habitat destruction b) Destruction of bird habitat, especially the Gang-gang Cockatoo c) Impact on bird breeding in short term as minimum and calls for further investigation into parrot breeding behavior d) Need for greater protection of endangered Yellow Box – Blakely's Red Gum grassy woodland e) Not supportive of the proposed retirement village use f) Considers the land to be held in trust for the community, in particular because of its concessional status g) Consider that the golf club should be able to manage its finances better and that they are essentially being 'gifted' the land for residential purposes h) Increased traffic and parking i) Recommendation 7 of the Red Hill Integrated Plan does not meet the likelihood of majority community support, as required by the Legislative Assembly resolution of 2017 j) Unacceptable impacts on residential amenity 	<p>73 (incl. 32 form letters)</p>
<p>3. Partial support for DV384 and or raised concerns or issues.</p>	<p>7</p>

The above issues were considered and are detailed in a report on consultation. Changes were informed by the issues raised. The outcomes of consultation were considered by the Minister responsible for planning prior to approval of this variation.

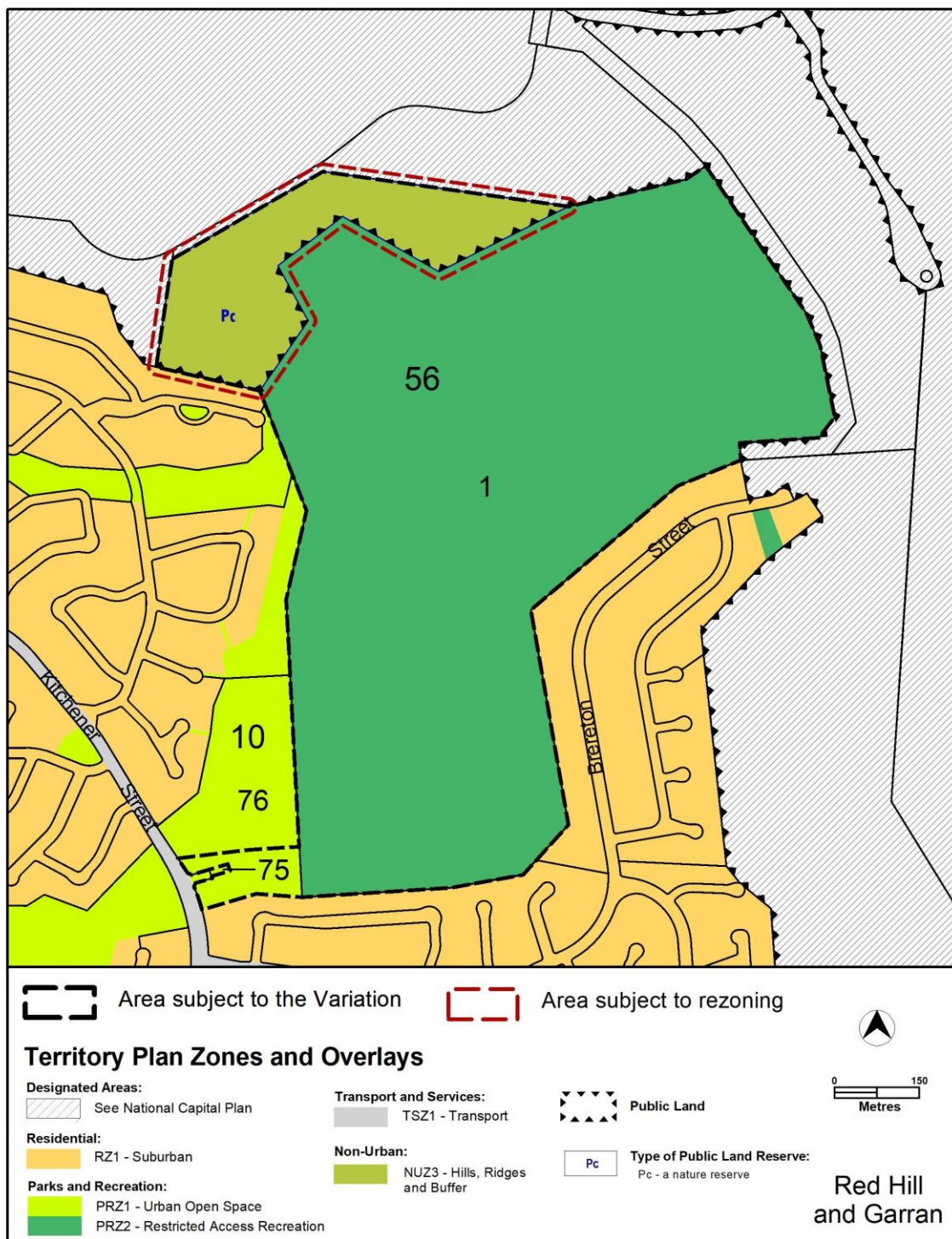
1.8 Revisions to the Draft Variation Recommended to the Minister

No changes were made to the draft variation recommended to the Minister.

2. VARIATION

2.1 Variation to the Territory Plan Map

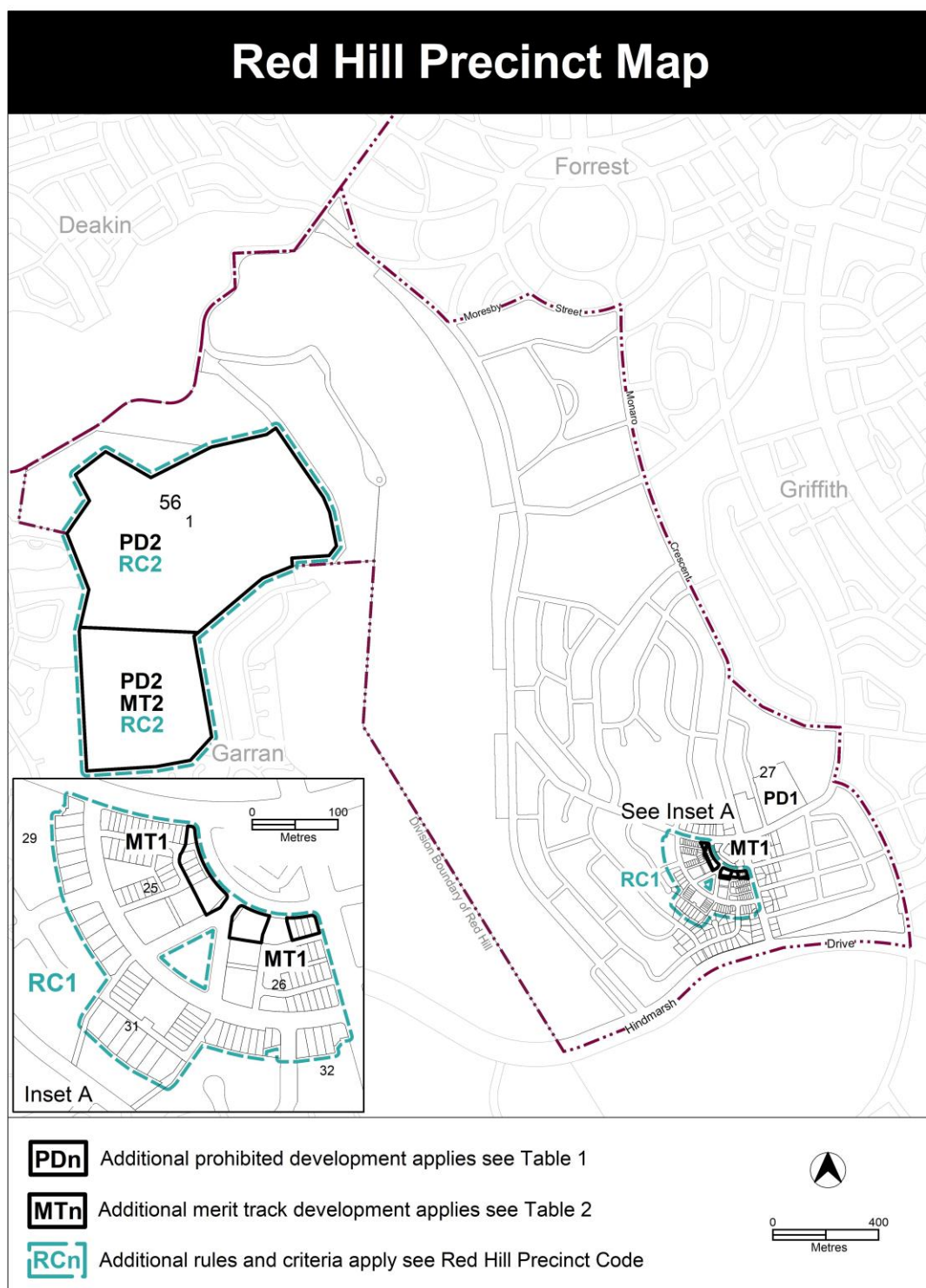
The Territory Plan map is varied in all of the following ways:



2.2 Variation to the Territory Plan

Variation to the Red Hill Precinct Map

Substitute



Variation to the Red Hill Precinct Code

1. Assessment Tracks – Table 1

Substitute

Table 1 – Additional prohibited development

Additional prohibited development		
Suburb precinct map label	Zone	Development
PD1	CFZ	<i>retirement village supportive housing</i>
PD2	PRZ2	<i>hotel motel</i>

2. Assessment Tracks – Table 2

Substitute

Table 2 – Additional merit track development

Additional merit track development		
Suburb precinct map label	Zone	Development
MT1	RZ5	<i>business agency office</i>
MT2	PRZ2	<i>retirement village</i>

3. RC1 – Cygnet Crescent Precinct, Figure 6 – Landscaping, New RC2 – Federal Golf Course

Insert Appendix A

Variation to the Garran Precinct Map and Code

4. Garran Precinct Map and Code

Insert Appendix B

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-għajjuna t'interpretu, čempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
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:

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RC2 – Federal Golf Course

This part applies to blocks and parcels identified in area RC2 shown on the Red Hill Precinct Map.

Element 8: Use

Rules	Criteria
8.1 Club	
<p>R25</p> <p>Development of a club is only for the purposes of a golf club.</p>	<p>This is a mandatory rule. There is no applicable criterion.</p>
8.2 Retirement village and golf course	
<p>R26</p> <p>Development of a <i>retirement village</i> is focused primarily within the investigation area identified in Figure 7 and must comply with all of the following:</p> <ul style="list-style-type: none"> a) <i>Retirement village</i> is restricted to a maximum of 125 units b) <i>Subdivision</i> is only permitted to create one additional lease for a <i>retirement village</i>. No further subdivision is permitted, including subdivision under the <i>Unit Titles Act 2001</i>, of the: <ul style="list-style-type: none"> i) lease for the retirement village ii) lease containing the golf course. c) vehicular access to the <i>retirement village</i> is provided from Kitchener Street d) no public vehicular access is provided to the <i>retirement village</i> from Gowrie Drive through the golf course e) no public vehicular access is provided to the golf course, club house and associated facilities from the <i>retirement village</i> f) buildings and structures are setback a minimum of 50 metres from residential and PRZ1 zoned blocks as indicated on Figure 7 g) development of a <i>retirement village</i> does not diminish or inhibit the opportunity for an 18 hole golf course and associated facilities to operate on the balance of the site. 	<p>This is a mandatory rule. There is no applicable criterion.</p>



Figure 7 - Development location and setbacks

Element 9: Environment

Rules	Criteria
9.1 Trees	
<p>R27</p> <p>A tree assessment is prepared for the endorsement of the Conservator of Flora and Fauna and includes all of the following:</p> <ul style="list-style-type: none"> a) all remnant native trees are assessed to determine if they can be nominated as Registered trees under the Tree Protection Act (2005) b) all trees that meet the criteria for listing as registered trees are formally nominated. 	<p>This is a mandatory rule. There is no applicable criterion.</p>
<p>There is no applicable rule.</p>	<p>C28</p> <p>Future development of the land should achieve whichever is the greater of the following:</p> <ul style="list-style-type: none"> a) not result in a net loss of canopy coverage measured at a mature height or b) provide at least 30% canopy coverage measured at a mature height.

Rules	Criteria
9.2 Ecological values	
<p>R29</p> <p>An ecological assessment of the site is prepared for endorsement of the Conservator of Flora and Fauna and includes all of the following:</p> <ul style="list-style-type: none"> a) identification of the ecological values of the site b) assessment of the potential impacts of development on the ecological values of the site including an assessment of the impacts on Gang-gang Cockatoo, Superb Parrot, mature native trees, and wildlife connectivity and movement, light spill on bats, along with other identified values c) An avoidance plan that identifies critical ecological values that must be protected from development impacts and maintained into the future d) strategies to minimise the residual impacts of development on the ecological values of the site including: <ul style="list-style-type: none"> i) the location of the <i>retirement village</i> buildings, structures and associated infrastructure and facilities to minimise loss of ecological values on the site ii) preparation of a landscape plan to enhance and protect existing ecological values of the site including use of locally endemic native species iii) enhancement of the existing natural corridors and connections through the site that link the surrounding open space network to the Red Hill Nature Reserve iv) identification of any environmental offsets associated with development of the site. 	<p>This is a mandatory rule. There is no applicable criterion.</p>
9.3 Contamination	
<p>R30</p> <p>An environmental assessment report for the development is endorsed by the Environment Protection Authority.</p> <p>Note: A condition of development approval may be imposed to ensure compliance with the endorsed site assessment report.</p>	<p>This is a mandatory rule. There is no applicable criterion.</p>

Rules	Criteria
9.4 Heritage	
<p>R31</p> <p>An 'Unanticipated Discovery Protocol' is to be included in a Construction Environmental Management Plan (CEMP) and is to include provisions for the assessment and management of any unexpected heritage discoveries during construction is endorsed by the ACT Heritage Council.</p> <p>Note: A condition of development approval may be imposed to ensure compliance with this rule.</p>	<p>C31</p> <p>If an 'Unanticipated Discovery Protocol' endorsed by ACT Heritage council is not provided the application will be referred to the ACT Heritage Council.</p>

Element 10: Building and site controls

Rules	Criteria
10.1 Height of buildings	
<p>R32</p> <p>The maximum <i>height of building</i> for the area identified in Figure 7 is 3 storeys.</p>	<p>This is a mandatory rule. There is no applicable criterion.</p>
10.2 Adaptable housing	
<p>R33</p> <p>All <i>dwellings</i> meet both of the following:</p> <ul style="list-style-type: none"> a) Australian Standard AS4299 Adaptable housing (Class C) b) Access and Mobility General Code. 	<p>This is a mandatory rule. There is no applicable criterion.</p>
10.3 Amenity	
<p>There is no applicable rule.</p>	<p>C34</p> <p>Buildings accommodating <i>supportive housing</i> or <i>retirement village</i> achieve all of the following:</p> <ul style="list-style-type: none"> a) consistency with the <i>desired character</i> b) reasonable levels of privacy for <i>dwellings</i> on adjoining residential zoned blocks and their associated private open space c) solar access to <i>dwellings</i> on adjoining residential zoned blocks and their associated private open space is maintained d) compatibility with exterior building materials of existing buildings in the locality.

Rules	Criteria
10.4 Waste management	
There is no applicable rule.	<p>C35</p> <p>Post occupancy waste management achieves all of the following:</p> <ul style="list-style-type: none"> a) reasonable levels of residential amenity for <i>dwelling</i>s and their associated private open space on the subject site b) reasonable levels of amenity for <i>dwelling</i>s on adjoining residential zoned blocks and their associated private open space.



ACT
Government

Environment and
Sustainable Development

Garran Precinct Map and Code

Garran Precinct Map



Additional prohibited development applies see Table 1



Additional rules and criteria apply see Garran Precinct Code



Assessment Tracks

The following tables identify the additional prohibited development and additional merit track development for blocks and parcels shown in the Garran Precinct Map (identified as PDn or MTn). Development that is exempt from requiring development approval, other prohibited development and the minimum assessment track applicable to each development proposal is set out in the relevant zone development table.

The following tables constitute part of the relevant zone development table.

Table 1 – Additional prohibited development

Additional prohibited development		
Suburb precinct map label	Zone	Development
PD1	CFZ	<i>retirement village</i> <i>supportive housing</i>

Garran Precinct Code

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Introduction

Name

The name of this code is the **Garran Precinct Code**.

Application

The code applies to the Division of Garran.

Purpose

This code provides additional planning, design and environmental controls for specific areas or blocks and may also contain references to provisions in other codes.

In conjunction with other relevant codes it will be used by the *Authority* to assess development applications and offer guidance to intending applicants in designing development proposals and preparing development applications.

Structure

This code contains additional rules and/or criteria for particular blocks or parcels identified as areas RCn on the precinct map, to be read in conjunction with the relevant development code. It may also contain sub-parts.

Each element has one or more rules and, unless the respective rule is mandatory, each rule has an associated criterion. Rules provide quantitative, or definitive, controls. By contrast, criteria are chiefly qualitative in nature.

In some instances rules are mandatory. Such rules are accompanied by the words “This is a mandatory requirement. There is no applicable criterion.”

Non-compliance with a mandatory rule will result in the refusal of the development application.

Conversely, the words “There is no applicable rule” are found where a criterion only is applicable.

Code hierarchy

Under the *Planning and Development Act 2007*, where more than one type of code applies to a development, the order of precedence if there is inconsistency of provisions between codes is: precinct code, development code and general code.

If more than one precinct code applies to the site, the most recent precinct code takes precedence to the extent of any inconsistency.

Definitions

Defined terms, references to legislation and other documents are italicised.

Definitions of terms used in this code are listed in part 13 of the Territory Plan or, for terms applicable only to this code, associated with the respective rule.

Acronyms

EPA	ACT Environment Protection Authority
ESA	ACT Emergency Services
Agency	
EPSDD	ACT Environment, Planning and Sustainable Development Directorate
NCA	National Capital Authority
P&D Act	Planning and Development Act 2007
TCCS	ACT Transport Canberra and City Services

Additional rules and criteria

This part applies to blocks and parcels identified in the Garran Precinct Map (RCn). It should be read in conjunction with the relevant zone development code and related codes.

RC1 – Kitchener Street Access

Element 1: Site access

Rules	Criteria
1.1 Roads	
<p>R1</p> <p>Development of a <i>road</i> intended to provide access to a <i>retirement village</i> at Red Hill section 56 part of block 1 complies with all of the following:</p> <ul style="list-style-type: none"> a) a public <i>road</i> is constructed to provide access to the <i>retirement village</i> at the Federal Golf Course b) the <i>road</i> utilises the existing access to Garran section 10 block 75 of Kitchener Street, having regard to intersection safety and design considerations c) the <i>road</i> is setback a minimum 50 metres from residential blocks d) development of the <i>road</i> does not diminish or inhibit recreational opportunities and maintenance of ecological values on the balance of the site. 	<p>This is a mandatory rule. There is no applicable criterion.</p>
<p>R2</p> <p>The following is endorsed by TCCS:</p> <ul style="list-style-type: none"> a) a traffic and parking feasibility study is prepared for all development at Red Hill section 56 part of block 1 that intends to gain access via Kitchener Street b) the design and construction of the public <i>road</i> c) the design and construction of the upgrade to intersection of the <i>road</i> with Kitchener Street is consistent with TCCS standards and requirements e) any necessary upgrades to Kitchener Street to accommodate the traffic generated by the <i>retirement village</i>. 	<p>This is a mandatory rule. There is no applicable criterion.</p>

Rules	Criteria
1.2 Stormwater Management	
<p>R3</p> <p>A Stormwater Management Plan is prepared in relation to the road and any associated stormwater runoff expected from development at Red Hill section 56 part of block 1 is endorsed by TCCS.</p>	<p>This is a mandatory rule. There is no applicable criterion.</p>
1.3 Offsite works	
<p>R4</p> <p>The following offsite works are endorsed by TCCS:</p> <ul style="list-style-type: none"> a) restoration of and provision for recreational opportunities on the balance of the block as impacted by the <i>road</i> b) restoration of and provision for landscaping associated with ecological values links and corridors on the site as impacted by the <i>road</i> c) Any necessary upgrades to infrastructure to manage stormwater runoff from the <i>road</i> and development at Red Hill section 56 part of block 1. 	<p>This is a mandatory rule. There is no applicable criterion.</p>

Element 2: Environment

Rules	Criteria
2.1 Ecological Values	
<p>R5</p> <p>An ecological assessment of the site is prepared for endorsement of the Conservator of Flora and Fauna and includes all of the following:</p> <ul style="list-style-type: none"> a) identification of the ecological values of the site b) assessment of the potential impacts of development on the ecological values of the site c) strategies to minimise the residual impacts of development on the ecological values of the site. 	<p>This is a mandatory rule. There is no applicable criterion.</p>