Greater clarity in the setback performance outcomes to promote separation distances increasing for taller buildings as a whole

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1. Purpose of report

On 27 October 2020, Council resolved (G20.1027.033) to make a number of refinements to the Major update 2 & 3 amendment package (‘the amendment’) to better align with the endorsed policy intent and improve clarity for development assessment purposes.

This report provides analysis and recommendations to resolve the following item from the resolution.

k. **Greater clarity is needed in the performance outcome to promote separation distances increasing for taller buildings as a whole, rather than the setbacks gradually increasing with height.**

2. Introduction

The scenario testing presented to Council in October 2020 identified that there was an opportunity to further improve the provisions for setbacks in the:

- Low-medium density residential zone;
- Medium density residential zone; and
- High density residential zone.

An example of the Performance outcome for setbacks, from the Medium density residential zone, is provided below:

**PO6**

Where not identified within the Light rail urban renewal area overlay map, buildings and structures are sited and designed to:

(a) maximise access to natural ventilation;
(b) allow light to penetrate into buildings, between buildings and down to the ground;
(c) not cause significant and undue adverse amenity impact to adjoining properties;
(d) provide reasonable privacy to residents on adjoining lots;
(e) reduce the width, bulk and scale of buildings proportionate to the site;
(f) allow for off-street car parking;
(g) achieve appropriate building separation in relation to building height with separation distances increasing with building height; and
(h) be setback from boundaries and have a site cover that is balanced between built form and high quality landscaping to allow for tall shade trees, deep planting and on-site open space which contributes to residential amenity and local character.

Please note that clause (g) above appears consistently in the Performance outcomes for Medium and High density residential zones. The Performance outcomes for each residential zone are also outlined in Section 6.

As a result of the scenario testing, officers identified that Performance outcome PO6(g) could be improved for assessment purposes to reflect the planned outcomes identified in Acceptable outcome AO6. The planned outcomes outlined in the Acceptable outcome show that setback distances from boundaries increase uniformly for taller buildings.

3. Background to the amendments

These amendments formed part of Item 9: Built form and urban design outcomes in the amendment. The built form, setbacks and site cover provisions in the amendment were informed by the following projects:

- Community Benefit Bonus Elements Policy Review;
- Setbacks and Site cover in Medium and High density residential zones review;
- Introduction of the Low-medium density residential zone; and
- Light Rail Built Form Review (Podium Design).
The earlier background material identified that the current provisions contained in Version 7 of City Plan:

- were outdated and provided for an inefficient building envelope;
- needed clearer design values; and
- were leading to poor ground level outcomes that created narrow corridors to the side and rear boundaries.

As a result, the setbacks for the Medium density residential and High density residential zones were updated as part of the amendment. The main change to the setbacks was a shift from the ‘stepped’ or ‘tiered’ model of setbacks to a model of applying a single uniform setback for specific building height ranges in order to achieve more efficient building envelopes.

4. Analysis

Figure 1 shows the shift in setbacks from Version 7 of City Plan to the amendment and how the setbacks increase as the building gets taller. A similar model was used for the Light rail urban renewal area overlay and the new Low-medium density residential zone setbacks. It should be noted that the setbacks shown in Figure 1 are acceptable outcomes, and different setbacks can be proposed where they meet the relevant Performance or Overall outcomes in the relevant code.

![Figure 1: illustration showing the change in setbacks from Version 7 of City Plan to Major Update 2 and 3](image)

Under Version 7 of City Plan, side and rear setbacks increase progressively with height, ultimately creating a ‘wedding cake’ type of building envelope as shown in Figure 1. Under the amendment, the side setbacks increase in relation to the height of the proposed building, but apply to the whole building.

The movement to a uniform setback for the entire building creates efficient building envelopes with greater access corridors at the ground level. Figure 2 illustrates the differences in side setbacks between Version 7 of City Plan and those proposed in the amendment. The dark red lines, in Figure 2, represent the setbacks for the buildings shown in Figure 1 (buildings up to 33m; 55m; and buildings greater than 55m in height).
Figure 2: Differences between setbacks – current City Plan and Major update 2 & 3

The amendment also proposes a minimum rear setback of 4m and a side setback that applies to the entire building and increases for taller buildings as shown in Figure 1.

It should be noted that development applications can still be approved where they meet the Acceptable outcomes, as they can also propose different setbacks and be assessed against the higher order performance outcomes and overall outcomes. For this reason, the drafting of the Performance outcome is important for future implementation of this policy to ensure there is sufficient strength to negotiate suitable setbacks.

To improve readability of the performance outcome and to reflect the intent of the planned outcomes shown in the acceptable outcomes it is recommended that the performance outcome be revised as follows:

**PO6**

Where not identified within the Light rail urban renewal area overlay map, buildings and structures are sited and designed to:

(a) maximise access to natural ventilation;
(b) allow light to penetrate into buildings, between buildings and down to the ground;
(c) not cause significant and undue adverse amenity impact to adjoining properties;
(d) provide reasonable privacy to residents on adjoining lots;
(e) reduce the width, bulk and scale of buildings proportionate to the site;
Updating the Performance outcome would have the following benefits:

- It would align with the proposed side setbacks included in the Acceptable outcomes;
- Retaining building separation in PO6(g) would provide a ‘head of power’ for the Acceptable outcome relating to building separation of buildings located on the same site; and
- Ensure that taller buildings are located further away from the boundaries.

### 4.1 Scope of Change

The amendment is currently in the public consultation phase of the statutory amendment process under the Minister’s Guidelines and Rules (MGR). The MGR provides that, during this stage of the process, the amendment can only be changed to:

- a) address issues raised in submissions;
- b) amend a drafting error; or
- c) address new or changed planning circumstances or information.

As a result, of the scenario testing, assessment officers identified that greater clarity was required in the setback Performance outcomes to promote separation distances increasing for taller buildings (as a whole), rather than the setbacks gradually increasing with height. The current wording of the Performance outcome would potentially deliver alternative planning outcomes to those identified by the Acceptable outcome. This observation is considered to fall within the scope of Section 19(c) of the MGRs and provide the necessary authority to propose alternative provisions to address the setbacks in the subject zones.

Further, any change that is ‘significantly different’ is required to undergo further public engagement for a minimum of 20 business days. It is likely the recommended drafting changes are not significantly different, however, it is recommended the change be included in the fourth round of consultation, consistent with the other items that formed part of the review based on Council’s resolution from 27 October 2020.

The proposed recommendation is closely related to changes recommended in Attachment 5.5 which addresses the observation relating to equitable development rights for adjoining lots. If the proposed recommendations for Item I are endorsed by Council, the performance outcomes relating to this item will be updated accordingly.

### 5. Stakeholder consultation

The following stakeholders have been engaged in the preparation of this report:

<table>
<thead>
<tr>
<th>Name and/or Title of the Stakeholder Consulted</th>
<th>Directorate or Organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lily Chan</td>
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<td>Steve Brett</td>
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<tr>
<td>Executive Coordinator Major Assessment</td>
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</table>
6. Action/Recommendation

It is recommended the Major update 2 & 3 amendment package be changed as follows:

1. Update the Built form and scale Performance outcome in the Low-medium; Medium and High density residential zones as follows:

   Low-medium density residential zone

   PO6
   Where not identified within the Light rail urban renewal area overlay map, buildings and structures are sited and designed to:
   (a) maximise access to natural ventilation;
   (b) allow light to penetrate into buildings, between buildings and down to the ground;
   (c) not cause significant and undue adverse amenity impact to adjoining properties;
   (d) provide reasonable privacy to residents on adjoining lots;
   (e) reduce the width, bulk and scale of buildings is proportionate to the site;
   (f) allow for off-street car parking;
   (g) achieve appropriate building separation in relation to building height with separation distances increasing with building height and setbacks that increase in proportion to building height; and
   (h) be setback from boundaries and have a site cover that is balanced between built form and high quality landscaping to allow for tall shade trees, deep planting and on-site open space which contributes to residential amenity and local character.

   Medium density residential zone

   PO6
   Where not identified within the Light rail urban renewal area overlay map, buildings and structures are sited and designed to:
   (a) maximise access to natural ventilation;
   (b) allow light to penetrate into buildings, between buildings and down to the ground;
   (c) not cause undue adverse amenity impact to adjoining properties;
   (d) provide reasonable privacy to residents on adjoining lots;
   (e) reduce the width, bulk and scale of buildings proportionate to the site;
   (f) allow for off-street car parking;
   (g) achieve appropriate building separation in relation to building height with separation distances increasing with building height and setbacks that increase in proportion to building height; and
   (h) be setback from boundaries and have a site cover that is balanced between built form and high quality landscaping to allow for tall shade trees, deep planting and on-site open space which contributes to residential amenity and local character.

   High density residential zone

   PO5
   Where not identified within the Light rail urban renewal area overlay map, buildings and structures are sited and designed to:
   (a) maximise access to natural ventilation;
   (b) allow light to penetrate into buildings, between buildings and down to the ground;
   (c) not cause undue adverse amenity impact to adjoining properties;
   (d) provide reasonable privacy to residents on adjoining lots;
   (e) reduce the width, bulk and scale of buildings to achieve compact building forms for buildings and provide tall slender towers in a landscape setting;
   (f) allow for off-street car parking;
   (g) achieve appropriate building separation in relation to building height with separation distances increasing with building height and setbacks that increase in proportion to building height to create an open skyline and perception of spaciousness; and
   (h) be setback from boundaries and have a site cover that is balanced between built form and high quality landscaping to allow for tall shade trees, deep planting and on-site open space which contributes to residential amenity and local character; and
   (i) avoid excessively large floor plates by dividing a single building into multiple buildings.

Note: The recommendation is closely related to proposed changes recommended in Attachment 5.5: Setbacks and site layout – Setback provisions considering impacts to the development potential of other sites.