Amendment C270 to the Melbourne Planning Scheme

Expert Urban Design Evidence

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Instructed by
Department of Environment, Land, Water and Planning
3.0 General Development Areas—Floor Area Ratio control

Amendment C270 proposes the introduction of an 18:1 Floor Area Ratio control to the CCZ schedules (which applies to the General Development Areas), and the deletion of the 24:1 plot ratio control from DDO10. However, the change is not limited to a different instrument and density. The Amendment also takes a different approach to density controls in the General Development Areas. Whereas the current plot ratio control is directed at achieving Built Form Outcomes as well as avoiding unacceptable pressure on infrastructure, the proposed new FAR control is purely a trigger for the provision of public benefits. In other words, it does not directly constrain the potential development of a site, but simply compels the provision of one or more public benefits if development exceeds a particular density threshold.

I support this change, because I consider density controls to be a relatively ‘blunt instrument’ in relation to Built Form Outcomes. I consider the proposed street wall height and tower setback controls to be a much more appropriate way to control development.

In this regard, the assertion in Submissions 67 and 82 that the maximum floor area ratio has been reduced is a misrepresentation, because there is clear opportunity to exceed 18:1—indeed much clearer than under the current, interim controls, which contain Built Form Outcomes in association with the plot ratio control and do not provide clear parameters for public benefits.

I note that the value of the public benefit required in order to justify a Floor Area Uplift is unlikely to discourage developers from seeking to develop at densities greater than 18:1. My analysis also suggests that properties up to 25m wide (other than those on street corners) are unlikely to be able to be developed to a density of 18:1, due to the side setback requirements (see section 6). Therefore, the FAR control itself will neither constrain the development capacity of the Central City nor will it provide certainty about what can be achieved on a site (as illustrated by the comment in Submission 29 about the inability of 428 Little Bourke Street to reach its “allowable floor area ratio” because of the built form controls).

The only urban design implication of the proposed FAR control is that it may trigger the provision of new publicly-accessible open space and higher quality architectural design through a competitive design process. Both of these outcomes are clearly positive from an urban design perspective.

Numerous submissions have raised concerns about the mandatory nature of the proposed FAR control (whilst it can be exceeded, it is mandatory
that a public benefit is provided). The question of whether 18:1 is the right density above which to trigger the provision of such benefits is not one that I can answer, because the range of public benefit options means that there is not an obvious direct relationship between density and the provision of additional open space, and even in relation to open space it relies on an analysis of current and projected demand and supply of open space.

Notably, footpath widening is not one of the public contributions listed as justifying a density greater than 18:1. This is despite footpath capacity being a key concern identified in the Elizabeth Street (North) Capacity Study. I note that the footpaths in some of the Central City’s ‘little’ streets are narrow and unlikely to have sufficient capacity for the demands created by future development. Therefore, I recommend that consideration be given to including footpath widening as a public benefit. This may be achieved by setting back the lowest level or two of a development from the street edge, provided it represents sufficient block-length to provide valuable amenity and avoid an incoherent building line. Alternatively, it could take the form of a financial contribution to a redevelopment of the street to reallocate space from cars to pedestrians. For example, I note that some sections of ‘little’ streets have been redeveloped to provide wider footpaths.
exceed 80m in height, because the additional floorspace afforded by the zero setback from one side boundary is greater than the additional floorspace that could be achieved by greater height and a setback from both sides.

[95] However, the proposed control does not preclude the development of 80m high towers on abutting properties with a zero setback on one side of the common boundary and a 5m setback on the other. Therefore, it could result in apartments facing a blank wall only 5m away. Based on the Architectural Testing report, I understand that the intent of the provision for a zero setback up to 80m in height from one side boundary is “most relevant to locations with two adjacent small sites where a similar development approach could be adopted across a shared boundary to avoid permanently exposed boundary walls and an inequitable development outcome”. I take this to mean a ‘mirrored’ configuration on abutting properties.

[96] Therefore, I consider that the modified requirement should be amended to ensure that either a zero or 10m separation is achieved between adjoining towers, or between a proposed tower and a likely adjoining tower, through the ‘mirroring’ of the setbacks. This would be consistent with the minimum separation of 10m required between multiple towers.

[97] Submission 19 queries whether, where an adjacent building cannot be redeveloped above the street wall height, it might be reasonable to develop to the common boundary with that property (as well as to the other side boundary) up to a height of 80m. Submission 32 makes a similar point.

[98] At face value this proposition has merit. The difficulty is whether it is possible to be certain that a neighbouring property can never be redeveloped. Given examples of narrow properties being developed well above street wall height (e.g. the 6.7m wide Phoenix building at 82 Flinders Street), tower development on heritage properties and the consolidation of multiple titles, I do not consider that it is possible to be certain.

[99] A number of submissions raise concerns about the impact of the proposed tower side setback controls on the developability of narrow properties. There is no doubt that the proposed controls will constrain the redevelopment of narrow properties—particularly those less than 15m wide. The tower setback requirement is likely to preclude the development of a tower on properties narrower than 15m, because towers narrower than 10m are too inefficient. Approximately 12% of properties in the Central City are 10-15m wide (301 properties).
I consider that, in principle, it is perfectly reasonable that site constraints such as property width may limit the potential for development. There is a clear nexus between tower side setbacks and internal amenity, equitable development and public realm amenity outcomes. The proposed DDO provides modified requirements for development up to 80m in height in order to maximise the development potential of small sites.

The DDO provides for an adjusted tower floorplate to allow for contextual design responses, including to:

- reduce impact on existing and potential neighbours in terms of privacy, outlook, daylight and sunlight access.
- minimise visual bulk.
- reduce impact on public spaces, including overshadowing and wind effects and reduced visual dominance.
- minimise visual dominance of heritage places and streetscapes, as well as significant view lines.

I support the flexibility this provision introduces to respond to the particular neighbouring circumstances of a site (such as the approval for 405 Bourke Street referred to in Submission 75, at least in principle).

Submission 27 asserts that, despite this, the Amendment does not provide sufficient discretion to enable the development of small additions to existing buildings in circumstances where neighbouring development is built close to or on common boundaries. The property that is the subject of this submission is approximately 20m wide. Therefore, its potential to develop above street wall height is constrained by its limited ability to accommodate side setbacks.

Whilst it may be possible to achieve acceptable internal amenity and equitable development outcomes with side setbacks less than those required by proposed DDO10, the public realm outcomes sought rely on the required tower separation.

I note that the Amendment does not require side or rear setbacks at podium level. This is understandable from a public realm amenity perspective. However, if there are apartments at podium levels, their amenity and their impact on the amenity and/or equitable development potential of neighbouring properties needs to be considered.

I understand that this issue will be addressed by the forthcoming Better Apartment Guidelines. Given the generic (non-place-specific) nature of this issue, I consider that State-wide planning provisions are an appropriate mechanism. However, given the high likelihood of more podium-level apartments in the Central City, and the extent to which they
are affected by surrounding development, I consider it important to ensure this issue is adequately addressed one way or another.

For the reasons outlined above, I consider that the proposed mandatory tower side and rear setback and separation controls are strategically supported, appropriate to the majority of proposals and provide for the preferred outcome. They will also reduce administrative costs. The majority of applications not in accordance with the proposed mandatory controls would be clearly unacceptable because they would result in inadequate internal amenity, poor public realm amenity and/or they would unreasonably prejudice the future development potential of neighbouring properties.

RECOMMENDATION 9
IN DDO10, CLARIFY THE CIRCUMSTANCES IN WHICH A TOWER SEPARATION OF LESS THAN 6% OF THE COMBINED HEIGHT WILL BE CONSIDERED.

RECOMMENDATION 10
IN DDO10, AMEND THE MODIFIED REQUIREMENT ALLOWING A ZERO SIDE SETBACK FOR BUILDINGS UP TO 80M IN HEIGHT TO ENSURE THAT THE SETBACK CONFIGURATION TAKES ACCOUNT OF EXISTING OR LIKELY FUTURE NEIGHBOURING CONDITIONS TO ACHIEVE EITHER A ZERO OR A MINIMUM 10M SEPARATION BETWEEN ADJOINING TOWERS.