

5.0 SETBACKS & BUILDING ENVELOPES

Background

The Town Planning Scheme outlines various measures by which the location of buildings on lots is controlled. These generally take the form of 'setbacks' (i.e. minimum distances from boundaries) or 'building envelopes' (i.e. specific locations on lots where buildings should be located). Setbacks are variously outlined in the Town Planning Scheme itself, or for residential areas, in the *Residential Design Codes (the Codes)*. Building envelopes are principally used for 'Special Residential' or 'Rural Residential' Zoned lots and are outlined on 'Subdivision Guide Plans' that are generally adopted by Council when rezoning land to provide for larger lot subdivision. Copies of the adopted Subdivision Guide Plans are included as Appendix 1 of this document.

In some cases, the setback or building envelope requirements provided for by the Scheme, the Codes or a Subdivision Guide Plan may not necessarily be appropriate for a particular site or in a particular circumstance. In this case, proponents may request that Council consider relaxing or modifying the normal requirements.

For land affected by the Codes the consideration of such requests needs to be made in the context of the Objectives and Performance Criteria set out in the Codes. Where a proposed development; may (in the opinion of the Council) adversely effect the amenity of an adjoining property, then the Codes require that the owners of those adjoining properties be given an opportunity to comment.

Part 2.5 of the Codes provides that adjoining owners either be advised directly by the applicant, or that details be sent by registered post and that a minimum of 14 days be provided for the making of comment. Part 2.5 requires that the application then be considered in the light of any comments that are received.

In the Scheme, no specific process is set out with respect to the relaxation of building envelope requirements, or setback requirements set out in the Scheme itself. The Scheme does, however, include a general provision giving Council the discretion to modify the development standards (setback and building envelope requirements are two examples of 'development standards'), which may only be exercised if-

- a) Approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenity of the locality;
- b) The non-compliance will not have any adverse effect upon the occupiers or users of the development or the property or the inhabitants of the locality or upon the likely future development of the locality; and
- c) The spirit and purpose of the requirement or standard will not be unreasonably departed from thereby.

This Policy sets out a referral and consultation process for considering the relaxing or modifying of setback (other than setbacks established by the Codes) or building envelope requirements, and also sets out criteria against which such applications should be assessed. The process is generally consistent with the approach set out in the Codes (and described above). In most cases requests will be assessed under delegated authority, the exceptions being those where, following consultation, there is disagreement between the proponent's and one or more of the consultees (see Clause 3.1.13).

Objective/s

To establish appropriate criteria for the assessment of requirements for the modifying of setback or building envelope requirements for development not subject of the *Residential Design Codes*.

Legal status/considerations

Policy adopted as a Town Planning Scheme Policy pursuant to clause 2.4 of Town Planning Scheme 7.

Special Procedural Considerations

Except where it is deemed that a proposed relaxation or modification is of a minor nature, unlikely to impact on the amenity of adjoining properties or the locality in general, all applications for the relaxation or modification of setback or building envelope requirements shall be referred to owners and occupiers of adjoining properties, and any comments received given due consideration, in a manner generally consistent with Part 2.5 of the *Residential Design Codes*.

Policy Statement

Applications for the relaxation or modification of setback or building envelope requirements, other than those established by virtue of the *Residential Design Codes*, shall be assessed against the following criteria-

- a) The effect that the proposed relaxation or modification is likely to have on the amenity of adjoining or nearby properties, in terms of privacy, overshadowing or visual intrusion.
- b) The effect that the proposed relaxation or modification is likely to have on the environment, especially in terms of the quality and/or quantity of remnant, native vegetation that may be affected by alternative building locations.
- c) The effect that the proposed relaxation will have on the general amenity of the streetscape or landscape.
- d) The ability for concerns to be satisfactorily addressed via conditions of approval pertaining to detailed building design, the planting of screening vegetation, or similar.

Related considerations

Setback requirements set out in Building Code of Australia.

Adoption/amendments

Draft: **22.04.03**
Final: **24.06.03 Decision 9923**
Amendment/s: