

Executive summary

The Victoria Planning Provisions (VPP) and ResCode have served Victorians well for more than two decades.

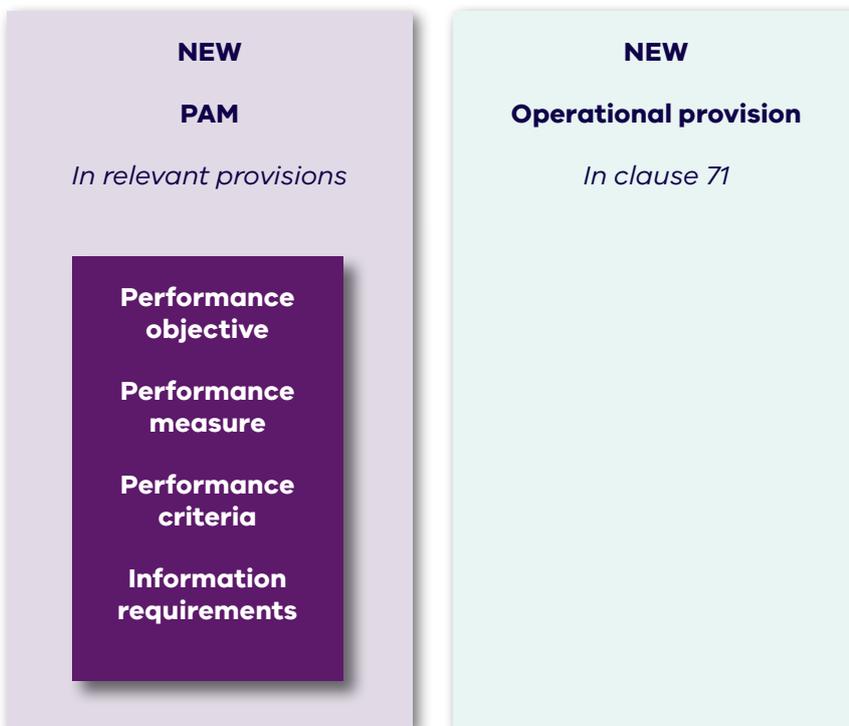
They have delivered simpler, more consistent and usable planning schemes based on state standard provisions. However, as expectations on the planning system have grown, the complexity of issues and how some scheme provisions have responded has created uncertainty, hindered usability and created an obstacle to delivering digital ready planning schemes.

This report sets out how the operation of assessment provisions in planning schemes can be improved through the introduction of a new Performance Assessment Model (the model) that will deliver consistent, digital ready assessment provisions that support streamlined decision making. The model will standardise how assessment provisions work, improving clarity for all users.

This report focuses on improving how planning schemes describe the desired planning objectives for residential development in ResCode and how proposals are assessed against those objectives, however the model can be applied to all discretionary provisions across the VPP and local provisions.

The model is made up of a new Performance Assessment Module (PAM) and new rules about how a design response is assessed against the PAM. The PAM will set out more precisely the performance objectives for a design matter and the considerations and information that are needed to make an assessment of that matter. The new rules will make it clear when a design response is deemed to achieve the performance objective.

The performance assessment model



Both these new provisions will significantly reduce uncertainty about what is expected for each design matter and whether a design response meets those expectations.

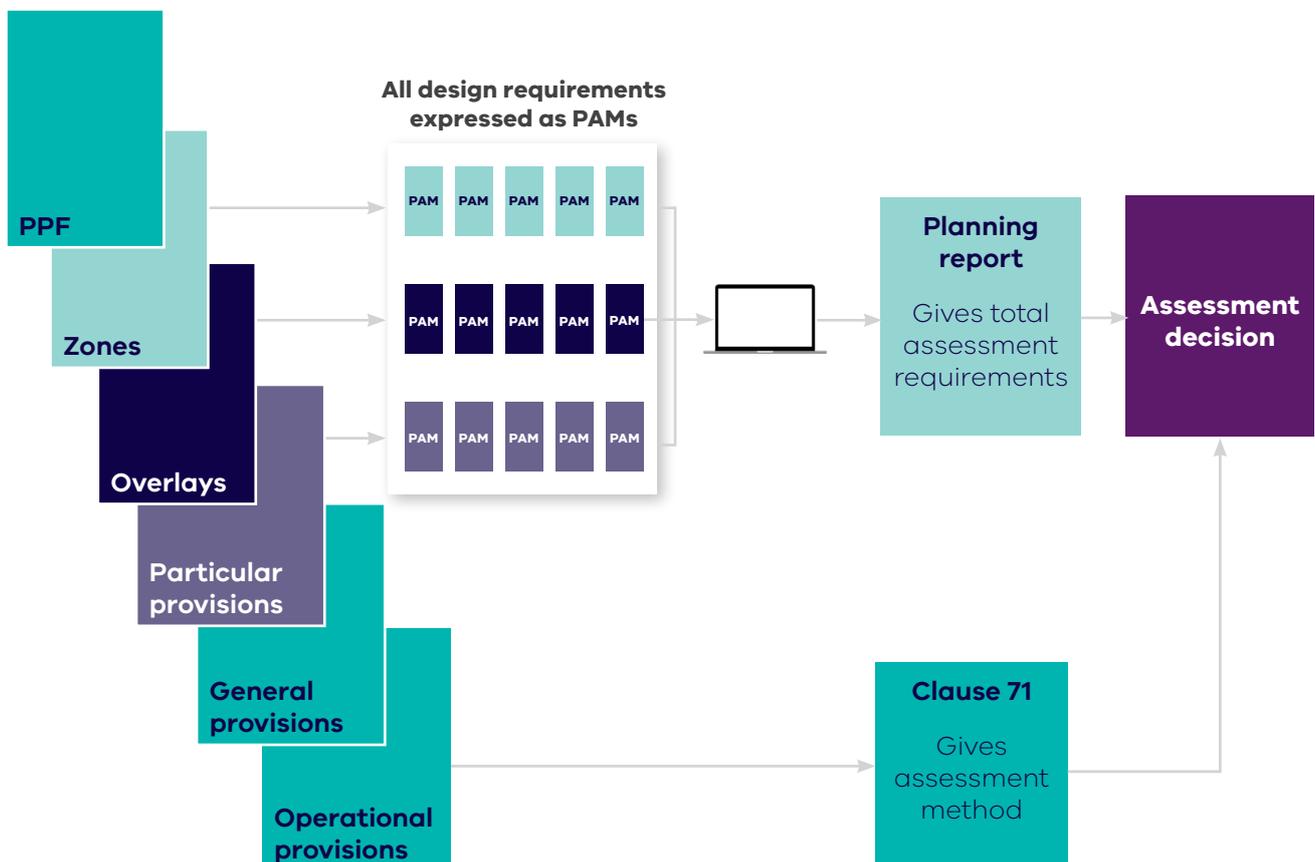
Converting assessment provisions to the proposed model will have the following benefits:

- A clear, consistent, more modular structure for the preparation of provisions that guide the exercise of discretion across the VPP.
- A more consistent operational framework that promotes the use of objective Performance Measures to clearly signal and facilitate outcomes that are deemed to be acceptable.
- A consistent structure and format for discretionary provisions that will support the long-term development and delivery of fully digital planning schemes.

Translating all development assessment provisions in planning schemes to the consistent use of PAM provisions will mean that, in the longer term, digital platforms will be able to 'collect' all the relevant PAMs for a matter and present them in a consistent, integrated form that will enable:

- an applicant to clearly see what performance objectives are required to be achieved, how they might be achieved and exactly what information is required to be presented with the application.
- the responsible authority to get a quick and complete checklist of all the matters that need to be assessed in a form suitable for direct inclusion in their planning report.
- the community to readily see which aspects of a proposal achieve expectations and the basis on which aspects that may not will be assessed.

Overview of how the proposed model will work



Why start with ResCode?

Residential development proposals make a significant contribution to the number of planning applications made each year. Of the 40,000 new permit applications received in 2019/20, about 30% included a residential element that was assessed against the residential development standards in ResCode.

This report shows how the operation of ResCode can be improved by using the model to update the format of the ResCode standards to be clearer about their expectations and to be better aligned with the principles of the VPP. This will lead to more certain and more efficient development assessment and decision making.

The proposed model builds and improves upon the operational model that currently underpins ResCode.

Translating the ResCode standards to PAMs will not change the content of established standards or affect the procedural settings that currently apply to the assessment of proposals, including third party notice or appeal rights.

What is ResCode?

Clauses 54 and 55 are commonly referred to as ResCode and were introduced in August 2001, shortly after the rollout of the VPP and new format planning schemes. These two initiatives marked the beginning of a new era in preparing and administering local planning schemes based on user friendly provisions that are consistent statewide.

In the two decades since the introduction of the VPP and ResCode, Victoria has undergone significant change. The Victorian population has increased by 1.9 million people to 6.6 million people. It is estimated that by 2051 Melbourne's population will increase by another 4 million people. Plan Melbourne (Direction 2.4) has highlighted the critical role the planning system plays in ensuring an adequate supply of well located, affordable housing, while maintaining Victoria's liveability. Plan Melbourne has identified the need to better streamline approvals for housing proposals that do not raise strategic policy issues through more code-based approaches to assessment.

Advances in technology over the last 20 years have also brought profound change in the way citizens interact with public services and the law. The ability to 'design out' complexity and improve access to the law using digital platforms offers significant efficiency and effectiveness benefits for the way that the planning system delivers desired housing outcomes. To realise this potential, clearer and more consistent approaches to the operation and drafting of planning provisions is needed to make them 'digital ready'.

The role of planning reform is to ensure that the planning system is calibrated to meet the current and future needs and expectations of the Victorian community, specifically so that:

- Provisions clearly describe desired planning outcomes that are consistent with those needs and expectations.
- Provisions and processes are consistently applied in a manner that is proportionate to risk and to efficiently deliver the desired outcomes.
- Provisions and processes, and any supporting initiatives, are designed to meet the needs of the system's users.

Since its introduction, there have been a number of reforms to the VPP affecting residential development, including the introduction of reformed residential zones, and a new assessment pathway (VicSmart), and new standards for apartment developments.

Against this background local councils have accumulated and refined a substantial body of strategic work on housing and neighbourhood character. This work has, to varying extents, been implemented in local planning schemes or supporting guidance documents, through neighbourhood character policies and associated variations to ResCode standards.

The ResCode standards are now well accepted and understood and have served Victorians well. ResCode's long use and the familiarity users have with its application to local neighbourhoods are significant assets. They provide a strong basis on which to recalibrate and improve its statutory operation in line with the VPP principles (including *User Focussed, Proportional and Digital First*).



What is a PAM?

The PAM is built on four components:

- **Performance Objectives** – that clearly describe acceptable design outcomes.
- **Performance Measures** – that specify quantitative measures or objectively ascertainable conditions. Compliance with performance measures will be deemed to achieve the relevant Performance Objective.
- **Performance Criteria** – where a Performance Measure cannot be specified or is not complied with, the Performance Criteria will specify qualitative standards for determining whether the proposal achieves the Performance Objective.
- **Information required** – that identifies any specific information needed to inform a decision about whether a Performance Objective is met.

Where the model is applied, a PAM must include one or more:

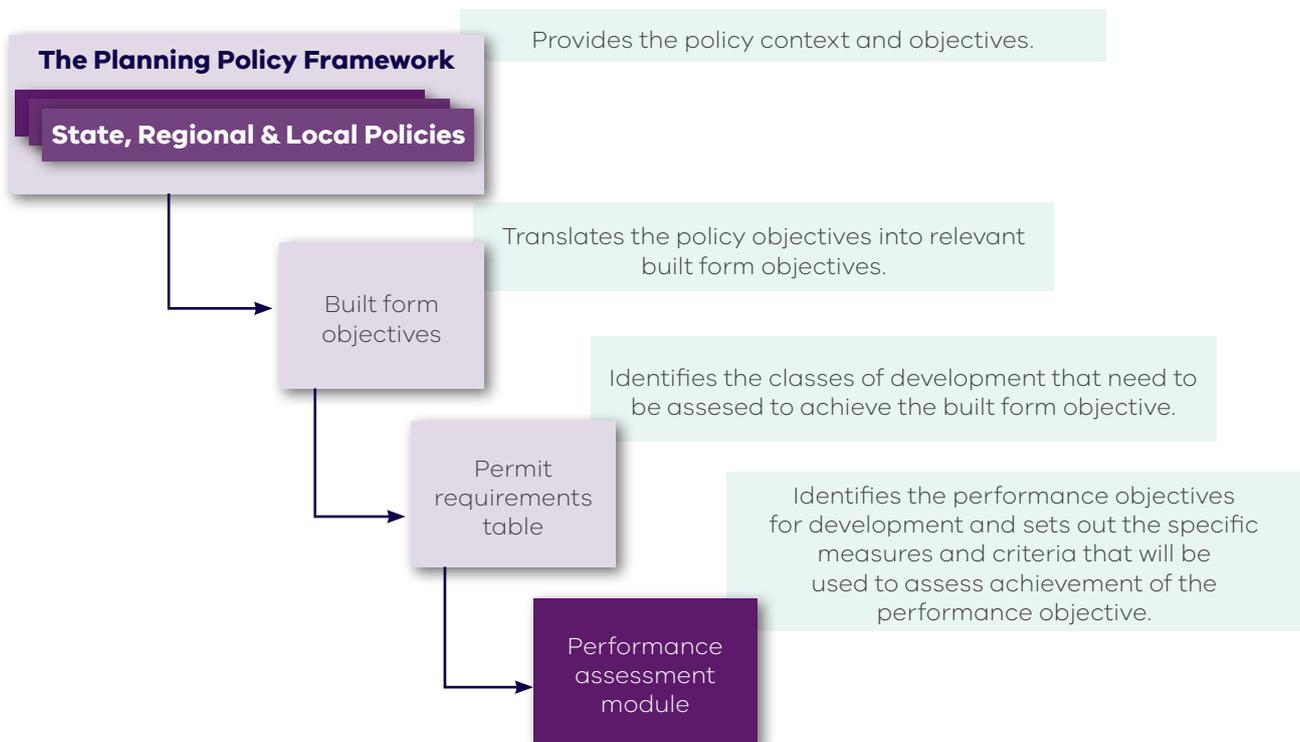
- Performance Objective
- Performance Criteria

The PAM may include one or more:

- Performance Measure
- Information Requirements

How a PAM is created is shown below. In drafting a PAM, it will be essential that the Performance Objective being sought is well thought out and can be clearly expressed. The PAM also ensures that the planning authority can express the measures that, if achieved, show that the Performance Objective is achieved. This will remove doubt and debate about whether certain design responses are acceptable or not.

Building a PAM

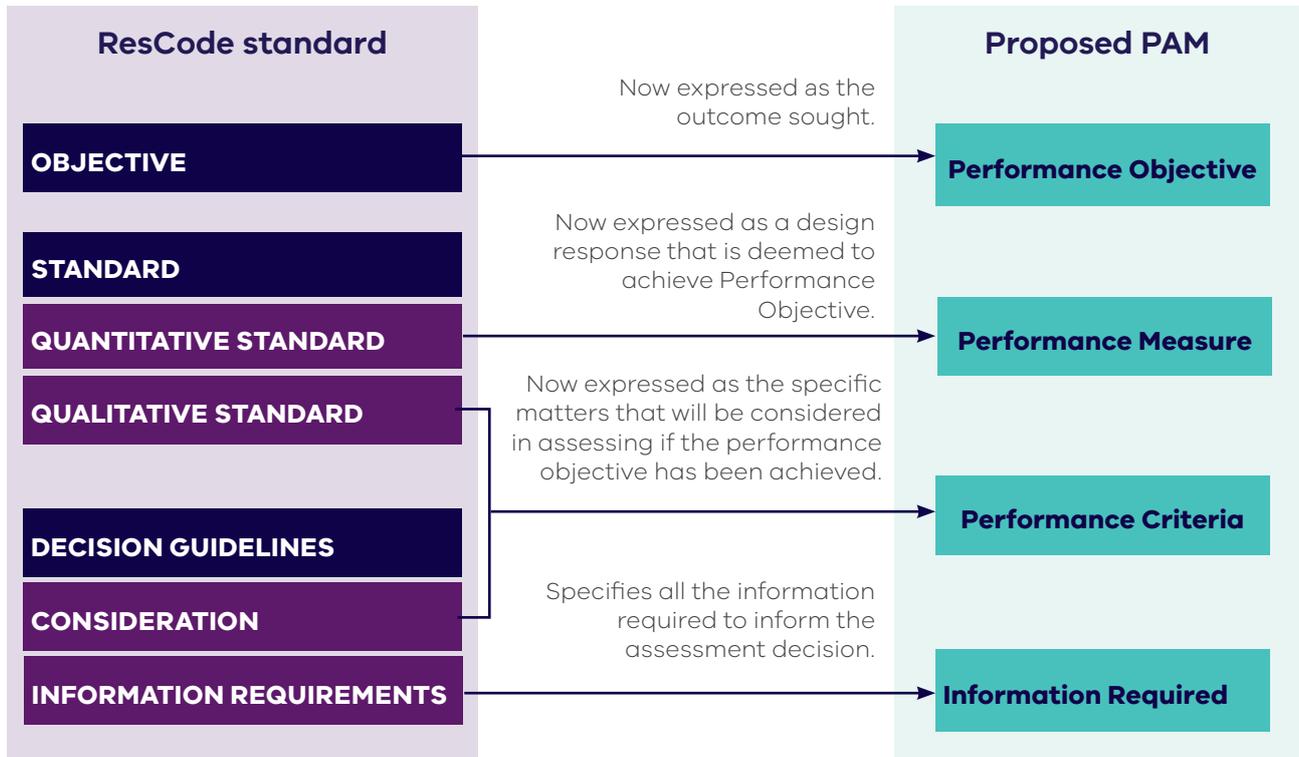


B27 Daylight to new windows		
Identifies specific quantitative measures that, if met, mean the performance objective is met.	<p>Performance Objectives</p> <p>New habitable room windows receive adequate daylight</p>	Identifies specific performance objective determined to contribute to achieving the built form objective.
	<p>Performance Measures</p> <p>A window in a habitable room is located to face:</p> <ul style="list-style-type: none"> • An outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an abutting lot, or • A verandah, provided the verandah is open for at least one third of its perimeter, or • A carport provided it has two or more open sides for at least one third of its perimeter. 	
Identifies any specific information needed to inform a decision about whether the performance objective is met.	<p>Performance Criteria</p> <p>The daylight received by a window in a habitable room is acceptable considering whether there are other windows in the habitable room that have access to daylight.</p>	Identifies specific performance criteria that will inform a decision about whether the performance objective is met.
	<p>Information required</p> <p>The design response.</p>	

This report has found that all current ResCode standards can be expressed as a PAM (see APPENDICES 4, 5 and 6).

Translating a ResCode standard to PAM

The difference between a ResCode standard and a PAM



Changes to apply the model

The proposed changes needed to introduce the model are summarised in the tables and diagrams below. How the model can be applied to ResCode is described in section 4.

1. A NEW PAM FOR DISCRETIONARY PROVISIONS IN THE VPP	
Proposal	<p>Implement a new PAM in the operational provisions of the VPP.</p> <p>The new model creates a PAM built on four components:</p> <p>Performance Objectives – that clearly describe acceptable residential development outcomes.</p> <p>Performance Measures – that specify quantitative measures or objectively ascertainable conditions. Compliance with the Performances Measures is deemed to achieve the relevant Performance Objective.</p> <p>Performance Criteria – where Performance Measures cannot be specified or are not complied with, Performance Criteria will specify qualitative standards for determining whether a proposal achieves the Performance Objective.</p> <p>Information Required – that identifies any specific information needed to inform a decision about whether a Performance Objective is met.</p>
Current issues	<p>Discretionary provisions are inconsistently articulated across the VPP and planning schemes, creating uncertainty regarding their intended outcomes and operation.</p> <p>The need to promote streamlined, code-based assessment for low risk applications where standards are well understood and accepted.</p> <p>A more consistent structure and operation of discretionary provisions can promote code-based assessment and digital ready provisions.</p>
Proposed changes	<p>A new operational provision (clause 71.XX – Performance Assessment (see APPENDIX 3)) to provide for:</p> <ul style="list-style-type: none"> • The use of the new PAM across the VPP and planning schemes. • Specification of a standard operation and decision-making framework where a PAM is applied.

2. TRANSLATE EXISTING RESCODE PROVISIONS TO THE NEW PAM	
Proposal	<p>Translate the existing ResCode objectives and standards into PAMs.</p> <p>This translation will not change the existing ResCode quantitative standards and procedural settings, including third party notice and review rights.</p>
Current issues	<p>Existing quantitative ResCode standards and local variations are well understood and accepted.</p> <p>A divergence of views has created some uncertainty regarding the operation of some aspects of ResCode.</p> <p>The current expression of standards does not sufficiently facilitate approval for residential development that complies with an accepted standard or local variation.</p>
Proposed changes	<p>Translate clauses 54, 55 and 58 into the proposed new PAM format. APPENDICES 4, 5 and 6 set out drafts of how these would look.</p>

3. INTRODUCE A NEW OPPORTUNITY TO SPECIFY NEIGHBOURHOOD CHARACTER PERFORMANCE MEASURES	
Proposal	<p>Provide a new opportunity for councils to more precisely specify performance measures for Neighbourhood Character (A1 & B1) and Detailed Design (A19 & B31), within the planning scheme in the schedules to residential zones.</p>
Current issues	<p>Councils have accumulated substantial bodies of work that identify important features of neighbourhood character for local areas.</p> <p>Neighbourhood character study documents largely exist outside planning schemes or are imprecisely expressed in local policies.</p> <p>Opportunity to elevate important neighbourhood character elements to Performance Measures and facilitate appropriate residential development.</p>
Proposed changes	<p>Amendments to residential zones (clauses 32.04, Mixed Use Zone, 32.05 – Township Zone, 32.07 – Residential Growth Zone, 32.08 – General Residential Zone, 32.09 – Neighbourhood Residential Zone) to provide head of power for schedules to specify performance measures for Neighbourhood Character (A1 & B1) and Detailed Design (A19 & B31).</p> <p>Updates to Neighbourhood Character (A1 & B1) (clauses 54 and 55) to refer to Performance Measures specified in zone schedules.</p> <p>Amendment to Ministerial Direction (form and content of planning schemes) to vary schedule format for residential zones (clauses 32.04, Mixed Use Zone, 32.05 – Township Zone, 32.07 – Residential Growth Zone, 32.08 – General Residential Zone, 32.09 – Neighbourhood Residential Zone) to allow schedules to specify Performance Measures for Neighbourhood Character (A1 & B1) and Detailed Design (A19 & B31).</p>

It is important to note that the proposals in this report have only been developed to a ‘proof of concept’ stage. It will be necessary to ensure that any final package of statutory and operational provisions is developed and introduced in a coordinated way with all stakeholders and practitioners. As well, some of the proposed statutory drafting and decision-making changes are subtle. A substantial communication and training program will be essential for successful implementation.