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*Planning and Environment Act 1987*

**DRAFT RESIDENTIAL CODE FOR CONSULTATION**

**RESCODE 2000: PART 1 REPORT**

**RESPONSE TO TERMS OF REFERENCE**

**Report of the Advisory Committee**

**Pursuant to Section 151 of the Act**

**Advisory Committee:**

**Christopher Wren, Chair**

**Helen Gibson**

**John Glossop**

**Ann Keddie**

**Cathie McRobert**

**Kathryn Mitchell**

**Raymond Peck**

**Lester Townsend**

**David Whitney**

**20 December 2000**

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## EXECUTIVE SUMMARY

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The Advisory Committee has prepared three reports. This report is Part 1 and contains the response of the Committee to its Terms of Reference and its recommendations. The Part 2 report contains the Committee's evaluation of the standards contained within the draft ResCode report for consultation. The Part 3 report contains the detailed proposals on how the Committee's recommendations might be put into practice, which, in particular have resulted in the preparation of new planning scheme provisions for residential development and subdivision in Victoria.

The Committee has come to the conclusion that ResCode is unworkable. In saying this, it recognises that ResCode was never intended to be a final product. It was correctly labelled a 'consultation draft', and given the enormous level of interest in this issue it was inevitable that changes would have to be made. The consultation draft fulfilled its task admirably. By suggesting processes different from those that exist, it provided a model which generated a wide range of responses from industry and community stakeholders as well as local government and professional bodies.

The Committee received 405 written submissions and heard from 169 submitters who expanded on their written submissions. In summary, it was generally considered by submitters that ResCode:

- would not ensure the protection of neighbourhood character or improve housing choice, by only replicating 'next door' (in reference to Part A), which may or may not be perceived as 'good' or 'preferred' neighbourhood character;
- may stifle innovation;
- would only deliver marginal benefit to the community compared to the energy and resources required to satisfy the Part A requirements;
- did not recognise and acknowledge the distinctions between greenfield, brownfield and infill situations;
- did not promote urban consolidation and sustainability;
- would not necessarily facilitate equity or affordability in housing;
- would not assure a balance in assessment nor consistency of outcomes; and
- did not clarify the role of other statutory provisions such as Heritage Overlays, Design and Development Overlays, Special Building Overlay and Significant Vegetation Overlay.

It is apparent from the many submissions received in response to the new Code that the community's primary concern related to infill development, both single dwellings and medium density housing, in established suburbs.

ResCode represented a fundamental shift from the Good Design Guide performance basis for evaluation of proposals against objectives and criteria, to a much more limited focus on the satisfaction of mandatory standards. The ResCode Commentary indicated that:

*Standards determine whether an application for a development or subdivision achieves the purpose of the element.*

Under ResCode, the mandatory standards established the means by which objectives must be achieved and evaluation of proposals against the element purpose was only undertaken in relation to a limited number of discretionary standards. Under the Good Design Guide, objectives together with criteria establish the rationale for requirements and any solution that is demonstrated to meet the objective as well or better than the relevant technique is supported. The Committee believes that this shift from an emphasis on the quality of outcomes to an emphasis on compliance with rules is a retrograde step which will promote a formula driven approach to both the design and assessment processes.

The Committee agrees with submissions that the complex nature of meaningful assessment of proposals cannot be distilled down to a series of quantifiable requirements which do not require the exercise of judgement. Neighbourhood character is a clear example of an issue which cannot be reduced to simple rules. It requires qualitative assessment and the exercise of judgement. Similarly drafting a prescriptive standard to achieve objectives of building articulation to reduce bulk has proved unsuccessful. The focus of assessment of development proposals should always be on outcomes, not the satisfaction of rules for their own sake.

This Committee accepts that certainty regarding development requirements and outcomes is an important objective of the regulatory system and that standards or benchmarks can play a useful role in indicating acceptable solutions in common circumstances. However, these benchmarks should not be applied to the extent that the best or most sensible outcomes in a particular situation are precluded. A performance based assessment process should be maintained and improved by providing more guidance about when and how discretion should be exercised.

The Committee is of the firm view that the shift in ResCode to mandatory prescriptive standards, without the discretion to respond to the circumstances of development proposals, would provide certainty at the expense of sensible outcomes. It would not provide the sensible balance sought by the State Planning Agenda. There should be certainty about the process of decision-making and knowledge that if objectives are met and prescribed steps are fulfilled, decisions will not be arbitrary or inconsistent. The Committee recommends a framework that seeks a balance between the objectives of certainty and accommodating designs that respond to their context by:

- building on the existing performance based system;
- maintaining discretion to accommodate site responsive or innovative design solutions;
- recognising the desire for certainty regarding specific requirements by maintaining techniques or benchmarks that will normally meet objectives; and
- enhancing consistency and certainty through the inclusion of additional decision guidelines where alternative approaches are proposed.

The Committee agrees that the same basic standards should apply to dwellings irrespective of the type of approval required, including the introduction of standards relating to overlooking, overshadowing and car parking for single houses. However, the Committee has been conscious of the practical imperative that simple, efficient approval processes and development requirements apply to the development of most single houses. Further, as the intensity of development increases, there is greater pressure to maximise the use of space. The complexity of

design considerations also increases with the intensity of development, as does the potential for unacceptable impacts on surrounding properties. Therefore the Committee has maintained a more sophisticated framework for evaluation of proposals within the planning permit process.

ResCode introduced some new standards and increased some Good Design Guide requirements to impose development requirements that have the potential to consume more land and therefore increase costs. Detailed discussion of ResCode standards are provided in the Part 2 Report. The Part 1 Report summarised the Committee's response to some standards as follows:

- **Increased Front Setbacks**

ResCode extended the Standing Advisory Committee recommendation to prevent new development from adopting any reduction compared to the adjoining setbacks in an area. The principle recommended by the Standing Advisory Committee was widely supported in submissions. Although the treatment proposed for front setbacks incurs significant costs on new development, it is endorsed by the Committee as a reasonable response to community concerns subject to redrafting of the standard and specific consideration of corner sites.

- **Setback From Neighbours' Northerly Boundary**

The Committee is sympathetic to the objectives of this requirement, but does not believe that the potential benefits outweigh the costs or justify the compromised amenity of the new dwelling.

- **Upper storey floor area**

There was universal opposition to the standard requiring upper storeys to have a floor area of 20% less than the main lower level. The Committee agrees that the standard should be deleted.

- **Reduced Building Height for Part A Dwellings;**

The Committee believes that height has a significant influence on the impact of a development. In most areas a 12 metre height would establish an excessive benchmark. The Committee has endorsed the reduced height of 9 metres and recommended that it be extended to all development. Decision guidelines would indicate matters to consider when discretion is exercised.

- **Private Open Space (POS)**

The Committee agrees that secluded private open space should generally not be provided in the front setback but decision guidelines can address circumstances where such provision may be appropriate and issues which should be addressed. Similarly, the Good Design Guide exclusion of the area adjoining a northern wall from the secluded private open space calculation should continue to apply. Both the front setback and the area adjacent to the northern wall should be included in the overall private open space provision.

- **Car Parking**

The Committee accepts that the higher parking requirement for larger dwellings is reasonable but does not support the removal of the opportunity to provide a lower rate where resident parking need will be low. The Committee does not believe that the increased width of garages is justified as the doors of both cars are unlikely to open at the same time therefore two cars can be accommodated more efficiently than one.

The cumulative effect of these increased requirements would be to increase the space required for each dwelling with implications for urban consolidation, housing costs, consumer choice and the efficient use of spaces. The Regulatory Impact Statement indicated that the new land using standards would result in significant increases in housing costs. The Committee believes that the increased front setbacks for infill development, reduced building height and increased parking for larger dwellings are justified.

However, the specific rationale for the numbers selected in ResCode and some other standards was not presented to the Committee whilst the importance of these numbers was exaggerated by the removal of discretion in ResCode. It appears that the response to community concern about the quality of some development has been to simply increase numbers in some cases without careful analysis of whether the increases would result in a better use of space or would be effective in addressing specific concerns.

The Committee is conscious of the need for any residential code to fit in with and be part of the existing policy framework and be a tool of that framework. The Code should not be a means of changing policy, it should be a means of implementing policy, and must, by definition, attempt to be policy neutral. A residential code dictates form, whilst policy dictates the density and location of that form.

Section 4 of the Part 1 Report discusses the current planning and policy framework relevant to residential development in Victoria and focuses on the state and local framework as well as the Government's new planning agenda through the State Planning Agenda. It was against this background of policy framework and the submissions that the Committee identified a number of key issues which it addresses in Section 5 of this report which may be summarised as follows:

- **Strategic Leadership and Certainty**

In terms of housing and its impact on neighbourhood character, the Committee believes that appropriate strategic planning must identify the demographic changes and housing needs of the community for the next 10 to 20 years, where those needs are to be accommodated, and the most appropriate way to address the level of uncertainty said to exist. The Committee anticipates that this leadership should be provided through metropolitan and local housing strategies.

It is reasonable for the community to expect that State and Local Government will provide the leadership and clear direction in formulating policies that will protect existing residential amenity and respect neighbourhood character whilst at the same time catering for an affordable choice of housing styles to accommodate the changing demographic requirements of the community.

The abovementioned community expectations are only one aspect that should be



guiding decision makers. They must also take into account the broader issues of aging population, access (particularly for the disabled and elderly in society), the provision of affordable housing, public transport and the need for ecologically sustainable development.

- **Integration with Other Government Policy**

The Committee supports the views of some submitters that there needs to be a greater emphasis on development of a housing policy that takes into account the housing needs of the wider housing community. This should include the needs of all sectors in all locations, including inner Melbourne, the fringe growth areas, the regional cities and other rural areas.

It is important to ensure that a policy about residential development does not compromise other policies in other government departments about housing. It should be recognised that there are other government policies that impinge on residential development and no one policy should be seen to compromise another. At the very least, they should be compatible and supportive in intent. When implemented, ResCode will need to be sensitive to policy and specifically incorporate consideration of policy in the decision making framework. It should provide for protection of basic and acceptable amenity impacts and should promote a higher order urban form.

- **Housing Industry Issues**

The Committee understands that the housing industry generates a significant volume of turnover and employment and is an important contributor to the economy. Any sudden alteration to siting standards or the like could lead to a significant downturn in building activity during the transition period that would be needed for such builders to adjust to the new regime. Any transition arrangements would need to recognise the impact on existing display homes, and that contracts establish liabilities on the part of builders and owners.

- **Subdivision**

The Committee considers that VicCode 1 provides a clear and well-developed suite of subdivision controls. The subdivision controls in ResCode need to be rethought and the aims for the future development of new suburban areas recast. At a strategic level, the Committee considers that the exhibited Code failed to build on the many positive aspects of VicCode 1. In particular, the new controls lack a sense of future vision for the sustainable development of new communities. VicCode 1 represented the first step in the achievement of this vision. In the view of the Committee the time has come for planners to take another step forward toward the goal of sustainable suburban design.

The Committee is of the opinion that any new code should not simply be a reworking of the existing control, but rather, it should represent a more ambitious vision for the development of new communities.

There is need for a comprehensive approach to review the objectives and standards of VicCode 1, rather than a “tweaking” of it that has occurred through this ResCode process. This review should involve comprehensive consultation with relevant stakeholders, including representative of the development industry, local councils and other government and quasi-government authorities

such as VicHealth.

- **Neighbourhood Character**

The Committee is of the view that the role of neighbourhood character could be strengthened in the VPPs and that in some sense character could take its place beside 'amenity' and 'orderly and proper planning' as an under-pinning concept in the planning decisions.

Good planning demands more than just trying to preserve what simply exists and is of value today. It must also focus on creating an accessible, liveable and sustainable city for future generations. The Committee cautions against taking the objective 'making neighbourhood character the mandatory starting point for planning applications' too literally.

Clearly there is little to be gained in making neighbourhood character the starting point if the decision processes and judgements result in the same sorts of decisions that occur at the moment, simply in a different order. Neighbourhood character also has to be an end point. Maintaining and/or enhancing neighbourhood character requires infusing a municipality and the local development industry with a design culture that recognises the importance of neighbourhood character.

- **Overlooking**

The Committee is of the opinion that overlooking is not an issue in the case of single storey dwellings although it acknowledges the fact that in the case of steeply sloping sites, views are afforded and it is often the case that even the overlooked also may overlook to enjoy available views.

The Committee, like the Standing Advisory Committee has found the issue to be a vexed one. It has concluded that overlooking standards should only apply in the case of upper living rooms, terraces or decks. In these instances, some form of screening is required to protect habitable room windows and secluded private open of neighbouring dwellings where they exist. The Committee supports the retention of the 9 metre arc as the area in which direct viewing is to be restricted. The Committee has opted to include overlooking controls as part of its final recommendations, but it recognises that this aspect should be subject to further consultation.

- **Application of ResCode**

The Committee is of the opinion that it is desirable for most single detached housing to occur without the need for town planning permission. By saying this, it should not be construed that the Committee does not believe there are real problems that need to be addressed. Rather it means that the Committee sees the problem as being one that lies fundamentally with inappropriate housing development, both single detached housing and multi-unit housing, in inner and middle ring suburbs, in contrast to outer suburbs and newly developing fringe areas where there are fewer problems.

The Committee, however, can see no justification in allowing multi-unit housing, including dual occupancy, to escape the need for town planning permission. The Committee considers that planning permission may be required for:

- single storey single detached housing on lots less than 450 square metres.
  - double storey single detached housing (including second storey extensions to existing houses) on lots less than 600 square metres.
  - two or more dwellings on any site.
- **Assessment Process and Site Analysis**

In the Committee's opinion, the assessment process for development applications should be simple, transparent and cost effective. It should be a process that seeks to minimise the time involved and it should avoid duplication. If a revised Residential Code is correctly structured, it should lead the decision maker through the process in a logical and ordered way which all interested parties can easily follow and understand. The Committee sees no need to change the existing system for assessment of housing that requires a building permit and not a planning permit.

The Committee can see no need for a formal site analysis in those cases where a planning permit is not required. In cases where a permit is required, whether it be for single dwellings, multi-dwellings or subdivision, the Committee can see no need for the endorsement of site analysis to be a separate and distinct phase in the approvals process. The Committee believes the suggested process of endorsement of site analysis prior to the permit process to be cumbersome and it would constitute an enormous strain on resources for no apparent benefit.

- **Local Variations and Ministerial Direction No 8**

If the recommendations of the Committee are adopted, Ministerial Direction No 8 will become redundant. It will, however, need to be replaced in some form to assist Councils in dealing with the amendments to their Planning Scheme necessary to accommodate the changes later proposed by this Committee. Whilst the process for amending Planning Schemes is reasonably well understood, some guidance on the level of strategic justification required will be necessary to ensure consistency and overall coordination of these amendments. Whether that be in the form of another Ministerial Direction or a Planning Practice Note is a matter to be considered by the Department during the road testing of the Committee's recommendations.

- **Transition and Implementation**

There are significant legal and practical ramifications involved with any sudden change to the regulatory regime which builders are required to comply with in delivering homes to clients. The potential for costly changes interfering with existing agreements is obvious. The need for carefully considered transitional arrangements being developed between the industry and the Department will require extensive consultation and a thorough assessment of the legal implications flowing from any changes arising from the Committee's recommendations.

Section 6 of the Part 1 Report provides the Committee's response to specific questions raised in its Terms of Reference, many of which are reflected in its discussion of the key issues summarised above. Section 7 contains the Committee's conclusions and recommendations.

Whilst acknowledging the problems that exist, the Committee believes that these problems relate to a only small percentage of total new housing development, and that the new VPP based planning system, which is a policy driven approach to controlling development, is fast overcoming its “teething” problems and together with the Good Design Guide and the emphasis given to Neighbourhood Character through Amendment VC9, is now leading to far better outcomes than in the past.

The Committee believes that in respect to medium density and infill development, the pendulum has swung towards the centre from a position which was for many people too far out in terms of neighbourhood character and form. Recent VCAT decisions reinforce this view. Neighbourhood character is now being given much greater weight in the assessment process. The recent Amendment VC9 has further strengthened the emphasis by decision makers in ensuring that new development respects existing or preferred future character.

The Committee is concerned to ensure that any new code does not cause the pendulum to swing too far in the opposite direction. Further it is concerned that neighbourhood character should not be over-emphasised at the risk of other factors. As the State Planning Agenda says, a sensible balance must be reached.

The Committee considers that ResCode would impose considerable costs without any guarantee of commensurate benefits. In saying this the Committee acknowledges the fact that the costs are easily quantifiable whilst the benefits in terms of improved built form outcomes can neither be quantified nor guaranteed. The Committee is of the opinion that there are already many planning tools available to ensure better outcomes. Some of these tools have little to do with ResCode but should be complementary to it.

As a result of these observations the Committee believes that the concept of ResCode should be restructured and refined and then undergo further targeted consultation. In addition, other measures are needed to provide industry and the community with a greater degree of certainty.

The Committee believes that its revised Code, which has been prepared in the context of the above recommendations, should, with refinement, meet the concerns of the majority of submitters. This will only be the case however if complementary controls, such as the use of Neighbourhood Character Overlays, are properly prepared and employed.

The Committee examined five different options to achieve the Government’s objectives and concluded by recommending as follows:

1. That the exhibited Draft Residential Code for Consultation should be abandoned.
2. That the Department refine the Revised Residential Code presented in the Part 3 report and based on the following principles:
  - a. That the Code be based on three parts:

**Part A** to deal with single dwellings that do not require a planning permit.

**Part B** to deal with development that requires planning approval because it is below the scheduled lot size or if it involves more than one dwelling.

**Part C** to deal with subdivision.

- b. That the Code be incorporated into new Residential and Subdivision Provisions at Clauses 54, 55 and 56 of the Victoria Planning Provisions.
- c. That a Neighbourhood Character Overlay be introduced into the VPPs.
- d. That the Residential Zones of the VPPs be amended to include a schedule that provides for a planning permit to be sought for a menu of lot sizes, with default provisions if Councils do not wish to amend the current situation.

It is important to note that Parts 2c and 2d of this recommendation are to provide opportunities for Councils to undertake strategic work to support these initiatives which would result in a Planning Scheme amendment prior to inclusion in the scheme.

3. That VicCode 1 should be used as the basis for standards in the revised Subdivision Provisions, and that there be a separate and comprehensive review of those objectives and standards.
4. That the Department should undertake a full and thorough educative process to inform and advise all users, and in particular Councils how to make best use of the new residential provisions and the proper use of site analysis and design responses. In conjunction with this, the Department should prepare a 'Users Guide' or a 'Best Practice Guide' of the revised code.
5. That the Department should prepare a series of Planning Practice Notes on the following matters:
  - Preparation of a Neighbourhood Character Overlay.
  - Application of the Schedule to the Residential Zones.
  - Use of the Subdivision provisions.
  - How to prepare for an amendment to the Residential and Subdivision Provisions.
6. That the Department undertake further, targeted consultation of the revised Code and in particular focus and fully test the following matters:
  - Application of the Residential and Subdivision Provisions in all Residential Zones;
  - The process of considering variations to the standards in Clause 54.03 in conjunction with dwellings that require a permit under an overlay.
  - Proposed schedule of lot sizes;
  - Site context documentation requirements for Part A;
  - Documentation necessary to accompany applications;
  - Application on sites over 4,000 square metres;
  - Application for developments over 4 storeys.

7. That the Minister revoke Ministerial Direction No 8.
8. That the Department consider amending the purposes section of the Residential Zones in Planning Schemes to strengthen the need for responsive design and respecting neighbourhood character.

The Committee would like to emphasise that it does not regard its recommendation as providing the definitive residential code, as due to time constraints, it has not been tested. It does, however, take into account the general thrust of submissions from a wide group of interests and it does take the original ResCode proposal a great deal further. It uses the tools of the VPPs as much as possible, and it provides for Councils to adapt existing strategic work or to undertake further strategic work necessary for full implementation.

It provides Councils with a choice to have better controls over areas that exhibit valued characteristics and it will enable Councils to introduce changes to their Planning Schemes in an ordered manner. It recognises that *“one size does not fit all”* and that even within municipalities, some areas justify greater protection than others. It provides Councils with the mechanisms to control single dwellings through the permit process, however, these choices would need to be made through a strategic evaluation and assessment, with the input of all stakeholders.

The recommendations of the Committee, when implemented, will allow Councils to do very little or a great deal. The choice rests with those who would be most affected by development proposals. It recognises that all areas are different and therefore the level of control and protection must be able to accommodate those differences.

# 1. INTRODUCTION

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## 1.1 Establishment of the Advisory Committee

An Advisory Committee (the Committee) was appointed under Section 151 of the *Planning and Environment Act 1987* by the Minister for Planning, the Hon. John Thwaites, (the Minister) to consider a proposed replacement for the Good Design Guide for Medium Density Housing (July 1995 and revisions) (the Good Design Guide) and the Victorian Code for Residential Development – Subdivision and Single Dwellings (April 1992) (VicCode 1) on 12 June 2000.

The Committee comprised Chris Wren (Chair), Helen Gibson, John Glossop, Ann Keddie, Cathie McRobert, Ray Peck, Lester Townsend and David Whitney. Kathryn Mitchell was appointed on 1 August 2000.

The proposed replacement of the Good Design Guide and VicCode 1 was the consultation Draft Residential Code for Victoria (ResCode) which had been released for public consultation by the Minister on 7 June 2000.

The Committee has prepared three reports. This report is Part 1 contains the response of the Committee to its Terms of Reference and its recommendations. The Part 2 report contains the Committee's evaluation of the standards contained within the draft ResCode report for consultation. The Part 3 report contains the detailed proposals on how the Committee's recommendations might be put into practice, which, in particular have resulted in the preparation of new planning scheme provisions for residential development and subdivision in Victoria.

## 1.2 Terms of Reference

The Committee was required to report in writing to the Minister by Friday 24 November 2000. This time was extended to 20 December 2000 at the Committee's request.

The Terms of Reference for the Committee are set out in Appendix A. Section 1 of the Terms of Reference noted that the overall purpose of the Committee was to:

*... review the draft residential code released for public consultation by the Minister for Planning, the Hon John Thwaites, on 7 June 2000. The Advisory Committee will consider whether the draft code provides an efficient, effective and equitable framework for assessment of residential development proposals and for the achievement of Government objectives for residential land-use planning, and will make recommendations for its improvement.*

The Terms of Reference (Section 2) indicated that the background to the release of ResCode included the following:

- State Planning Agenda: A Sensible Balance (December 1999)
- Review of VicCode 1 (1996)

- Standing Advisory Committee report on Good Design Guide and VicCode 1 (March 2000)
- Consultations for new draft residential code, including the Reference Group and the associated Utilities and Infrastructure Reference Group
- Neighbourhood character Amendment VC9 to the State Planning Policy Framework (May 2000)

Section 3 of the Terms of Reference provided the scope of the work of the Committee and identified a number of tasks to be undertaken. It also identified specific issues to be addressed by the Committee and noted that the Committee was to provide recommendations with examples illustrating how those recommendations could be incorporated into the final code. The specific issues included the following matters:

- Neighbourhood character and applications not requiring a planning permit (Part A of code)
- Mandatory standards for developments not requiring a planning permit (Part A of draft code)
- Processes for residential developments requiring a planning permit
- Standards to be applied in consideration of developments requiring a planning permit
- Standards and processes to be applied to subdivision
- Processes for making local variations to Statewide residential provisions
- Practice notes
- Implementation of the code

One of the difficulties the Committee has had with the Terms of Reference is the time frame in which it was required to undertake its work. Whilst it is recognised that there has been a period of consultation by the Department with the local community, the time frame for submission of formal written responses to the Committee was not long, given the importance of this code.

### **1.3 Consultation**

This section describes the consultations and proceedings conducted by the Committee in accordance with the requirements of Section 5 of the Terms of Reference.

ResCode was placed on public exhibition for a two month period from 7 June to 11 August 2000. According to the Department of Infrastructure (the Department), more than 7500 copies of ResCode had been requested and more than 1500 people attended information sessions held during the public exhibition period. These workshops were held in 30 locations in metropolitan Melbourne and regional Victoria. The Department also ran briefings for Councils and key stakeholder groups through its eight regional offices at this time.

The first meeting of the Committee was held on 19 June 2000 with a full day briefing from various officers from the Department who provided the background and rationale for the development of ResCode.

Prior to the hearings, the Committee met to familiarise itself with all aspects of ResCode and to ensure that it had a good understanding of the policy agenda with



regard to the provision of a new, single residential code for development. At various times, officers from the Policy Development Unit of the Department were in attendance at parts or all of these meetings. The Committee also had briefings from the Sustainable Energy Authority and the mapping section of the Department.

In addition to the work of the Committee, the Department implemented a consultation strategy to inform the community about ResCode and to provide a forum for interested people to respond to the draft code in the form of workshop sessions. This work mainly occurred prior to, and around the time of the hearings.

The Committee did not undertake formal site visits or inspections, although members of the Committee undertook some informal views of some sites and areas referred to them during the course of the hearings and this process.

Early in its process, the Committee appointed Collie Planning and Development Services to assist at meetings and provide a summary of the key issues raised through submissions. These summaries were provided to the Committee at the end of the hearing process and provided a useful and constructive analysis of the key issues to emerge through the written submissions.

Section 4.2 of the Committee's Terms of Reference required the Committee to report on the social and economic costs and benefits of any proposed regulatory changes and the costs and benefits of alternatives to that regulatory change in the context of the *Subordinate Legislation Act 1994*. This exercise was clearly outside the area of expertise of the members of the Committee, therefore an economic consultant with expertise in this area, Jaguar Consulting was engaged to advise the Committee and provide a report in response to this part of the Terms of Reference.

A contract brief was prepared that provided for the consultants to perform a number of tasks in anticipation of further work being required once the Committee had completed its task. Owing to the time constraints imposed, the consultants have completed Stage 1 of the brief. This was an analysis of the objectives and costs and benefits of the proposal for regulatory change to the Building Regulations as described in the draft Residential Code for Victoria and the accompanying commentary document released on 7 June 2000. The summary report of the Consultant is included in Section 6, and the preliminary report of Jaguar Consulting is attached as Appendix B.

Two Reference Groups were appointed early in 2000 by the Minister to assist the ResCode Task Force in the development of ResCode. Their Terms of Reference included the provision of advice on the consultation processes and information dissemination about the new code.

The Committee arranged three meetings in mid August with members of the Reference Groups (30 representatives of key organisations with an interest in residential planning and building) and the associated Utilities and Infrastructure Reference Group (members with combined government and industry expertise to advise on infrastructure and subdivision provision). The Reference Groups included representatives of local government, the planning, building and architecture professions, the building and development industries, community groups, government agencies and service providers.

## 1.4 Submissions and Hearings

Submissions to ResCode closed on 11 August 2000, although many submissions arrived after that date. A total of 407 written submissions were received. All submitters were immediately advised of the hearing dates and locations for the hearings and were invited to complete a "Request to be Heard" form if they wished to elaborate upon their written submissions. A total of 169 submissions were heard over a four week period from 22 August to 15 September 2000. Appendix C provides a list of all written submissions, while Appendix D provides the timetable which indicates the list of oral presentations.

The Committee allocated four weeks for hearings, and operated with a quorum of a minimum of two members. While the Committee attempted to accommodate as many late requests as possible, it could not hear from a small number of submitters, mainly due to the extreme lateness of such requests.

Due to time constraints, the Committee advised all submitters that there would be time limits on presentations, and generally limited presentations to 2 – 3 hours for Councils and groups, and 1 – 2 hours for individuals. This limitation worked very well, as submitters were generally focussed in their presentations and it enabled a wide spectrum of submitters to be heard. Written submissions were received by the Committee from Building and Development Practitioners, Community Groups, Government Agencies, MPs, Industry and Professional Peak Groups, Inner and Outer Metropolitan Councils, Rural Councils and Individuals.

The Committee was impressed by the level of interest shown in ResCode by all sectors of the community and it appreciated the way in which submissions were prepared and presented. There is no doubt submitters put a great deal of effort into their submissions, many of which clearly articulated concerns and issues about ResCode that the Committee has taken on board.

The Committee was surprised that it did not hear from more Councils as part of the hearing process, and that it did not get at least a written submission from every municipality in Victoria. All metropolitan Councils made a written submission but a number of regional Councils failed to do so. This was of concern, firstly because the Committee wondered whether these municipalities lacked the resources to respond to this important document, secondly because it was concerned that some municipalities may have failed to appreciate the full implications of ResCode and thirdly, if those municipalities generally supported ResCode, then why did they not make a response that indicated such a view. ResCode impacts on all residential development in all areas, it is not just a city or town based code.

## 2. BACKGROUND

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ResCode was developed in response to a number of factors, not the least of which being Council and community dissatisfaction with development outcomes resulting from the use of some aspects of the Good Design Guide and, to a lesser extent, VicCode 1. In order to appreciate the background to the development of ResCode, it is necessary to review a number of earlier reports and Advisory Committee reviews.

### 2.1 Nature of the Issue to be Addressed

ResCode has been prepared in response to the Government's commitments that:

- Communities should be provided with a choice of well designed houses; and
- At the same time, the character of Victoria's streets, suburbs and towns should be protected.

These commitments were made in response to widespread public concern that the previous Government's controls over housing and subdivision available under the Good Design Guide and VicCode 1 did not sufficiently protect areas of valued character and that the emphasis on urban consolidation outweighed consideration of the intrinsic value of our streets and suburbs.

The problem to be addressed is how to protect the valued character of those residential areas about which there is community concern whilst at the same time providing a choice of well designed housing in a sustainable urban environment.

It is apparent from the many submissions received in response to the new Code that the community's primary concern related to infill development, both single dwellings and medium density housing, in established suburbs.

The perception that under the previous Government's residential development controls pursuit of urban consolidation outweighed consideration of the intrinsic value of streets and suburbs, highlights the underlying tension, and inherent conflict, between control standards and policy.

Is a residential code the vehicle to achieve control over the location and intensity of new housing or should such control be contained in a strategically based housing policy? The submission made on behalf of Australand (submission 241) argued:

*In our view, one of the primary reasons why the issue of urban character has become the measuring stick in this debate is because of a vacuum created by a lack of overall policy framework or housing strategy within the state, and in particular the metropolitan area.*

*To date, residential development in the established areas of metropolitan Melbourne has essentially proceeded along an ad-hoc path with little or no guidance from either State or Local Government. Each proposal for development is considered on its own merits and generally in isolation of any strategic understanding of the implications of re-urbanisation and the need to provide additional housing. Rather, the debate quickly focuses on the immediate site impact with the issue of neighbourhood character being*

*used by the planning authorities and existing community to assess the appropriateness or otherwise of that particular development.*

*While many municipalities have undertaken various housing studies and possibly developed population and housing targets there is rarely any nexus between those policies and the day to day administration of the statutory planning controls pertaining to housing. Given this circumstance, it is little wonder that many applications for residential development raise such high levels of conflict during the assessment stage. Today the overall community (including housing providers) has little certainty as to what can realistically be obtained from a particular site or area. Local Governments reaction to the increasing conflict has been to suggest mechanisms which would significantly limit the opportunities for the provision of new housing.*

*To avoid this conflict there needs to be a state-wide planning framework development for the provision of housing. This state-wide framework will be a multi-layered approach that would also comprise regional and local elements.*

*... The basis of this approach is to regulate urban sprawl, and to provide a level of certainty to where and what type of residential development can occur.*

The Committee endorses these comments. It sees a need for a strategy led approach and it sees this need being achieved in the forthcoming Metropolitan Strategy, review currently being undertaken by the Department (see Section 4).

The problem then remains as to how to address the “widespread public concern” that led to the Government’s commitments, how to achieve certainty and how to provide for the housing needs of the community with a choice of well designed and affordable housing.

In addition, there are a number of “loopholes” that require urgent attention if the indiscriminate practices of some developers are to be curtailed. Whilst some of these are being addressed, the following are examples:

- Demolition control.
- Large-as-of-right-dwellings on small sites.
- Tree removal and moonscaping.
- Development approvals that are in breach of covenants.
- Subdivision of land to enable second or third dwellings to be constructed without the need for a planning permit.
- Many of the techniques of the Good Design Guide and VicCode 1 become the developer’s sole focus, with objectives and criteria being neglected and ignored.

ResCode was developed in response to the above issues and concerns not the least of which being Council and community dissatisfaction with development outcomes resulting from the use of some aspects of the Good Design Guide, and to a lesser extent VicCode 1. The brief history of these documents is examined in the following sections of this Chapter to provide a proper context for the Committees findings.

## **2.2 VicCode 1**

VicCode 1 was developed in response to changing demographic, social and economic conditions that required new communities to be planned and developed in a manner that embodied principles such as:

- Reduced dependency on the private motor vehicle;
- Increased energy efficiency;
- Community oriented design that encouraged walking and personal interaction through better urban design;
- An acknowledgement that a diversity of housing forms and products were required to satisfy changing household forms and an aging population;
- Consistent requirements applied to subdivision; and
- Ensuring development requirements were cost effective.

VicCode 1 effectively replaced the myriad of local engineering and planning standards that applied to subdivision design and construction across the metropolitan area at that time. This provided a level of certainty to developers and relieved local governments of the burden of developing local standards for road construction, drainage and the like.

The following is a summary of the implementation and review of VicCode 1 to date:

- In April 1992, an amendment to the State section of Victorian Planning Schemes (SR1) replaced the Residential Development Provisions November 1988 with the Victorian Code for Residential Development (VicCode 1). This amendment required councils to consider VicCode 1 in all Reserved Living Zones and their equivalent.
- In 1994, the Victoria Building Regulations (SR 81/1994) subsequently brought aspects of VicCode 1 into effect in all urban areas for single dwellings on lots of less than 300 square metres. Some performance measures from elements 2, 3, 4 and 8 apply.
- At about the same time as VicCode was being implemented in Victoria, the Federal Government introduced AMCORD Urban Edition 1 (in October 1992). In 1995, the Federal Government released AMCORD 95: A National Resource Document for Residential Development. This replaced previous versions of AMCORD Edition 2 (1990) and AMCORD URBAN (1992). Subsequently a new two-volume version of AMCORD was released later in 1995.
- In 1996, the Minister appointed an Advisory Committee to review the operation of VicCode 1. This Committee released its report on December 1996.

The VicCode 1 Advisory Committee's report made a number of comments concerning the future of VicCode 1. Whilst generally supportive of the code, the Committee identified a number of weaknesses in the document. The following matters are some of those identified as requiring further consideration:

- Undue pressure is being placed on access places in new estates by a combination of inadequate parking provision and lack of footpaths.
- Inadequate attention is being paid to the community design elements in subdivisions and to energy efficiency in housing design and siting.
- There are some operational difficulties in the provision of services such as garbage collection and postal deliveries.
- The lot size threshold for a planning permit for single dwellings of 300 square

metres.

In addition to these, the Advisory Committee expressed a number of concerns about the different controls applicable to single dwellings and medium density dwellings and suggested that this matter be addressed through the application of a single code for all residential development.

## 2.3 The Good Design Guide

The Victorian Code for Residential Development — Multi Unit Dwellings, otherwise known as VicCode 2, was the predecessor to The Good Design Guide. VicCode 2 was introduced in December 1993 as both State Policy and a statutory code for the Melbourne Metropolitan area. It was intended to provide the basis for assessment of multi-dwelling planning applications.

The introduction of VicCode 2 coincided with a marked increase in multi-dwelling permit applications. Although VicCode 2 had undergone a lengthy consultation process prior to introduction, it was not until developments built in accordance with it began to appear in significant numbers that the community realised its implications. A review of VicCode 2 was held in 1994, with some of the key outcomes including:

- The introduction The Good Design Guide.
- The opportunity for local variations.
- The introduction of new elements relating to neighbourhood character and density.
- The abolition of as of right dual occupancy.

The Good Design Guide was formally introduced in July 1995. It is State Planning Policy that the Good Design Guide and any local variation incorporated in a planning scheme should be used when considering applications for medium density housing (Clause 16.02–2 of VPPs).

Under the residential zones of the new format planning schemes, no permit is required to use land for the purpose of a dwelling, but a planning permit is required for the construction and extension of medium density housing and residential buildings as follows:

- Construct or extend one dwelling on a lot of less than 300 square metres.
- Construct a dwelling if there is at least one dwelling on the lot.
- Construct two or more dwellings on a lot.
- Extend a dwelling if there are two or more dwellings on the lot.
- Construct or extend a residential building.

This does not apply to the construction of one dependent person's unit on a lot. An application must be accompanied by a site analysis and a design response as described in Clause 52.04 and The Good Design Guide for Medium Density Housing Revision No. 2, April 1998.

While it is recognised that there has been substantial criticism and concern about the use of the Good Design Guide over recent years, it is also important to acknowledge

that there has been a move forward in terms of applying and understanding the Good Design Guide and the quality of outcomes on the ground.

## 2.4 Standing Advisory Committee

In 1998, the former Minister for Planning and Local Government appointed a Standing Advisory Committee (the Standing Advisory Committee) to review current practical experience with the provisions of *VicCode 1* and *The Good Design Guide* relating to overlooking, overshadowing and building on or near boundaries. The Committee was required to make recommendations about how the provisions or procedures of *The Good Design Guide*, Ministerial Direction No. 8 or *VicCode 1* relating to these matters may be improved and made more effective.

An Issues and Options Paper was prepared by the Standing Advisory Committee in August 1999. However, the State election in September delayed its release. Upon taking office in October, one of the first actions by the Minister was to release the Issues and Options Paper for public comment.

On 13 December 1999, the Minister released the Government's State Planning Agenda, *A Sensible Balance* (the State Planning Agenda). At the same time he announced that the Terms of Reference for the Standing Advisory Committee would be expanded to include issues associated with density and carparking. Public submissions on these issues were called for, closing on 8 February 2000.

The report of the Standing Advisory Committee in response to its dual Terms of Reference takes into account the responses received to the Issues and Options Paper and submissions on density and carparking. It was also guided by the directions set in the State Planning Agenda and the Minister's announcement that a single residential code for all forms of residential development would be undertaken.

The State Planning Agenda is structured around four key directions:

- A strategic planning system
- Empowering local government and the community
- An emphasis on neighbourhood character and residential amenity
- A future for regional Victoria and the environment

A major initiative identified in the State Planning Agenda was the preparation of a new Residential Code for all forms of housing. Other relevant aspects included:

- The Government's commitment to the new format planning schemes prepared by councils;
- The emphasis on neighbourhood character and residential amenity, which would underpin the new code for residential development; and
- The aim of achieving a sensible balance between economic development, social growth and cohesion and the sustainability of Victoria's environment.

With respect to this balance, as it applies to residential development, the State Planning Agenda says on page 12:

*It is important to remember that managing residential development is only one part of a bigger picture. Building, urban design, heritage and the environment all have an*

*important role in the pursuit of maintaining Victoria's livability, reflecting community values and supporting economic and social growth.*

Other fundamental elements of the new Residential Code identified in the State Planning Agenda were to:

- Reduce the complexity of factors to be taken into account in the assessment process of new housing development;
- Encourage creative design and a broader spectrum of housing types which meets current and future needs; and
- Use language and processes that residents can better understand and apply.

A Residential Taskforce from within the Department was subsequently appointed to prepare the new Residential Code. Extensive consultation processes, including the establishment of a Reference Group of key stakeholders, were set up.

A number of issues canvassed in the Issues and Options Paper were taken over for implementation by the Residential Taskforce. These included determining an appropriate trigger for requiring a planning permit for single dwellings, changes to the Building Act 1993 and requirements for a site context plan to be submitted with an application for a building permit.

The concept of a single residential development code with common standards applying to single dwellings and medium density development was one of the options presented in the Issues and Options Paper. Its endorsement by the Minister resolved two of the greatest problems associated with the construction of new single dwellings in established urban areas, namely the lack of standards for single dwellings regulating overlooking and overshadowing.

In Section 3 of its report, the Standing Advisory Committee made some recommendations about principles which may guide the structure of the new code, particularly as it relates to the design and development of dwellings.

The criticisms of *The Good Design Guide*, which triggered its review, have largely been about its application in particular situations. The findings of the Committee, identified in the Issues and Options Paper, were that there was nothing inherently unreasonable in the majority of techniques and performance measures. Rather, it seemed to be a question of the way in which they have been used. The amendments recommended by the Standing Advisory Committee were to address the key areas where problems in the application of *The Good Design Guide* had become evident. These were mainly to do with the lack of standards about overlooking and overshadowing for single dwellings, responsiveness to neighbourhood character and excessive visual bulk.

There were two areas where the Standing Advisory Committee considered the need for resources should be focussed:

- **Strategic planning:** Strategic planning should set the parameters for the exercise of judgement, establish objectives and generally direct where and how development should occur.
- **Infill locations:** Infill locations were where the Standing Advisory Committee found the greatest number of bad examples of new residential development. The majority of these were single houses, which have no requirement for a



planning permit and have different standards applied to them. This is in contrast to greenfield locations where there are few problems with new development, apart from carparking (and these stem from subdivision standards, not the design of new dwellings). An established urban context is therefore the area where there is greatest need for skilled and informed judgement to be exercised in decision-making associated with new dwellings.

The Standing Advisory Committee suggested that government should display initiative in facilitating opportunities and flexibility in responding to different options, and suggested that the new Residential Code be drafted to acknowledge that there are models for residential development other than the conventional ones. Flexibility must be retained to respond appropriately to such models and innovation. The Standing Advisory Committee found merit in involving the public in the assessment process where opportunity sites interface with the surrounding neighbourhood and to recognise different design imperatives and standards.

The findings of the Standing Advisory Committee are embodied in its Final Report (and the Issues and Options Paper). Its principal finding was that single infill dwellings, where they occur as infill in established suburbs, should be subject to the same standards as medium density development and there should be a single residential development code for all dwellings. This concept has been accepted by the Government and is reflected in the State Planning Agenda.

The Standing Advisory Committee's other principal finding was that the objectives in *The Good Design Guide* were widely supported and should be accepted as a sound basis for guiding residential development. The areas where they could be improved related primarily to means of strengthening neighbourhood character and reducing excessive visual bulk. The density element had not proved to be successful and its removal was recommended. A range of measures to improve carparking were also recommended.

### 3. DRAFT RESIDENTIAL CODE FOR CONSULTATION

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#### 3.1 Background to ResCode

ResCode was released as a consultation draft Residential Code, together with a Commentary and a set of Practice Notes. The Commentary sought responses to some 34 propositions from all involved, be they planners, applicants, residents, developers, or Councillors.

The documents released did not purport to be the final solution to the process discussed above, but sought to challenge all involved and promote discussion about the processes and content of the draft code with a view to arriving at a residential code that works efficiently for all parties and enables us as a society to provide housing which meets our needs as we enter the 21st century.

ResCode was prepared by the Department in response to the State Government's policy commitment to produce a single housing code to replace VicCode 1 and the Good Design Guide, and to elevate and make mandatory the role of neighbourhood character in the assessment of new housing development.

It was submitted by the Department that ResCode had been designed to provide clarity, certainty and consistency in decision making. It had a two part structure which set out the requirements for different categories of development, some of which did not need a planning permit.

ResCode was proposed to apply to subdivision and to the construction or extension of a dwelling or a residential building in the Residential 1 Zone, the Residential 2 Zone, the Mixed Use Zone and the Township Zone. It was not proposed to apply to:

- Construction of dwellings on lots over 4,000 square metres;
- Construction of dwellings of more than four storeys above ground level;
- Installation of a dependent person's unit;
- Conversion of existing non-residential buildings to residential use.

ResCode was divided into two sections – Part A and Part B. Part A applied to one or two dwellings on a lot. If the standards in Part A were met, the proposal would not require a planning permit. Part B applied to subdivision, an application to build three or more dwellings on a lot, or one or two dwellings on a lot if the requirements in Part A were not met. Part B was applied through a requirement for a planning permit. The Committee understood that the division of development proposals into streams was designed to make the approval process as simple and clear as possible while ensuring that all new housing respects the character of its area.

Proposals to build or extend one dwelling on a lot would be assessed against Part A of the code and would not require a planning permit if they met the proposed 17 mandatory standards.

ResCode was proposed to be an integrated residential development model based around six key elements:

- Site analysis
- Neighbourhood character
- Environmental sustainability
- Diversity, choice and liveability
- Residential amenity
- Residential infrastructure

The integrated model allowed all relevant issues to be considered and treated all residential development as 'dwellings'. Different requirements applied depending on various criteria, such as how many dwellings were proposed on a lot or whether specific requirements could be met.

ResCode had been developed in such a way that it could form part of all Planning Schemes, rather than being an Incorporated Document in the same way as the Good Design Guide. It would allow for local variations to the schemes, which could be made through the planning scheme amendment process. Any proposal for a local variation would be subject to a public exhibition and hearing process.

The key element of ResCode was said to be the elevation and prominence of neighbourhood character. The Committee makes the observation that it was, however, treated no differently to the other five elements in the draft code. The Department indicated that assessment of neighbourhood character was a central feature of the proposed code. The mandatory site analysis would bring neighbourhood character into the assessment process at an early stage. Where a permit was not required, the mandatory standards for neighbourhood character were applied. Where a permit was required, the mandatory standards and some additional requirements related to character were applied. The new code also advocated certainty through mandatory standards.

ResCode required the preparation of a site analysis for all residential development, with the extent of analysis depending on the different levels of development proposed. A basic site analysis was required for a single dwelling on a lot which was to show the site features, setbacks, front fence height, roof form for the site and adjacent properties and windows, private open space on adjoining lots, and retention of mature trees (if any). The site analysis had to be endorsed by Council and then provided to a building surveyor. The development approved by the building permit had to comply with the site analysis requirements and any other specified mandatory standards in the code.

It was suggested by the Department that in this way, the key components of neighbourhood character could be built into the assessment process and it gave the Responsible Authority a role in the endorsement of the key aspects of neighbourhood character.

ResCode also introduces new requirements for all housing relating to building articulation (20% lesser upper storey floor area), permeable site area (20%), front setbacks relating to adjoining setbacks without encroachment, increased side and rear setbacks particularly from the northern boundaries of adjoining properties, front fence heights are limited to 1.2 metres, reduced opportunities to build on boundaries (10 metre maximum length), star rating as the basis for new dwelling energy performance, car parking requirements are related to the number of bedrooms (currently VicCode1 parking and crossover provisions for single houses are not incorporated in the building regulations) and storage space. In addition, for

single houses new measures are also introduced which are directed at protecting habitable room windows from overlooking, vegetation removal and roof pitch require approval, and the as of right height is reduced to nine metres.

### 3.2 Principles of ResCode

ResCode was designed to apply across the whole of the State and set out universal mandatory standards for residential development which applied unless a local variation was approved. For single houses and dual occupancy, local circumstances were addressed only in relation to front set backs, front fences, roof pitch and retention of mature vegetation through endorsement of the site analysis. Other Part A standards could not be locally varied and applied throughout the State. Part B standards operated as default requirements for development requiring a permit. (See discussion in Part 2 report) Alternative standards could be introduced through local variations for most matters other than the Residential Amenity standards in Element 5.

There was a common view amongst submitters that ResCode arose from and largely responded to the issues associated with infill development in middle ring garden suburbs (see discussion in Section 2.1). Submissions highlighted particular concerns about the relevance of the default standards to both inner Melbourne and fringe areas.

A joint submission from the six inner city municipalities, which was generally endorsed by officers of other inner Councils at the hearings, argued that:

*It (ResCode) fails to address the diversity of built form, and the consequent development options, found within the inner urban region.*

*This is of concern as in many circumstances a number of mandatory, prescriptive standards within ResCode will not be relevant to an inner urban setting. The standards of particular concern are:*

*Standard 8, maximum site coverage;  
Standards 9-13 height and setbacks;  
Standards 21, stormwater infiltration;  
Standards 38-40, daylight and sunlight;  
Standards 41-42, visual privacy; and  
Standards 70-71, resident and visitor car parking.*

The Committee agrees with submissions that ResCode did not recognise the form of development in inner Melbourne, and central areas of some regional centres, which is characterised by features such as small lots, higher site coverage, development to side boundaries, narrow street networks, higher demand for on-street parking and impacts of high traffic volumes. Inner Councils and industry representatives emphasised that the default mandatory standards in ResCode would preclude most renovations in inner Melbourne and would impose requirements on new development that were inappropriate in many inner city precincts.

Concerns were also raised regarding the application of ResCode standards to areas where the landscape is the dominant feature. Those areas are often characterised by

large lots, low site coverage and siting provisions to ensure space is provided for substantial trees. The development outcomes resulting from the default standards would undermine planning objectives for landscape dominant areas.

The problems associated with adopting a universal approach were magnified by the mandatory, prescriptive nature of standards. Local variations would be vital to recover a workable framework for evaluation of proposals in areas that did not fit the garden suburb typology and in addition would not address fundamental problems associated with a single set of standards for single houses. In these areas variations would need to be supported by the use of an overlay. Submissions highlighted the resource implications, political constraints and potential for inconsistency associated with ResCode's heavy reliance on local variations.

The need to recognise the differences between infill and greenfield development were also neglected by the universal approach adopted in ResCode.

### **(i) Certainty Through Prescriptive Standards**

The State Planning Agenda says that:

*In an economic and social environment characterised by rapid change, it becomes essential that our planning system is flexible enough to respond to and manage this change. But it needs to be prescriptive enough to provide certainty and consistency. A sensible balance must be reached.*

To provide greater certainty in development, ResCode adopted mandatory standards with prescriptive requirements wherever possible.

Submissions from a range of community groups and individuals applauded the move to mandatory, more prescriptive standards and the removal of discretion to vary standards. The Save Our Suburbs presentation to the hearing summarised the view expressed by a many community groups:

*If there is to be any degree of certainty and equity, the conditions applying to development should be prescribed in advance by the local council (or other responsible authority). Contrary to the current rhetoric, this will be less rather than more likely to stifle good design – it will give the designer clear guidelines within which to work, and will remove the opportunity for arbitrary aesthetic and other decisions to be made by planning officers, councils and VCAT. It will reduce the risk for the purchaser of the site. It will mean that neighbours can feel secure in the similar standards which apply across their precinct. It will mean greater equity and far less prospect of objection and appeal. It will dramatically reduce the load upon local planning officers and upon VCAT. (Page 3)*

Against this view many submissions, particularly from the design professions, emphasised the limitation of such heavy reliance on prescriptive requirements for example Hayball Leonard Stent indicated in their submission at page 2:

*We are concerned that due to mandatory requirements this process will be reduced to deliver a predetermined built form regardless of location, precinct, site issues, or the site influence and design response process.*

And from Australand:

*The fundamental problem with the introduction of mandatory controls is that they are unlikely to produce the best design outcomes for a site. Mandatory standards will lead to a “dumbing down” of the assessment criteria available to assess development proposals. Assessment will be based on developments satisfying minimum mandatory standards, rather than achieving design excellence. (Page 8)*

These submissions typically recognised that prescriptive requirements can be devised to avoid the worst outcomes in standard situations and that there is a need to clearly indicate acceptable common solutions. However, it was argued that the regulatory system must be capable of accommodating atypical situations and innovative design solutions. Designers argued that rather than stifling innovative design and new housing forms adopting solutions or techniques other than those identified in the standard, it should be incumbent on the designers to demonstrate the merits of the alternative design response against clear objectives.

## **(ii) Performance Based Planning**

ResCode represented a fundamental shift from the Good Design Guide performance basis for evaluation of proposals against objectives and criteria, to a much more limited focus on the satisfaction of mandatory standards. The ResCode Commentary indicated that:

*Standards determine whether an application for a development or subdivision achieves the purpose of the element.*

Under ResCode, the mandatory standards established the means by which objectives must be achieved and evaluation of proposals against the element purpose was only undertaken in relation to a limited number of discretionary standards. Under the Good Design Guide, objectives together with criteria establish the rationale for requirements and any solution that is demonstrated to meet the objective as well or better than the relevant technique is supported. The Committee believes that this shift from an emphasis on the quality of outcomes to an emphasis on compliance with rules is a retrograde step which will promote a formula driven approach to both the design and assessment processes.

The Standing Advisory Committee found that designers and Councils are becoming more skilled in managing infill development under a performance based system of evaluation. This view was also commonly expressed during the ResCode hearings. Rather than removing the need for judgement and greater reliance on prescriptive deemed to comply requirements, the Standing Advisory Committee advocated moving away from the concept of deemed to comply provisions. It was suggested at pages 42 and 43 its final report that the certainty that the community is looking for can be provided by more guidance being given about what is expected in different circumstances which offers the opportunity for greater weight to be given to matters such as neighbourhood character.

The Committee agrees with submissions that the complex nature of meaningful assessment of proposals cannot be distilled down to a series of quantifiable requirements which do not require the exercise of judgement. Neighbourhood character is a clear example of an issue which cannot be reduced to simple rules. It requires qualitative assessment and the exercise of judgement. Similarly drafting a prescriptive standard to achieve objectives of building articulation to reduce bulk

has proved unsuccessful. The focus of assessment of development proposals should always be on outcomes, not the satisfaction of rules for their own sake.

This Committee accepts that certainty regarding development requirements and outcomes is an important objective of the regulatory system and that standards or benchmarks can play a useful role in indicating acceptable solutions in common circumstances. However, these benchmarks should not be applied to the extent that the best or most sensible outcomes in a particular situation are precluded. A performance based assessment process should be maintained and improved by providing more guidance about when and how discretion should be exercised.

### **(iii) Need For Discretion**

Unlike the Good Design Guide and VicCode 1, the prescriptive standards in ResCode provided the only acceptable way of addressing an issue. The certainty provided by the removal of discretion to depart from prescriptive requirements was at the expense of the capacity to develop designs that responded most effectively to a site and its context. It is not possible to anticipate and address all circumstances in a standard set of rules.

The contradiction between the stronger emphasis in ResCode on site analysis and design response to achieve a considered response to site opportunities and constraints on the one hand, and subsequent evaluation of proposals directed at standard solutions to standard sites on the other, was highlighted in submissions. The nonsensical outcomes that can result from application of ResCode standards was illustrated by specific development examples during the hearing process.

### **(iv) Part A Standards**

ResCode indicated at page 3 that where the requirements of Part A were not met, a permit was required under Part B which:

*sets out more flexible but more comprehensive standards against which subdivision and more complex residential development will be assessed.*

However, submissions highlighted a fundamental flaw in this approach. The only Part A standards that had less onerous mandatory standards in Part B were building height, the extent of the offset between habitable room windows and private open space provision. The lack of discretion in the mandatory standards meant that consideration of any dispensations or alternative approaches were prohibited unless a local variation had been approved.

Dispensations from the existing siting requirements for single houses are a routine feature of the existing approval process. The Department's submission to the Committee responded to submissions highlighting the need to maintain an efficient, cost effective system for evaluation of departures from the usual standards by recommending that many of the features of the existing processes under the Building Regulations be maintained. Although the Department submission acknowledged the desirability of providing discretion on a site by site basis for minor variations to standards, it excluded:

*those standards that are essential to the protection of the basic residential amenity of all residents, such as side and rear setbacks, overlooking, and private open space. (Page 10)*

The Committee understands the rationale behind the intention to consistently apply key standards but agrees with submissions that it is not possible to draft standards that anticipate all situations. In some cases it will make sense to accept an alternative solution to achieve a better outcome. The discretion should be available in all cases.

**(v) Part B**

The capacity to respond to site conditions and the site context is just as relevant to multi unit development as single houses. The Department's submission acknowledged that comparable site by site discretion should be available for Part B applications.

The permit process is adopted in the planning scheme because judgement and discretion are necessary in the assessment of more complex multi-unit development or development on small lots. Further, it was suggested in submissions that the distinction drawn between mandatory prescriptive requirements and discretionary standards would result in the discretionary provisions being undervalued and in some cases ignored.

**(vi) Achieving a Balance Between Flexibility and Certainty**

The Committee is of the firm view that the shift in ResCode to mandatory prescriptive standards, without the discretion to respond to the circumstances of development proposals, would provide certainty at the expense of sensible outcomes. It would not provide the sensible balance sought by the State Planning Agenda. There should be certainty about the process of decision-making and knowledge that if objectives are met and prescribed steps are fulfilled, decisions will not be arbitrary or inconsistent. The Committee recommends a framework that seeks a balance between the objectives of certainty and accommodating designs that respond to their context by:

- building on the existing performance based system;
- maintaining discretion to accommodate site responsive or innovative design solutions;
- recognising the desire for certainty regarding specific requirements by maintaining techniques or benchmarks that will normally meet objectives; and
- enhancing consistency and certainty through the inclusion of additional decision guidelines where alternative approaches are proposed.

Many of the decisions of the past that have been unpopular and that have lead to inappropriate outcomes were, in the Committee's opinion, not a result of the availability of discretion to decide matters, but rather as a result of a vacuum in the framework with which that discretion was exercised.

**(vii) Common Amenity Standards**

ResCode set out to implement recommendations of the Standing Advisory Committee to achieve consistent requirements across housing types by specifying siting and amenity standards that were substantially the same irrespective of the



number of dwellings on a lot.

The Committee agrees that the same basic standards should apply to dwellings irrespective of the type of approval required, including the introduction of standards relating to overlooking, overshadowing and car parking for single houses. However, the Committee has been conscious of the practical imperative that simple, efficient approval processes and development requirements apply to the development of most single houses. Further, as the intensity of development increases, there is greater pressure to maximise the use of space. The complexity of design considerations also increases with the intensity of development, as does the potential for unacceptable impacts on surrounding properties. Therefore the Committee has maintained a more sophisticated framework for evaluation of proposals within the planning permit process.

The Committee agrees with the Department that some standards should apply to all development and a capacity to respond to local circumstances is not necessary or desirable eg car space dimensions, daylighting, window sill heights, noise performance standards.

### **(viii) Increased Development Requirements**

ResCode introduced some new standards and increased some Good Design Guide requirements to impose development requirements that have the potential to consume more land and therefore increase costs. Detailed discussion of ResCode standards are provided in the Part 2 Report, but some of the increased requirements and the response of the Committee to these are provided below:

- **Increased Front Setbacks**

The principle of relating front setbacks to those prevailing in the street in infill situations was advocated by the Standing Advisory Committee. In this regard, the Standing Advisory Committee at page 70 made it clear that setbacks should only be imposed where there is a genuine prevailing setback:

*There should be a **genuine** prevailing setback, which is a clearly defined characteristic of the streetscape. It is intended to apply only where a substantial number of residential properties exhibit the same prevailing setback. The prevailing setback requirement is a mechanism intended to promote responsive streetscape design, not increase the overall setback provisions of The Good Design Guide. If there is no clear prevailing setback, then the normal varied setback provisions will apply, which are those currently applicable under The Good Design Guide. The varied setback is based on the adjacent development context, so it is not unresponsive to site context.*

The Final Report from the Standing Advisory Committee recommended that new development be set back in accordance with any prevailing setback, with garages and carports to conform to minimum frontage setbacks.

ResCode extended the Standing Advisory Committee recommendation to prevent new development from adopting any reduction compared to the adjoining setbacks in an area. The principle recommended by the Standing Advisory Committee was widely supported in submissions. Although the treatment proposed for front setbacks incurs significant costs on new

development, it is endorsed by the Committee as a reasonable response to community concerns subject to redrafting of the standard and specific consideration of corner sites.

ResCode related front setbacks to those of the adjoining properties and removed VicCode 1 and the Good Design Guide opportunities for development to locate forward of the adjoining properties.

- **Increased Side and Rear Setbacks**

ResCode imposed an additional set back of 0.2m from side and rear boundaries. The reasons for the increase were unclear. This requirement would add to less functional space with little apparent benefit and is not supported by the Committee.

- **Setback From Neighbours' Northerly Boundary**

There was widespread support for the greater setback from neighbours' most northerly boundaries amongst community organisations, the Sustainable Energy Authority and Councils. On the other hand, the development industry highlighted the constraint imposed (particularly for narrow inner city lots) by the standard, the effect of fragmentation of spaces on the efficient use of land and the amenity of residents of the proposed development, the failure to consider the function of the space benefiting from the increased setback, and the potential for planting to compromise the achievement of the objectives of the setback. While the Committee is sympathetic to the objectives of this requirement, it does not believe that the potential benefits outweigh the costs or justify the compromised amenity of the new dwelling.

- **Upper storey floor area**

There was universal opposition to the standard requiring upper storeys to have a floor area of 20% less than the main lower level. The standard would not achieve the implicit objective of greater building articulation, the costs incurred would be substantial (estimates of 5,000-20,000+ per dwelling), the influence of topography on design was not recognised and the standard would prohibit buildings and works taking common forms such as terrace housing. The Committee agrees that the standard should be deleted.

- **Reduced Building Height for Part A Dwellings;**

Industry submissions expressed concerns regarding the reduced as-of-right height for Part A dwellings including:

- trends to higher ceilings are not accommodated;
- in areas with significant slope, building with a height in excess of 9m are the norm and alternatives to reduce height would add substantially to building costs;
- extensions and infill development should be able to match existing treatments without the necessity of a building permit.

The Committee believes that height has a significant influence on the impact of a development. In most areas a 12 metre height would establish an excessive

benchmark. The Committee has endorsed the reduced height of 9 metres and recommended that it be extended to all development. Decision guidelines would indicate matters to consider when discretion is exercised.

- **Private Open Space (POS)**

Minimum private open space dimensions were increased in ResCode, land between the street and the front of the dwelling was excluded, in Part B land adjoining a wall on the southern boundary was excluded from POS calculations, the proportion of POS provision at above ground level was limited and a new sunlight requirement for secluded private open was introduced.

The effect of the exclusion of land within the front setback, and in Part B, land adjoining northern walls, effectively increases the requirement for private open space provision. The Standing Advisory Committee sought to discourage secluded private open space in front setbacks but recognised that a balance between impacts on streetscape and the amenity of residents where the front setback provided the best orientation. The Committee agrees that **secluded** private open space should generally not be provided in the front setback but decision guidelines can address circumstances where such provision may be appropriate and issues which should be addressed. Similarly, the Good Design Guide exclusion of the area adjoining a northern wall from the **secluded** private open space calculation should continue to apply. Both the front setback and the area adjacent to the northern wall should be included in the overall private open space provision.

- **Car Parking**

Car parking requirements were increased for 3 bedroom dwellings and where car ownership was likely to be low but were reduced for two bedroom dwellings; the opportunity for parking spaces in tandem was not identified, and double garage width was increased by 0.5 metres. As with other mandatory standards, these requirements could not be reduced or waived unless a local variation applied. The Committee accepts that the higher parking requirement for larger dwellings is reasonable but does not support the removal of the opportunity to provide a lower rate where resident parking need will be low. The Committee does not believe that the increased width of garages is justified as the doors of both cars are unlikely to open at the same time therefore two cars can be accommodated more efficiently than one.

The cumulative effect of these increased requirements would be to increase the space required for each dwelling with implications for urban consolidation, housing costs, consumer choice and the efficient use of spaces. The Regulatory Impact Statement indicated that the new land using standards would result in significant increases in housing costs. (See Section 6.9 and Appendix B). The Committee believes that the increased front setbacks for infill development, reduced building height and increased parking for larger dwellings are justified.

However, the specific rationale for the numbers selected in ResCode and some other standards was not presented to the Committee whilst the importance of these numbers was exaggerated by the removal of discretion in ResCode. It appears that the response to community concern about the quality of some development has been to simply increase numbers in some cases without careful analysis of whether the increases would result in a better use of space or would be effective in addressing

specific concerns.

## 4. PLANNING AND POLICY FRAMEWORK

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The Committee is conscious of the need for any residential code to fit in with and be part of the existing policy framework and be a tool of that framework. The Code should not be a means of changing policy, it should be a means of implementing policy, and must, by definition, attempt to be policy neutral. A residential code dictates form, whilst policy dictates the density and location of that form.

This section of the report discusses the current planning and policy framework relevant to residential development in Victoria and focuses on the state and local framework as well as the Government's new planning agenda through the State Planning Agenda.

In accordance with the *Planning and Environment (Planning Schemes) Act 1996*, all municipal Councils in Victoria have prepared a new format planning scheme based on the Victoria Planning Provisions (VPPs).

There were two key planning reform objectives, these being to have better planning schemes and to have better approvals processes. These objectives would be achieved by having a policy basis for planning schemes and decision making, consistent statewide controls and provisions with the ability for local discretion within an explicit policy context, and having regular monitoring of the effectiveness of the system. This system aimed to achieve the objectives of the *Planning and Environment Act 1987* by concentrating on the outcomes the planning system would seek to achieve, rather than having layers of control with unclear purposes.

The planning reform program aimed to achieve better processes through the introduction of better planning schemes. The MSS at Clause 21 and the Local Policies at Clause 22 provide the fundamental strategic directions and policy framework at the local level for the administration of the new format schemes.

It is within this framework that the Committee provides the following planning assessment.

### 4.1 State Planning Policy Framework

The State Planning Policy Framework (SPPF) covers strategic issues of state importance and it lists the policies under six headings – settlement, environment, housing, economic development, infrastructure and particular uses and development. Every Planning Scheme in Victoria contains this policy framework and local policies must be consistent with those at the State level. State policy objectives for residential and housing development are found at Clauses 14 and 16 of the VPPs.

The SPPF seeks to ensure that the objectives of planning in Victoria as set out in Section 4 of the *Planning and Environment Act 1987* are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Clause 13 of the SPPF contains seven principles of land use and development planning that elaborate upon the objectives of planning in Victoria. A Planning Authority preparing amendments to a Planning Scheme, or a Responsible Authority administering a scheme, must consider these overarching and interlocking principles as well as the relevant specific policies.

The principle for Settlement is:

*Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:*

- *Health and safety.*
- *Diversity of choice.*
- *Adaptation in response to changing technology.*
- *Economic viability.*
- *A high standard of urban design and amenity.*
- *Energy efficiency.*
- *Prevention of pollution to land, water and air.*
- *Protection of environmentally sensitive areas and natural resources.*
- *Accessibility.*
- *Land use and transport integration.*

The other principles of land use and development planning relate to environment, management of resources, infrastructure, economic well-being, social needs and regional co-operation.

The objective of the SPPF on planning for urban settlement at Clause 14.01–1 seeks:

*To ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses.*

To implement this objective, Clause 14.01–2 provides that:

*Planning authorities should plan to accommodate projected population growth over at least a ten-year period, taking account of opportunities for redevelopment and intensification of existing urban areas as well as the limits of land capability and natural hazards, environmental quality and the cost of providing infrastructure.*

*In planning for urban growth, planning authorities should encourage consolidation of existing urban areas, especially higher density mixed use development near public transport routes.*

In dealing specifically with metropolitan development, the relevant objective at Clause 14.02-1 relates to an enhanced environmental quality and liveability for the metropolitan population.

The general implementation techniques at Clause 14.02–2 provides for:

*Outward metropolitan growth must be confined to designated growth areas in accordance with the Minister's Directions under the Planning and Environment Act 1987.*

*Consolidation of residential and employment activities is encouraged within existing urban areas and designated growth areas. Development in existing residential areas should be respectful of neighbourhood character.*

*Higher land use densities and mixed use developments should be encouraged near railway stations, major bus terminals, transport interchanges and tram and principal bus routes.*

A number of geographic strategies are listed that planning authorities should have regard to in preparing amendments, new schemes and Municipal Strategic Statements.

Clause 16 of the SPPF deals specifically with housing, with the objectives at Clause 16.01-1 for residential development for single dwellings including the encouragement of:

- *Subdivision in locations with access to physical and community infrastructure and providing a range of lot sizes, a convenient and safe road network, appropriate pedestrian and cycle paths, sufficient useable public open space and low vulnerability to fire.*
- *Residential development that is cost-effective in infrastructure provision and use, energy efficient, incorporates water-sensitive design principles and encourages public transport use.*
- *Opportunities for increased residential densities to help consolidate urban areas.*

The general implementation clause directs that:

*Maximum use should be made of the Victorian Code for Residential Development – Subdivision and Single Dwellings (Department of Planning and Housing 1992) to plan subdivisions for development of single houses on lots between 300 square metres and 4000 square metres.*

The objective for medium density housing at Clause 16.02-1 is to encourage the development of well-designed medium-density housing which:

- *Respects the character of the neighbourhood.*
- *Improves housing choice.*
- *Makes better use of existing infrastructure.*
- *Improves energy efficiency of housing.*

The general implementation clause directs that:

*Responsible authorities should use the Good Design Guide for Medium-Density Housing Revision No 2, Department of Infrastructure, April 1998 and any Local Variation incorporated in this scheme in considering applications for medium-density housing.*

There are other objectives relating to rural living and rural residential development (Clause 16.03) and crisis accommodation and community care units (Clause 16.04) within the SPPF.

The SPPF presents recurring settlement and housing policy themes focussing on urban consolidation, diversity of housing choice, cost effective infrastructure provision and sustainable forms of development. More recently, Amendment VC9 added a new theme addressing the important issue of neighbourhood character, and it was introduced on 25 May 2000 to make changes to the Settlement and Housing policies at Clauses 14 and 16 to recognise this.

## **4.2 Local Planning Policy Framework**

The local planning policy framework (LPPF) for all municipalities is derived through their Municipal Strategic Statements (MSS) at Clause 21 and their Local Planning Policies (LPP) at Clause 22. While the SPPF for all Planning Schemes is the same throughout the state, the content and strategic direction of each of the Councils varies accordingly.

Councils have been encouraged to develop policy for their local areas and to indicate where and how development should occur by way of strategic direction in the MSS and more specifically through policy and zone and overlay controls. All Councils have now had their New Format Planning Schemes approved but at this time few Councils have taken on the challenge of developing a strategic framework that clearly indicates the future direction of residential development in their municipality. Very few Councils have made use of the Residential 2 Zone (with Monash and to a lesser extent Greater Dandenong being the major exceptions) and very few have developed a strategic framework that provides a direction for the type of residential development sought, particularly the inner and established municipalities.

The reasons for this are varied, but are most likely because of the time frame for the development of the new schemes and the fact that there was very little real opportunity to undertake the studies necessary to provide for these strategies. The Committee assumes that Councils will do this work as part of the monitoring and review process and also as an outcome of ResCode and the recommendations of this report. It is important to acknowledge, however, that some Councils have done substantial work on developing policies on neighbourhood character and local variations, but have put the incorporation of this work into their Planning Schemes on hold pending the outcome of ResCode.

This is not to say that Councils should develop strategies that effectively discourage new development. Rather, they should examine their housing needs in a positive way and then provide strategic opportunities that encourage a broad range of options within their own municipalities.

## **4.3 The State Planning Agenda**

The State Planning Agenda was discussed earlier in Section 2. Specifically and as a reference for the work of the Committee, the State Planning Agenda highlights a number of key policy statements which are important in framing the responses of the Committee to consideration of ResCode.

At page 4 this document re-emphasises the need for a strategic planning system that provides flexibility and certainty:



*In an economic and social environment characterised by rapid change, it becomes essential that our planning system is flexible enough to respond to and manage this change. But it needs to be prescriptive enough to provide certainty and consistency. A sensible balance must be reached.*

*Strategic land-use planning is pivotal to achieving the Government's objectives for economic development, environmental resource management, infrastructure coordination and service delivery.*

The preferred approach of the government is highlighted and it discusses the important relationship to local government:

*The Government's strategic land-use planning will be based on a sound analysis of issues and trends that can be monitored and reviewed regularly. They will be integrated with the transport, environmental and social aspects of development.*

*The Government's land-use planning strategies will provide the strategic policy direction and framework within which local government can effectively develop and implement local planning policies.*

The State Planning Agenda promotes a more integrated system which alludes to the development of a housing code that takes into account single and multiple dwellings (page 4):

*..... building and planning may operate at different points of time in the system but they share a similar objective – achieving quality built forms. There is potential for much greater coordination and cohesion between the two systems.*

*For too long, the Building Act 1993 has been used as a quasi planning Act for single dwellings. A new comprehensive code covering both single and multi dwellings will help alleviate this problem, but further legislative changes are necessary.*

A key issue in the government's strategic framework is indicated on page 13, with an emphasis on neighbourhood character and residential amenity:

*The Government will replace the existing codes with a single, comprehensive code for residential development.*

*The mandatory starting point for assessment of development applications under this new code will be neighbourhood character.*

*The code ..... will be underpinned by the following principles of neighbourhood character:*

- (1) Neighbourhood character is determined by the physical, social and economic conditions of an area, but the planning system clearly influences the physical condition through characteristics such as street patterns, rooflines, setbacks, architectural style and mass, building and fence heights, gardens and trees.*
- (2) All neighbourhoods have a character that can be described and evaluated. The key question to ask is .... "what are the special characteristics of my neighbourhood?" The views of the community about what aspects of the character of the neighbourhood are special and how change should be managed are a critical component of any evaluation of neighbourhood character.*

(3) *A neighbourhood character study can inform a Council residential strategy. A residential strategy must be a forward strategy to guide the future preferred character of an area and to set areas of greater or lesser change.*

Some other fundamental elements of the new code will be to:

- *reduce the complexity of factors to be taken into account in the assessment process of new housing development;*
- *encourage creative design and a broader spectrum of housing types which meets current and future needs; and*
- *use language and processes that residents can better understand and apply.*

*The Government will produce a new residential code for all forms of housing in 2000. It is important to get the new code right so that it provides the stability and guidance needed to produce high-quality urban environments well into the next millennium.*

Page 14 of the strategic framework discusses the implementation of principles of neighbourhood character:

*The Government is committed to the following measures to implement the above-mentioned principles of neighbourhood character.*

- *a new residential code will provide for single dwellings, medium-density development and other forms of housing to be evaluated against the preferred neighbourhood character for the area. The new system must recognise that all parts of housing have an impact on neighbourhood character.*
- *the process of varying the standard provisions for dwellings to suit local conditions will be simplified and made less onerous.*
- *two Practice Notes will be released ... one will define a common position on what neighbourhood character is and clarify the role and methodology of neighbourhood character studies and strategies.*
- *the other Practice Note will show how residential development strategies can be developed.*

These Practice Notes will provide a valuable resource to highlight the role and methodology involved in preparing and developing character strategies for residential development.

### ***Identifying Areas for Appropriate and Inappropriate Medium-Density Housing (page 15):***

*The Government's policy is that councils can decide which parts of their municipality are more appropriate for medium-density housing. The Government does not, however, want to curtail the overall supply of new forms of housing – such as medium-density, which helps meet emerging needs.*

*What is important is to encourage medium-density housing to be built in the right places – and not in the wrong places. It is possible to locate new housing development to take advantage of existing infrastructure without destroying the most valued aspect of our*

suburbs, but such decisions need to be based on well-informed strategic planning. ....

### ***Building and Planning (page 18):***

*The Government's pre-election planning policy made a number of commitments that have a bearing on the way that building permits are currently issued. The commitments included:*

- *building and demolition permits will be required to be consistent with relevant planning permits for the site. Any required planning permit will have to be obtained before a building or demolition permit is granted. ....*

*Both policy initiatives are crucial to giving effect to the Government's full residential policy agenda by more closely integrating the operation of the building and planning systems.*

### ***The Environment (page 20):***

*The Government is committed to building the principles of ecologically sustainable development into the process of decision making and program delivery across the whole of government.*

### ***Sustainable Environments (page 22):***

*Land-use planning should be a key factor in integrating economic, social and environmental planning. Energy-efficient building and subdivision design can reduce costs for developers and householders. Diverse affordable housing better linked to public transport and amenities can have major safety and other social benefits.*

### ***Sustainable Urban Victoria (page 23):***

*A key element of sustainability is the need for better integration between mixed-use development concentrated around activity centres, and improved public transport use.*

*This initiative will be directed in large measure towards environmental objectives, including energy efficiency, reducing greenhouse emissions, stormwater management and community health.*

*The Government will shift the strategic direction of urban policy in two ways:-*

*Firstly, it will work with councils and community to identify appropriate locations for medium-density development, and no longer apply the same mandatory rules across urban areas. In particular, a policy will be adopted of concentrating medium-density and mixed-use developments on appropriate sites and around public transport nodes and activity centres – subject to heritage and other constraints. Medium-density development may be excluded from some areas.*

*Secondly, the Government will ensure the adoption of less car-dependent urban design and less wasteful use of land in the urban growth corridors. ....*

*Outer urban development can be substantially improved by the provision of a range of affordable lot and house sizes and types, integrated uses and better street connectivity around local amenities and public transport.*

The Committee accepts that this is the Government's planning policy and it agrees that a single residential code is one of the key initiatives. It does note however, that the State Planning Agenda is not part of the VPPs and it does not carry any statutory weight.

The Committee has interpreted the objective to achieve a single code as being directed at ensuring the development provisions provide an integrated approach to the development of housing and subdivision. It is not vital to place these provisions in the same document and the separation of subdivision and housing development provisions would assist in clarifying the relevance of specific provisions to the different but related processes.

As exhibited, the draft ResCode does not apply to all residential development as it particularly excludes development in certain zones and also over a certain lot area. This issue is further explored later in this report.

#### **4.4 Metropolitan Strategy**

At the moment the Department is in the process of preparing a Metropolitan Strategy which is to provide for the future direction of Melbourne and Victoria. A discussion paper, *Challenge Melbourne – Issues in Metropolitan Planning for the 21st Century* (Challenge Melbourne) was released on 25 October and noted that the Strategy will look at the entire metropolitan region and provide clear directions on how Melbourne can be shaped to meet existing and future needs of its population. In this regard, it is essential that ResCode be part of that strategic framework and complement the "big picture" envisaged as part of the overall framework. It is anticipated that the draft Metropolitan Strategy will be released later in 2001, and therefore, while this work on ResCode will be complete, its role as part of the strategy must always be complementary and supportive. Challenge Melbourne states in the introduction (page 5) that the strategy will concentrate:

*..... on the ways in which land use management and transport development can best support the economic, social and environmental needs of Melbourne. Its main focus will be metropolitan Melbourne and its immediate surrounds.*

It further discusses strategic links with key regional centres, including Geelong, Ballarat, Bendigo and the LaTrobe Valley.

Challenge Melbourne predicts that 420,000 extra dwellings will be needed to cope with the population growth of Melbourne by 2021. About 270,000 of these will house the forecast population increase and another 150,000 will be needed to compensate for the anticipated fall in household size. Will ResCode assist to meet these broad objectives? Will it promote a range of housing options to respond to this challenge? This population increase will obviously have major implications for ResCode, and for local government who will need to accommodate the additional population and associated dwellings.

Challenge Melbourne also highlights that housing density in Melbourne has increased as more people opt for homes with less land and floor area than traditionally offered by a detached house. It says:

*Most Melburnians support greater housing diversity and, theoretically, less use of resources, however, the emergence of local disputes in recent years in the face of urban consolidation demonstrates the sensitivity of changing housing density patterns.*

*people's housing preferences change as their needs change. As the population ages, people want to maintain community and social networks but may wish to live in smaller homes that need less maintenance than the traditional suburban family home. To cater for such changes, we need to provide greater diversity of housing in all suburbs.*

In recognition of these issues, the “challenge” is:

*To accommodate more households in established areas while protecting existing neighbourhood character, improving environmental outcomes and maintaining an adequate supply of affordable housing.*

- *How can additional housing be provided in existing suburbs in ways which improve the liveability of the area?*
- *Are there locations outside the central city where high-density development should be encouraged?*

In addressing these challenges and taking them forward, any code for residential development in Melbourne and Victoria must be cognisant of the long term housing and residential needs of the existing and future communities and to provide for a range of opportunities that provide a range of diverse and affordable accommodation to meet these needs. The framework for assessment of development proposals provided by the new code must explicitly provide for consistency with planning strategies.

## 5. KEY ISSUES

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Many submissions welcomed the initiative of the Government in releasing ResCode for comment. The replacement of the two existing codes namely, Good Design Guide and VicCode 1, was generally considered to represent a step forward in the preparation of better residential development control by reducing the loopholes between planning, building and subdivisions.

Submissions suggested ResCode should be an instrument to facilitate the State Planning Policy Framework objectives and to encourage the development of well designed developments that would:

- respect the character of the neighbourhood;
- continue to facilitate urban consolidation policies;
- improve housing choice;
- improve certainty;
- require the need for a permit before demolition;
- facilitate a closer integration of the operation of the building and planning systems in Victoria;
- make better use of existing infrastructure; and
- improve energy efficiency of housing and residential areas.

However, the question asked in many submissions was whether ResCode would deliver on the above objectives. In this regard, it was considered by submitters that ResCode should:

- address some of the perceived deficiencies with the Good Design Guide and VicCode 1;
- ensure that neighbourhood character is respected;
- provide benefits to the community in the area of subdivision and layout design;
- acknowledge local differences and allow for the introduction of local variations.

In summary, it was generally considered by submitters that ResCode:

- would not ensure the protection of neighbourhood character or improve housing choice, by only replicating 'next door' (in reference to Part A), which may or may not be perceived as 'good' or 'preferred' neighbourhood character;
- may stifle innovation;
- would only deliver marginal benefit to the community compared to the energy and resources required to satisfy the Part A requirements;
- did not recognise and acknowledge the distinctions between greenfield, brownfield and infill situations;
- did not promote urban consolidation and sustainability;
- would not necessarily facilitate equity or affordability in housing;
- would not assure a balance in assessment nor consistency of outcomes; and

- did not clarify the role of other statutory provisions such as Heritage Overlays, Design and Development Overlays, Special Building Overlay and Significant Vegetation Overlay.

In taking these submissions forward and in preparing its response to the Terms of Reference, the Committee has identified a number of key issues to be addressed that have assisted it in framing its views on ResCode. These issues have been derived from the work of the Committee in:

- Review of ResCode
- Analysis of the Standing Advisory Committee Report on the Good Design Guide and VicCode 1
- Discussion with key groups, including the Reference Group
- Analysis of submissions
- Hearing of oral presentations
- Discussions with Department officers
- Recognition of the political imperatives underpinning ResCode
- Observations and opinions

These issues are important to identify up front as they became integral to the Committee in developing its responses to the Terms of Reference, and in developing its conclusions and recommendations. The issues which are explored in some detail in the following sections include:

- Strategic leadership and certainty
- Integration with other Government policy
- Nature of the housing industry
- Subdivision
- Neighbourhood character
- Overlooking
- Application of ResCode
- Concerns about ResCode
- Assessment process and site analysis
- Local variations
- Transition and implementation

## 5.1 Strategic Leadership and Certainty

The Committee endorses submissions made to it on the need for leadership in terms of planning for the future needs of the Victorian community as discussed in the State Planning Agenda under the heading “*Strategic Planning*” on page 4:

*Strategic land-use planning is pivotal to achieving the Government’s objectives for economic development, environmental resource management, infrastructure co-ordination and service delivery. It enables the Government with the community to:*

- *understand the way in which urban and rural communities operate, and the opportunities and problems;*

- *provide information and analysis that can assist private and public sector decision making;*
- *establish priorities for infrastructure and service delivery;*
- *create a framework for local planning policies; and*
- *establish long-term goals and objectives the entire Victorian community can strive for.*

In terms of housing and its impact on neighbourhood character, the Committee believes that appropriate strategic planning must identify the demographic changes and housing needs of the community for the next 10 to 20 years, where those needs are to be accommodated, and the most appropriate way to address the level of uncertainty said to exist. The Committee anticipates that this leadership should be provided through metropolitan and local housing strategies.

The need for leadership is not only at State level but also at local level and must be based on realistic assessments of future community need and not on a knee jerk reaction to ad-hoc development proposals. It is a basic function of urban planning to protect the interests and needs of people and future generations who may not have a strong voice in the current development debate.

The need to understand the clear implications of the changing age profile of Victoria's population is fundamental to understanding the future housing needs of the community. In the Department's Publication Research Matters Issue 15 of September 2000 it was reported:

*Victoria, like Australia and other western nations, has continued to experience the increase in the average age of its population. In 1971, 8% of Victoria's population was aged over 65 years. By 1996, this figure had increased to 12.5% and is projected to be nearly 19% by 2021. While population aging is a well-known phenomenon, it is perhaps less widely appreciated that the aging of the population is likely to be a much stronger trend in regional areas than in the major urban areas. This is due almost solely to the fact that young adults move to large urban centres, particularly metropolitan areas, for education and employment. In addition, many parts of regional Victoria attract retirees, thus increasing the age profile.*

There is a community expectation that reasonable levels of residential amenity will be protected, that existing valued neighbourhood character will be respected and that future housing needs will be provided. There is an increasing expectation by those reaching retirement age that they will be able to "age in place" ie., continue to reside in the same area with existing social networks etc., but in smaller households and dwellings to suit their needs. The change in the type of new dwellings in metropolitan Melbourne between 1992 and 1999 from 12% to 28% of other residential dwellings compared to houses reflects the increased demand for such new dwellings. (See *Housing Ourselves*, ResCode Background Paper page 4.)

It is reasonable for the community to expect that State and Local Government will provide the leadership and clear direction in formulating policies that will protect existing residential amenity and respect neighbourhood character whilst at the same time catering for an affordable choice of housing styles to accommodate the changing demographic requirements of the community.

Many Councils in the inner and middle municipalities have undertaken neighbourhood character studies and are in the process of preparing housing



strategies informed by these studies that have been or are almost ready to be exhibited by Council. There is a strong community expectation that the work that has gone into the preparation of these strategies should not be wasted having regard to the extensive level of community consultation undertaken in their preparation.

The abovementioned community expectations are only one aspect that should be guiding decision makers. They must also take into account the broader issues of aging population, access (particularly for the disabled and elderly in society), the provision of affordable housing, public transport and the need for ecologically sustainable development.

With the State Planning Agenda seeking to empower local government and the community, there must be a concomitant responsibility of balancing the competing demands and needs of all sectors of that community.

Sustainability is a fundamental issue for planning, and urban form must be capable of functioning in a sustainable manner. The 1990's saw planning embrace the concept of sustainability. This concept, which essentially seeks to harness the goal of economic, environmental and social prosperity, is now the cornerstone of planning theory and practice. It follows, therefore, that the philosophical basis of any new Code must be based on the concepts of "sustainability".

The Committee endorses the discussion in the State Planning Agenda under "Sustainable Environments" on page 22 which says:

*It is important that we move rapidly to implement the principles underlying sustainable urban and rural environments. Land-use planning should be a key factor in integrating economic, social and environmental planning. Energy-efficient building and subdivision design can reduce costs for developers and householders. Diverse affordable housing better linked to public transport and amenities can have major safety and other social benefits ....*

*The priorities for Victoria's cities and towns in the coming decades would be to establish high levels of liveability, safety and sustainability. People need good access to urban services and amenities, safe public places and transport, healthier quality, and protection from excessive noise and industrial hazards. There are also wider needs to conserve energy, reduce greenhouse emissions and protect ..... natural eco systems and habitat.*

## **5.2 Integration with Other Government Policy**

ResCode was proposed to form part of a package of strategic policy and statutory mechanisms relating to residential development and subdivision, and sit in or with the VPPs as part of all municipal planning schemes. In addition to being consistent and compatible with State planning policy, it is also important that planning policy be consistent with other Government policies such as housing and transport. At the very least, planning policy, and in this case ResCode, should not undermine or conflict with other major policy initiatives and objectives of government.

It is also critical that local policies or local variations as proposed by local government be developed in such a way that they do not frustrate wider State government policy objectives and are indeed prepared in support of existing policy.

The Committee received a number of submissions that questioned whether ResCode in its current form upheld the state policy objectives relating to settlement and housing as enunciated in the SPPF.

The Committee supports the views of some submitters that there needs to be a greater emphasis on development of a housing policy that takes into account the housing needs of the wider community. This should include the needs of all sectors in all locations, including inner Melbourne, the fringe growth areas, the regional cities and other rural areas.

Jaguar Consultants indicated that there are negative impacts of ResCode in terms of other government policies due to inherent conflicts between them and the land using aspects of ResCode. These include lost opportunities for urban consolidation and increased housing diversity and increased infrastructure provision costs. The consultants also suggested that a regressive wealth transfer to middle-suburban property owners could be considered in this category. (See Appendix B.)

The Committee received submissions from a range of other government departments and agencies including the Office of Housing, Department of Human Services (367), DNRE (317), Sustainable Energy Authority (219), VicRoads (375), Melbourne Water (164), Parks Victoria(230), Building Control Commission (204 and 243), Albury Wodonga Development Corporation (157), Urban Land Corporation (293) and the Department of Infrastructure (292). Other submissions received in response to ResCode from submitters allied to government included those from the Ecumenical Housing Inc.(254), National Heart Foundation (225), and VicHealth (239).

The submissions from the housing and health professions were particularly interesting. The Office of Housing provides over 2000 new dwellings each year for public housing and community-managed housing as part of a commitment to meeting the needs of those not well-provided for in the private market because of affordability, special housing needs or discrimination. While it supports the government objectives in principle, it shares industry concerns that ResCode increases development requirements that may make the difference between affordable development and non-affordable development for its clients, eg increased setbacks, upper storey limits, communal open space, car spaces per dwelling and the like. It is concerned that the removal of discretion from standards will not allow the particular needs of the client group it serves to be accommodated.

The Ecumenical Housing group is a commission of the Victorian Council of Churches and it is a non-profit organisation whose mission is to provide appropriate, secure and affordable housing to those who are marginalised. Since its inception it has been assisting community organisations across Victoria to develop community housing projects and to contribute to housing policy reform. While the organisation echoes concerns of the Office of Housing with a number of the standards proposed as part of ResCode, it is also concerned about the lack of recognition of State Government Social Housing Policy within ResCode.

It is important to ensure that a policy about residential development does not compromise other policies in other government departments about housing.

The Labor Party's Housing Policy in 1999 promised to expand housing stock in Victoria, to expand public and community housing, and to expand affordable housing development to provide quality, well located and affordable public housing.

While it is recognised that the public housing market has a lower turnover than the traditional housing market, it is considered that the objectives of providing more affordable public housing may not necessarily sit comfortably with some of the objectives and requirements of ResCode. Likewise those in the semi-government and private sector (eg the Urban Land Corporation (293) and the Dennis Group (172)), who provide for affordable housing in the growth areas, may find some of their housing options compromised by certain aspects of ResCode. This is not to say that the Committee in any way endorses poor quality development, however, it is fair to say that the imposition of all of the standards of ResCode will add to the cost of development, thus having an impact on people with limited resources.

Coupled with these issues there is a unique opportunity to ensure that whatever residential or housing code is developed, it provides for full access opportunities for people with disability. This includes opportunities for access by those with physical disabilities to all new development, adaptable dwelling design and adequate width for pathways in new residential areas to enable and encourage elderly and disabled mobility.

The other major policy area that needs to be considered is that of transport. It is interesting to note that the release of the Metropolitan Strategy involved a joint launch by both the Minister for Planning and the Minister for Transport. Clearly there is a need to provide for full infrastructure planning and the development of a Metropolitan Strategy will open the door for this as it evolves. Already the SPPF provides for higher density residential development near major transport nodes and many Councils have local policies that take this further. Some Councils (eg Whitehorse, Moreland, Bayside) also have endorsed, and are actively promoting, the concept of urban villages in order to encourage a variety of residential and mixed use development which is focussed around key transport nodes.

While this discussion is not exhaustive, it should be recognised that there are other government policies that impinge on residential development and no one policy should be seen to compromise another. At the very least, they should be compatible and supportive in intent. When implemented, ResCode will need to be sensitive to policy and specifically incorporate consideration of policy in the decision making framework. It should provide for protection of basic and acceptable amenity impacts and should promote a higher order urban form.

### **5.3 Housing Industry Issues**

The building industry makes a major contribution to the Australian economy. The Building Control Commission profiles building activity in Victoria in its annual report.

Of 106,280 building permits issued in the 1999/2000 financial year, 86.3% or 91,748 permits were issued for domestic building work, ie detached houses and one or more attached dwellings. This represents \$6619 million worth of building work attributable to single dwellings. For multi-unit developments 2041 building permits were issued, representing building work to the value of \$913 million.

Of the domestic building permits issued, 35,351 (\$5,446 million) were for new buildings, 40,439 (\$1004 million) for alterations and extensions, and 4,365 (\$19.6 million) for demolition or removals.

The Australian Bureau of Statistics breaks down building activity into inner and outer Melbourne municipalities. Preliminary 1999/2000 estimates put inner Melbourne commencements accounting for 24,695 dwelling units (single houses) at a cost of \$4,262 million of development, and outer Melbourne commencements accounting for 9,915 at a cost of \$1,409 million. On the other hand, multi-unit commencements of 12,501 dwelling units to a value of \$1,856 million in inner Melbourne drops to 712 commencements at a cost of \$74 million in the outer municipalities.

In regard to siting dispensations for dwellings, for example in the City of Boroondara and the City of Whitehorse, of approximately 550-600 and 240-260 applications made to the Municipal Building Surveyor, only 10 and 4 respectively were referred to the Building Appeals Board for determination. This provides an indication of both the numbers of dispensations for single houses which occur and the efficiency of the current system for the resolution of such dispensations.

The total number of siting appeals received by the Building Appeals Board was 93 out of 91,748 domestic permits issued for the State of Victoria. This equates to 0.1% of permits issued.

With respect to those projects requiring planning permits, over the same period 1364 single multi-unit type dwellings were subject to review at the Victorian Civil and Administrative Tribunal.

These statistics indicate that the "widespread public concern" discussed earlier relates only to a small component of the overall residential construction carried out in Victoria. It is important to recognise that this small number should not be taken out of proportion, as it runs the risk of significantly compromising the housing industry and other important policies.

A number of submissions were received from project home builders who expressed particular concern about the implications of ResCode on their range of products and the cost implications of the proposed assessment process and standards contained in ResCode. The Committee was told that project home building provided affordable housing to the majority of new homebuyers, that designs are based on extensive market research and display homes which result in substantial sales reflect this research. ResCode variations to setback requirements, building heights, length of walls on boundaries and location of windows, it was said, would lead to costly revisions to standard products and had implications for lot sizes required to accommodate the required changes to the current range of products and thus increase in their price. The amount of investment and lead time required to develop new display homes, which are vital part to the mode of selling, takes up to three years.

The Committee recognises the concerns expressed on behalf of this significant sector of the building industry and appreciates that competition in the industry means that profit margins are not excessive. The Committee also understands that the industry generates a significant volume of turnover and employment and is an important contributor to the economy. Any sudden alteration to siting standards or the like could lead to a significant downturn in building activity during the transition period that would be needed for such builders to adjust to the new regime. Any transition arrangements would need to recognise the impact on existing display homes, and that contracts establish liabilities on the part of builders and owners.

Notwithstanding the above observations, the Committee is also conscious that project home builders may recognise the benefits of adjusting their products in order to improve amenity for consumers. Change may also be required to reflect changing attitudes to environmentally sustainable development, to accommodate the needs of an ageing population and people with disability, and to provide housing choice and diversity.

The Committee recognises that the rate of change in the housing industry needs to be carefully monitored to avoid sudden changes in the regulatory regime controlling building standards whilst at the same time ensuring the building industry accommodates the Government's aims for ecologically sustainable development.

## **5.4 Subdivision**

ResCode proposed to replace the VicCode 1 with a single document that combined development controls for single dwellings, subdivision and medium density housing in the one document.

Subdivision of land is much more than simply an administrative process carried out by administrative assistants in planning offices. Similarly, the subdivision of land, whilst particularly concerned with infrastructure provision, is not an activity undertaken solely by engineers.

Subdivision, particularly broad hectare subdivision, is land use planning in its truest sense. Well-planned and skillfully designed subdivisions provide the blueprint upon which new communities and suburbs are established. The location and design of open space, the proper location of community facilities, properly sited and oriented lots, retention of notable vegetation, a proper response to topography and the retention and enhancement of natural watercourses can all contribute to an area's sense of place, livability and sustainability.

Conversely, a subdivision design that ignores or leaves these issues unresolved is likely to create an undesirable suburban environment for generations (if not forever). This effect will occur irrespective of the type of development that is ultimately constructed on the land. In this context, controls over dwellings have far less significance to the overall well being of a community. Poorly designed buildings can always be rebuilt over time, whereas a poorly designed subdivision may remain in place forever.

One of the key strengths of VicCode 1 is its format. It is an accessible document, designed to be embraced by planners, surveyors and engineers. In so doing, VicCode 1 became a planning tool that assisted the proper development of new communities. Consequently, VicCode 1 was just as important to a municipality's planning officers as it was to its civil engineers.

The weaknesses outlined by the 1996 Advisory Committee report on VicCode 1 (see Section 2) have, to some extent, been addressed by the provisions of ResCode. For example, the VicCode 1 Review Advisory Committee recommended that all applications for subdivision must be accompanied by both a site analysis plan and a report that demonstrates compliance with Element 0 Community Design. Similarly, Standard 62 Table 5 requires footpaths to be provided in Access Lanes and Access Places. The Committee endorses the position of the VicCode 1 Review Committee

except for the necessity to construct footpaths in Access Lanes. This Committee notes that the definition of Access Lanes is different to that under VicCode 1 in that properties do not have a primary frontage to an Access Lane.

Notwithstanding this, the Committee does have concern with a number of matters proposed in ResCode, and does not support the following matters:

- The extent of information required to be provided as part of site analysis for subdivision. The Committee feels that the requirements for a site analysis under Part B are unduly onerous and will not lead to improved subdivision design.
- ResCode proposed to allow local variations to a number of subdivision standards. One of the features of VicCode 1 was the deletion of local construction standards in favour of a set of statewide construction standards. This was, and continues to be, one of VicCode 1's key strengths. Indeed, the Committee has not been persuaded that there is any need to allow for local variations to these standards. To a certain extent, the need for local variations will be obviated if the "mandatory standard" approach is deleted from the proposed code. This would allow councils the flexibility to require different standards if the circumstances required such an approach. Decision guidelines to indicate where and how discretion should be exercised would provide an important addition.

The above comments indicate that the Committee considers that VicCode 1 provides a clear and well-developed suite of subdivision controls. The subdivision controls in ResCode need to be rethought and the aims for the future development of new suburban areas recast. At a strategic level, the Committee considers that the exhibited Code failed to build on the many positive aspects of VicCode 1. In particular, the new controls lack a sense of future vision for the sustainable development of new communities. VicCode 1 represented the first step in the achievement of this vision. In the view of the Committee the time has come for planners to take another step forward toward the goal of sustainable suburban design.

The Committee is of the opinion that any new code should not simply be a reworking of the existing control, but rather, it should represent a more ambitious vision for the development of new communities. The 1990s saw planning embrace the concept of sustainability. This concept, which essentially seeks to harness the goals of economic, environmental and social prosperity, is now the cornerstone of planning theory and practice. It follows, therefore, that the philosophical basis for any new code must be based on the concept of "sustainability".

It is fair to say that, unlike the Good Design Guide, there has been no organised outcry or systematic opposition to VicCode 1. Whilst this support is testament to the durability of VicCode 1, the Committee is not content to simply recommend that VicCode 1 be left alone just because people appear comfortable with it.

Whilst many submitters from the development industry spoke positively about VicCode 1, the Committee has some concerns that many of the code's objectives and performance criteria, especially Community Design are being overlooked by councils and developers alike. As with the Good Design Guide, there seems to be evidence to suggest that some developers tend to concentrate on achieving compliance with certain performance measures, whilst at the same time ignoring some of VicCode 1's qualitative requirements. This view echoes the VicCode 1

Review Panel, which said at page 35:

*Lack of reference to this element (Community Design) is a matter of some concern particularly to Councils and the Local Planners Association. Their concerns reflect the view, already put, that developers tend to see VicCode 1 purely as a guide to the technical aspects of subdivision rather than as a guide to the creation of new communities and neighbourhoods. Many subdivision applications provide no site analysis and no understanding of context particularly in relation to location of community facilities for new residents.*

The Committee supports this view. It also considers that many Councils no longer have trained staff capable of properly assessing subdivision applications in the integrated manner envisaged by VicCode 1. It may be that some of the deficiencies of VicCode 1 could be addressed through training planners and designers to more actively and constructively participate in the assessment of subdivision applications. There was at least some suggestion that the processing of subdivision applications is given to a subdivisions officer, often times a junior planner or administrative assistant, with little experience or understanding of some of the more complicated aspects of subdivision design. Councils and the Department should address the lack of training packages as a matter of priority.

There is need for a comprehensive approach to review the objectives and standards of VicCode 1, rather than a “tweaking” of it that has occurred through this ResCode process. This review should involve comprehensive consultation with relevant stakeholders, including representative of the development industry, local councils and other government and quasi-government authorities such as VicHealth. The Committee considers that any review should highlight the following issues:

- Improving permeability of new subdivisions, particularly for pedestrians.
- Providing a greater focus on energy efficiency (through both improved siting and a reduction in car dependency).
- Improving urban design and creating the opportunity for safer and more vibrant communities.
- Improving stormwater management practices.

The Committee was made aware of the Western Australian Government’s recently adopted *Liveable Neighbourhoods Edition 2 (2000)* subdivision policy. This policy builds on VicCode 1 and in some ways can be seen as evolution of the Victorian model. This policy seems to provide some direction for the future refinement of VicCode 1 and concentrates on some of the issues outlined above. However, the Committee has not fully evaluated the applicability of this policy for Victorian conditions and would not support this model unless and until a proper cost-benefit assessment was undertaken, and there is a full evaluation by all stakeholders. In the meantime, the Committee recommends that until this review is undertaken, VicCode 1 should form the basis (with some adjustments), of Residential and Subdivision Provisions in the VPPs proposed later by the Committee.

## **5.5 Neighbourhood Character**

The State Planning Agenda defines neighbourhood character as follows:

*Neighbourhood character is the qualitative interplay of built form, vegetation, topographic and social characteristics, in both the private and public domains, that make one place different (or distinct) from another.*

This is a broad and encompassing definition, and it is the one that the Committee has relied upon in considering how best to manage issues of neighbourhood character. It is difficult to address the social aspects of character through planning provisions.

The existing planning scheme, through the SPPF, makes it clear that residential developments need to respect the character of existing areas. Clause 14 of the SPPF includes under general implementation:

*Consolidation of residential and employment activities is encouraged within existing urban areas and designated growth areas. Development in existing residential areas should be respectful of neighbourhood character.*

Clause 16 of the State Planning Policy Framework sets out the objective for medium density housing, which is:

*To encourage the development of well-designed medium-density housing which:*

- *Respects the character of the neighbourhood.*
- *Improves housing choice.*
- *Makes better use of existing infrastructure.*
- *Improves energy efficiency of housing.*

In the view of the Committee, respecting character does not mean preventing change. Some areas will see significant changes as Melbourne adapts to new social and economic conditions. Rather than character simply being about protecting existing patterns of development, the Committee believes the above objectives are also of great importance in areas where change is to be encouraged.

The Committee is of the view that the role of neighbourhood character could be strengthened in the VPPs and that in some sense character could take its place beside 'amenity' and 'orderly and proper planning' as an under-pinning concept in the planning decisions.

It is clear that the character of areas changes over time. The purpose of influencing changes in neighbourhood character is to improve or protect the character as it exists from time to time. It is perhaps useful to think in terms of three periods or stages in the formation of the character of an area:

- the original or underlying character that is set down when the area is first developed;
- the current character; and
- the intended future character which describes how an area may be developed or may evolve.

The underlying character of an area is shaped when the area is developed. Many of the determinants of character, such as street layout, lot sizes, solar access, or the amount of car access, are determined when the area is subdivided and can only be changed slowly, if at all.



In developing or 'greenfield' sites, the character of these areas is being created. Greenfield character is addressed through site analysis and community design to protect important features such as vegetation, views, streetscape and the like to provide the design framework. There was little support for the proposition that planning schemes ought to influence the character of these developing areas. In fact the reverse was true. While character is an important concept in managing infill development or development in existing areas, it is of little relevance to planning issues in new subdivisions. The overall tenor of submissions was that these areas should be free to create their own character, provided of course, fundamental issues of access, open space and environmental protection and the like were addressed, and increasingly, sustainability issues such as solar access and energy efficiency.

There has been some discussion on what constitutes "greenfield" and "brownfield" subdivision and whether the two are one and the same, or whether there are tangible differences between the two. The Committee likes the view put by the UDIA that greenfield subdivision applies to areas where the subdivision is of sufficient size to cater for a development that is capable of creating its own neighbourhood character, and is not influenced by existing development. This definition may also be applicable to larger brownfield redevelopment sites in established urban areas, although usually redevelopment in these areas (eg redundant school and industrial sites) is influenced at least on the perimeter by the form and character of the areas surrounding it, where the external context of the site has already been established.

Good planning demands more than just trying to preserve what simply exists and is of value today. It must also focus on creating an accessible, liveable and sustainable city for future generations.

While change is possible in all areas while respecting existing character, in some areas intensive change will be an outcome of the changing demographics of Melbourne and the need to provide for the housing requirements of residents.

It is useful in these cases to specify a future preferred character, which needs to be set by the consideration of a range of planning issues and needs on a neighbourhood basis, not on a site-by-site basis. Again the Committee emphasises the importance of strategic analysis of future needs in developing character strategies.

The Committee cautions against taking the objective 'making neighbourhood character the mandatory starting point for planning applications' too literally. Clearly there is little to be gained in making neighbourhood character the starting point if the decision processes and judgements result in the same sorts of decisions that occur at the moment, simply in a different order. Neighbourhood character also has to be an end point.

There are three substantive ways that neighbourhood character can be made a starting point, each of which will influence outcomes differently:

- certain developments that now do not have to consider neighbourhood character must now consider it;
- neighbourhood character is treated as an independent test that cannot be traded off or balanced against the requirements of the code; and
- neighbourhood character underpins the application of a range of standards across a number of elements.

**(i) Certain developments that now do not have to consider neighbourhood character must now consider it**

ResCode proposed that certain developments that now do not have to consider neighbourhood character must now consider it. It introduced a number of new controls over single dwellings to ensure a number of character issues are met which included:

- Front fence
- Roof pitch
- Retention of trees
- Reduced maximum height
- Reduction of floor area of upper storeys

ResCode also introduced a number of new controls over amenity for single houses.

- Noise generation
- Overlooking
- Car parking

There were a number of changes to the provisions that currently apply over setbacks. With the exception of front setback treatments, the Committee is of the view that these controls will be largely irrelevant to neighbourhood character in most areas in Victoria.

If control over fences is to be justified, it should be applied to all sites in an area. There seems little point stopping a high front fence on a development site if the neighbours can erect such a fence, or if it can be erected 6 months after the development is permitted. Similarly with protection of trees. Where trees are important to character in some areas, they will need to be explicitly protected. The proposal for a 20 percent reduction in upper floor area is unlikely to achieve its desired effect of increasing articulation.

The Committee is of the view that controlling neighbourhood character over single dwellings will require a much more sophisticated approach in some areas, but does not require additional controls in others.

For most areas of Victoria with relatively large lots, neighbourhood character can be respected by ensuring the bulk of single dwellings is in keeping with the existing patterns of setbacks in the area. Where lots are smaller more detailed controls will be required. These controls should include requirements for a permit for single dwellings on lots below a predefined size (this is currently 300 or 500 square metres in the scheme). In areas with particular valued characteristics a Neighbourhood Character Overlay will be required. This overlay will provide a mechanism to implement additional controls, where they are needed, and in a form that best suits local circumstances.

**(ii) Neighbourhood character is treated as an independent test that cannot be traded off or balanced against the requirements of the code**

Neighbourhood character should be treated as an independent test that cannot be

traded off or balanced against the requirements of the Code. The Good Design Guide states in its introduction that:

*Following the initial site analysis, all eleven design elements should be considered when preparing and assessing the development proposal. Wherever possible a development application should satisfy the objectives and criteria of all the elements. Invariably, different weighting will be given to each of the elements for a particular proposal due to the circumstances of the site. Because of this, a responsible authority must exercise its judgement as to whether a development proposal satisfies both the spirit and the intent of this Guide and enough of the design element objectives and criteria to be acceptable.*

The Good Design Guide makes it clear that the objectives of all elements do not have to be met in all circumstances. This can lead to disappointment by some stakeholders in the decisions made by Councils or VCAT where a different weighting may result. Not only does there need to be a common understanding formed about what the character of a particular area is, but also a common understanding of the weight to be given to this in the making of a decision.

ResCode contained no statement about how different elements are to be weighted. Any new Code needs to have clear statements that all developments must be appropriate in terms of neighbourhood character and that this cannot be traded off against other objectives.

Neighbourhood character should underpin the application of a range of standards across a number of elements. A number of submitters were concerned that the application of the same mandatory standards across all areas worked against the achievement of neighbourhood character.

Other submitters suggested that amenity standards should be sensitive to neighbourhood character. The Committee generally supports the view that the issue of character and the typical forms of development in an area need to guide decisions about all aspects of the code.

The draft practice note exhibited put forward the proposition that there were three generic character types in established urban and township areas:

- built form dominant
- garden suburb
- bush suburban

The difference in areas can mean a significant difference in the way in which areas are treated. In a typical suburban context visual bulk is generally viewed in a negative light. But in an area where buildings are dominant it might be viewed as a desirable contributor to a sense of 'urbanity'.

**(iii) Neighbourhood character underpins the application of a range of standards across a number of elements.**

The standards in a new code need to be sensitive to these different types of character.

Achieving neighbourhood character objectives is not simply a question of a set of controls over private development - nor will it be achieved by implementing an action list of projects.

Maintaining and/or enhancing neighbourhood character requires infusing a municipality and the local development industry with a design culture that recognises the importance of neighbourhood character. A design culture that can develop design solutions that will help the responsible authority and its community to implement their broader aims and vision. It is not something that can be imposed from the top down but it must work from the bottom up. There are five areas identified where this change needs to take place:

- in the design and town planning assessment of development
- in the design of public infrastructure and capital works projects
- in providing local services and facilities
- in Council programs, policies and incentives
- in economic development initiatives.

## 5.6 Overlooking

The issue of overlooking was one frequently brought to the attention of the Committee by submitters. It was an issue that was discussed at length by the Standing Advisory Committee in the review of VicCode 1 and the Good Design Guide. The Standing Advisory Committee attempted to address the issue highlighting the fact that what may be reasonable privacy for one party may be seen to be excessive or inadequate for another.

The Standing Advisory Committee also addressed the issue of real versus perceived overlooking concluding that it should be real overlooking that needs to be addressed by a new Code rather than perceived overlooking. The Committee generally agrees with the conclusions of the Standing Advisory Committee.

The Committee is of the opinion that overlooking is not an issue in the case of single storey dwellings although it acknowledges the fact that in the case of steeply sloping sites, views are afforded and it is often the case that even the overlooked also may overlook to enjoy available views.

The issue of overlooking however, is significant in the case of two storey dwellings, which are now a more prevalent form of new housing. In the opinion of the Committee, overlooking standards should apply to single dwellings as well as medium density housing, but unlike the Standing Advisory Committee, it believes these standards should also apply in greenfield locations. By including greenfield locations the Committee acknowledges the fact that the first dwellings will be at an advantage as they will not have neighbours to influence their designs. Notwithstanding this, the Committee is aware that many greenfield developments have created neighbourhoods within which privacy is difficult to achieve, and this is a situation which could have been avoided.

The Committee, like the Standing Advisory Committee has found the issue to be a vexed one. It has concluded that overlooking standards should only apply in the case of upper living rooms, terraces or decks. In these instances, some form of

screening is required to protect habitable room windows and secluded private open of neighbouring dwellings where they exist. The Committee supports the retention of the 9 metre arc as the area in which direct viewing is to be restricted.

The Committee feels quite strongly that overlooking from bedrooms was not sufficient a problem to be the subject of control, however, it acknowledges that site responsive design, should where possible, orient upper level bedroom windows away from neighbours for their own protection as well as that of their neighbours. The Committee firmly believes that concepts such as high sill heights, screens and opaque glazing regularly lead to inadequate amenity for occupants of those rooms.

Where overlooking is likely to be an issue, the Committee believes it should be addressed through site layout, room or window location and screening that form part of the architecture of building, rather than being in the form of a “tacked on” measure that could readily be removed after the completion date.

The Committee notes the Government’s primary concern about neighbourhood character and it is mindful of the Standing Advisory Committee comments on the impact of the development on neighbourliness. It said at page 124 of the Issues and Options Paper:

*One of the casualties of this heightened concern about overlooking and changes in expectations about privacy is the sense of community.*

*In suburbs such as Waverley, designed to suit the traditional nuclear family, front fences were often not built at all and side fences were constructed so that neighbours could chat over the fence whilst attending to children or gardens.*

*In more recent times, contemporary housing solutions designed for the more affluent and higher density markets have reflected these changes of expectations. There has been an increased move towards an enclave style solution for higher density housing and lifestyle housing developments. Design techniques highlight privacy and security issues, including high fences, automatic doors, privacy screening to windows and higher fences between dwellings. There has been a great deal of speculation about the cause of these changes, including household make-up, increased mobility, increased work hours, changed perceptions about safety in the streets etc. Research has demonstrated that these new techniques often have a damaging impact on the socialising of neighbourhoods and have, in some instances, a demonstrable link to increases in crime. Hence these trends are of concern to the Committee.*

*At a general community level too, they appear to be of concern as objections are raised to the concept of ‘gated communities’. Yet every time objection is taken to seeing or being seen by a neighbour, a fence height is raised, a screen erected or a view obscured, another barrier is placed in the way of human interaction.*

*It is paradoxical that whilst neighbourhood character is of such concern to so many residents, the critical element of what makes a neighbourhood — i.e. neighbourliness — is ignored. Unless new residents are welcomed and incorporated into the fabric and life of the neighbourhood, the sense of community will wither, and ‘neighbourhood character’ will be nothing more than a hollow shell.*

*The Standing Advisory Committee considers that planning should not become captive to the extreme reactions of any group within the community. Living within an urban environment involves living within proximity to other people. It involves contact with*

*other people, both visual and communicative. The human need for privacy must be balanced with the need for human contact if well developed communities are to result. Whilst the concept is macro, it will be manifested at the micro level of detail evident in the dwellings we construct and the way in which individuals react to others.*

The Committee agrees. It supports wholeheartedly the view that:

*The need for privacy must be balanced with the need for contact if well developed communities are to result.*

It is important to note that the Committee could not reach a consensus on the issue of overlooking, with two views being expressed. Firstly, there was the view that overlooking from upper level living areas and decking should not overlook the private open space and living areas of neighbouring properties, irrespective of location. Secondly, the alternative view was that in greenfield or developing areas, the issue of overlooking and the level of expectation is not as high as in established or infill areas, and as such, there is less need for overlooking controls. On larger new lots, there are usually opportunities to plan development so that it protects its own amenity.

Notwithstanding these views, the Committee has opted to include overlooking controls as part of its final recommendations, but it recognises that this aspect should be subject to further consultation.

## **5.7 Application of ResCode**

The Committee is of the opinion that it is desirable for most single detached housing to occur without the need for town planning permission. By saying this, it should not be construed that the Committee does not believe there are real problems that need to be addressed. Rather it means that the Committee sees the problem as being one that lies fundamentally with inappropriate housing development, both single detached housing and multi-unit housing, in inner and middle ring suburbs, in contrast to outer suburbs and newly developing fringe areas where there are fewer problems.

The Committee, however, can see no justification in allowing multi-unit housing, including dual occupancy, to escape the need for town planning permission. The Committee considers that planning permission may be required for:

- single storey single detached housing on lots less than 450 square metres.
- double storey single detached housing (including second storey extensions to existing houses) on lots less than 600 square metres.
- two or more dwellings on any site.

Where town planning permission is required the new code should be mandatorily applied.

The Committee considers that where strategic justification can be shown to exist, these minimum lot sizes may be varied, subject to the development of local variations.

The Committee considers that the Code should have mandatory application in all Residential Zones, including the Mixed Use Zone, and in Comprehensive Development Zones. Discretion and decision guidelines would allow the particular circumstances in different areas to be accommodated. However, it should provide policy and guidance only in those cases where housing is allowed in Business Zones and in multi-storey developments (over 4 storeys) where it is recognised that different objectives and standards will frequently apply.

The Committee recognises that any residential code in isolation cannot guarantee better outcomes or decision making. The Code will need to be supplemented by other measures if the problems identified by the community are to be satisfactorily addressed.

In the case of Neighbourhood Character, the Committee has later recommended the introduction of a Neighbourhood Character Overlay and sees this initiative as perhaps the single most important measure required to address the protection of areas of valued character. In addition the Committee sees the continued use of Site Analysis and Design Response as part of the planning permit application phase as fundamentally important. The Committee sees no justification for this being a separate phase, however, and believes the existing powers such as in the Residential 1 Zone Clause 32.01-4 which allows responsible authorities to seek further information where site analysis or design response is regarded as insufficient or inadequate, do not require change.

The Committee recognises that it is only where an application for permission is made that there will be a trigger to use the Code. This means that actions such as tree removal and fence construction can occur on any allotment in a manner which may impact on Neighbourhood Character as much as a new development might. The Committee believes the only solution to this problem is to introduce vegetation and tree controls through the use of Overlays or local laws but only where it is considered that these matters warrant such consideration.

With respect to the “loopholes” that currently exist in the planning system and which give rise constantly to resident annoyance, the measures discussed throughout the Committee’s report should provide appropriate safeguards as follows:

- **Inadequate site analysis and design response:** responsible authorities to seek further information.
- **Subdivision to allow second or third houses to be constructed without a permit:** increase in minimum allotment sizes for housing not requiring permission, and to enable building envelopes to be required in respect of lots over 450 square metres.
- **‘Moonscaping’ of lots:** use of Overlays and/or local laws to prevent tree removal in significant areas and institute penalties.
- **Non site-responsive designs:** strengthen the need for responsive design through zone purposes and the use of Overlays in significant areas.

The Committee recognises that non-residential uses which may be permitted to establish in residential zones can also impact on Neighbourhood Character. Reference to any new residential development code is not warranted in the case of these non-residential developments. However, their impact on Neighbourhood

Character can be addressed through the use of a Neighbourhood Character Overlay in certain valued or special areas, and in the identification of the protection of Neighbourhood Character as a zone purpose in residential zones. In saying this it is recognised that many Councils have developed policies which provide guidance in considering non-residential and discretionary uses in Residential Zones.

## 5.8 Assessment Process and Site Analysis

The Committee believes that any design process must be guided by proper site analysis if acceptable outcomes are to result in terms of both neighbourhood character and streetscape and in terms of the amenity of neighbours.

This is now recognised in the VPPs under Clause 19.03 where it states that in respect to non-residential projects:

*Responsible Authorities should require that all permit applications include a site analysis and descriptive statement explaining how the proposed development responds to its site.*

The purpose of Clause 52.04 is to ensure that before medium density housing proposals and residential buildings are designed, a site analysis is prepared:

*..... and that the site analysis influences the design of the development to provide good quality living environments and to respect, acknowledge and improve neighbourhood character.*

The VPPs and VicCode 1 however, do not require a formal site analysis for single dwellings where these do not require a permit, or for subdivision.

ResCode proposed to change this situation by requiring a site analysis for all single dwellings and for subdivision as well as medium density housing. In addition, ResCode proposed that the endorsement of these site analyses should be a separate phase in the approvals process.

In the Committee's opinion, the assessment process for development applications should be simple, transparent and cost effective. It should be a process that seeks to minimise the time involved and it should avoid duplication. If a revised Residential Code is correctly structured, it should lead the decision maker through the process in a logical and ordered way which all interested parties can easily follow and understand.

The existing system for the assessment where no planning permit is required ie, the building permit system, generally satisfies the above criteria. It was only criticised in submissions where "inappropriate" single houses were allowed in infill situations. This arises not from the assessment process but from the regulatory control applicable to such houses. The Committee discusses elsewhere its recommendations for dealing with these situations. On the assumption that these recommendations will address the infill problem, the Committee sees no need to change the existing system for assessment of housing that requires a building permit and not a planning permit.

The conclusion reached by the Committee is reinforced by the small number of appeals to the Building Appeals Board over siting variations under the existing



Building Regulations. The HIA (Submission 352) surveyed inner and outer municipalities in relation of the number of siting modifications requested and appeals resulting. Of 8,007 dispensations for siting processed in the year of survey, only 137 resulted in appeal.

The Committee can see no need for a formal site analysis in those cases where a planning permit is not required. In cases where a permit is required, whether it be for single dwellings, multi-dwellings or subdivision, the Committee can see no need for the endorsement of site analysis to be a separate and distinct phase in the approvals process. The Committee believes the suggested process of endorsement of site analysis prior to the permit process to be cumbersome and it would constitute an enormous strain on resources for no apparent benefit. An analysis of the costs and benefits of this process is contained in the preliminary interim report of Jaguar Consulting contained in Appendix B.

As stated above, the site analysis model was developed to assist designers and decision makers in considering an appropriate design outcome for individual sites. Councils have extensive powers under the Residential 1 Zone in respect to medium density housing (Clause, 32.01-4) to ensure that the site analysis meets the requirements of Clause 52.04 and is satisfactory. If it is not, the Responsible Authority may require more information from an applicant under Section 54 of the *Planning and Environment Act 1987*. The Responsible Authority must not require notice of an application to be given or decide an application until it is satisfied that the site analysis meets the requirements of Clause 52.04 and is satisfactory. This is a clear obligation and should ensure that applicants comply with the site analysis requirements. Similar provisions may be needed however, to ensure that similar requirements apply in the case of applications for subdivision and single dwellings requiring a permit.

The Committee was told of a number of cases where site analyses were shown to be wrong and upon which Council's had relied to grant permits. It was only after neighbours pointed out the defects that the problem was identified. The Committee does not doubt that such incidents occur from time to time but it questions whether inadvertence on the part of Responsible Authorities in these cases in identifying defects, justifies imposing a more complex and onerous scheme than already exists. What is required is diligence and vigilance on the part of Responsible Authorities in ensuring applicants comply with their obligations and an educative process for applicants to ensure they are aware of their obligations and understand the importance of the role of the site analysis in leading to an appropriate design response. This educative process should be overseen by the Department and involve Local Government and the Housing Industry as part of the process of ensuring that both applicants and Responsible Authority's staff understand what is required of them.

The Committee was also told of the over zealous approach to site analysis by some Councils who had not accepted site analyses on the basis of inadequate information where the additional information sought would have had no bearing whatsoever on informing the design of the proposal. This reinforces the Committee's view that there should not be a separate process for endorsing site analysis and/or design responses prior to a permit application being lodged. To do so would involve a duplication of process that would add unnecessary cost and delay to the application process.

The current requirements for site analysis require some level of rewriting to

accommodate the recommendations of the Committee. Site analysis will also need to respond to any particular requirements contained in overlays in order to lay the ground work to enable the design response to meet the objectives of the overlay.

The Committee believes that once its recommendations have been road tested and are understood, and that appropriate overlays dealing with neighbourhood character are established, the number of appeals generated in response to “*inappropriate development*” are likely to be reduced. This presupposes the strategic planning discussed earlier will form the basis of such overlays and will eliminate the ad hoc decision making process that currently give rises to the level of dispute in the community that in turn generates the concerns referred to in that Section.

## 5.9 Local Variations and Ministerial Direction No 8

Pursuant to Section 12(2)(a) of the *Planning and Environment Act 1987*, Ministerial Direction No 8 currently provides for Local Variations to Techniques of the Good Design Guide for Medium Density Housing Revision No 1. It notes that local variations to the Good Design Guide are able to replace or add to the techniques in the guide, provided that they occur in a strategic context and are justifiable on sound criteria. It further notes that local variations may be appropriate:

- *To vary densities in particular areas to achieve better strategic outcomes.*
- *To reinforce the particular existing character of an area.*
- *To change the existing character of an area (eg encouraging the conversion of an industrial area to residential).*
- *To limit site coverage in areas with particular environmental constraints.*

The Direction indicates that local variations have exactly the same status as the techniques they replace, and that where circumstances justify it, they may be departed from in the same way as an ordinary technique may be departed from.

Any local variation would be developed in the format of a local policy of Clause 22 of the particular Planning Scheme and it would include a policy basis, objectives and the policy which nominates the substitution. It would also include an insertion of a new Incorporated Document at Clause 81 of the scheme.

It was suggested in submissions that there would be some difficulty in implementing local variations to form part of ResCode at an operational level, and the following matters should be considered to allow a smoother implementation of local variations. The key issues to flow from submissions included the following:

- A reworking of the Ministerial Direction No. 8 to facilitate an easier implementation of local variations (guided by the Ministers Statement), whilst maintaining the strategic integrity of Council’s and community needs. Justifying local variations to the current Good Design Guide is considered (by many Councils) to be unreasonably difficult at the moment.
- A fast track system for the consideration of local variations that allows for third party submissions.
- The establishment of a detailed set of guidelines for the creation and implementation of local variations. A suggestion put forward by the City of

Kingston (168) is:

*A new Ministerial Direction should be prepared to outline the scope, circumstances, process and level of strategic justification associated with any proposed local variation. This guidance needs to be established as a priority rather than the 'hit and miss' approach that local government has been working under in the past (eg. Every time a local variation was considered by a panel, the scope of strategic work required to justify a variation changed).*

Assuming the recommendations of the Committee are adopted, Ministerial Direction No 8 will become as redundant as the Good Design Guide and will be consigned to planning historians' bookshelves. It will, however, need to be replaced in some form to assist Councils in dealing with the amendments to their Planning Scheme necessary to accommodate the changes later proposed by this Committee. Whilst the process for amending Planning Schemes is reasonable well understood, some guidance on the level of strategic justification required will be necessary to ensure consistency and overall coordination of these amendments. Whether that be in the form of another Ministerial Direction or a Planning Practice Note is a matter to be considered by the Department during the road testing of the Committee's recommendations.

## **5.10 Transition and Implementation**

The HIA submission (252) stated:

*The introduction of any transition must be done with full consultation of the industry as the potential impacts of poorly considered transitional provisions will have a substantial impact on builders and their clients.*

The submission highlighted those impacts as:

- The normal marketing, design and documentation phase associated with a normal new home proposal can take at least two months and in the current climate 6 months is not uncommon.
- If new provisions are introduced overnight, many homes for which clients have paid deposits and which builders have legally binding contracts to deliver, will be unable to be built as required by the contract.
- A home which is currently as of right will require a planning permit and the builder will be forced to apply for a permit.
- Clients may forfeit their deposit if the project does not proceed or be faced with substantial costs for the redesign for the project.

The Committee agrees that there are significant legal and practical ramifications involved with any sudden change to the regulatory regime which builders are

required to comply with in delivering homes to clients. The potential for costly changes interfering with existing agreements is obvious.

The need for carefully considered transitional arrangements being developed between the industry and the Department will require extensive consultation and a thorough assessment of the legal implications flowing from any changes arising from the Committee's recommendations.

The Committee understands that any new or revised Code will be subject to extensive road testing and that the Department is undertaking a considerable exercise in looking at the various relevant provisions of all planning schemes in anticipation of implementing an eventual agreed Code. This process is likely to take up to six months, in which time, any interested party will be on notice about forthcoming changes, and should have sufficient time to anticipate them in the documentation as referred to by the H.I.A.

Section 10 of the *Building Act* 1993 already provides for a number of transitional circumstances with respect to the operation of the building regulations and should be able to deal with the changes recommended by the Committee in Part A.

The Committee's changes to Part B will require a transitional provision similar to the Good Design Guide transitional provisions contained in the old format planning schemes when the Good Design Guide was introduced in July 1995.

The Neighbourhood Character Overlay recommended by the Committee will, where applied, be required to go through the normal amendment process of consultation, exhibition, submissions and evaluation and should not create any transitional problems.

## **5.11 Conclusions**

There are a number of conclusions that can be drawn from these discussions. While the Committee recognises and acknowledges that there have been problems and issues associated with development of medium density housing and infill development in some areas, it is important to keep the size of the problem in perspective. The question to be addressed is whether an over-reaction to a relatively small number of inappropriate developments, which represent a small proportion of overall housing development, should compromise the efficient and economic functioning of the housing industry and the achievement of important Government policy objectives. In this regard, some of the threats the potential compromise of housing and residential development opportunities need to be identified:

- Opportunities for provision of new housing in established urban areas will be limited;
- Opportunities to rework and upgrade existing housing stock will be constrained;
- Prescriptive standards will stifle design but not guarantee that people will like the outcomes any more than at present.

In identifying these potential threats, it is also important to identify the needs:

- To resist pressure to exclude change where strong imperatives for new housing would be provided;
- Not to take the objective of “making neighbourhood character the mandatory starting point” too literally.

In reaching these conclusions and in providing the response of the Committee to the Terms of Reference, the Committee has endeavoured to develop a number of recommendations that would provide a sensible balance in respect to residential development and subdivision.

## 6. RESPONSE TO THE TERMS OF REFERENCE

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Section 3 of the Terms of Reference provides the scope of the work to be undertaken by the Advisory Committee and outlines the General Scope and Specific Issues to be Addressed by the Advisory Committee. Section 3.1 in discussing the General Scope says the Advisory Committee must:

- *Identify and discuss issues arising from the content or format of the draft residential code for Victoria, including the integrated approach to subdivision and development, and the use of a two-part format;*
- *Identify and discuss issues relating to the purposes and standards in the draft code, including whether the standards are appropriate to their stated purpose and basis;*
- *Clearly identify any changes to the draft code and associated documentation and implementation methods, which in the Committee's opinion, will be needed to achieve the objectives of:*
  - *Introducing a clear, simple, and easily applied residential planning code*
  - *Providing greater certainty of factors to be taken into account in deciding residential planning applications*
  - *Ensuring that neighbourhood character is the starting point for assessment of residential development applications*
  - *Encouraging environmentally sustainable residential development*
  - *Strengthening the role of local government in adapting the code to local conditions and circumstances, and*
  - *Reflecting the strategic planning objectives of local government and of State Government.*
- *Provide a consolidated list of recommended changes to the draft code and associated implementation mechanisms.*

These are general issues which are explored and discussed in various contexts throughout this report.

Section 3.2 of the Terms of Reference details a number of specific issues to be addressed by the Committee and notes that it is to provide recommendations with examples illustrating how those recommendations could be incorporated into the final code. The following sections of this chapter of the report deal with each of those specific components in the Terms of Reference.

### 6.1 Neighbourhood Character and Applications

*Are the four mandatory standards for single dwellings in regard to neighbourhood character appropriate?*

The Committee is of the opinion that Neighbourhood Character is a complex notion and that it would be simplistic to believe it can be determined by reference only to frontage setback, front fences, roof pitch and mature trees. The Committee acknowledges these features can all play a role in defining an area's character but there may be elements, some of which may be more important, in some areas, that

will play a role in defining the character of those areas.

The Committee has particular concerns about the introduction of mandatory standards in terms of front fences and the retention of mature trees as a means of protecting neighbourhood character as these standards will only apply to new development. While controls over fences and protection of trees may well be justified in some neighbourhoods, there appears little point preventing high fences or tree removal on development sites if neighbours can erect such fences or remove mature trees at will.

Where front fences and mature trees are fundamental to a neighbourhood's character, then controls should apply to all properties. This can best be done through the use of planning scheme overlays or local laws.

The Committee is of the view that protecting neighbourhood character through controls applying to single dwellings will require a more sophisticated approach than that proposed in ResCode and that controls should only apply where it can be shown that a neighbourhood's character is such that controls are warranted. The Committee is of the view that a planning permit is the best and most appropriate way to assess a proposal's response to neighbourhood character.

With respect to single dwellings the Committee recommends that no permit be required where dwellings are single storey and on lots greater than 450 square metres in area, as recommended by the VicCode 1 Advisory Committee. In the case of two storey dwellings or second story extensions, the Committee considers no permit is required where lots are greater than 600 square metres. The Committee acknowledges that these figures are arbitrary but on the basis of submissions put to it, it has little doubt that the 300 square metres figure, which currently triggers the need for a permit, is too low in many areas. In addition there is little doubt it is two-storey dwellings on small blocks that has the greatest potential to adversely impact on neighbourhood character as well as on the amenity of neighbours.

The Committee recommends that Councils be given the choice to select the minimum lot size which will trigger the need for a permit for single dwellings. Should a Council wish to retain the current 300 square metres, then it should be permitted to do so. If it so chooses, however, a Council should have the ability to select from a menu within an upper limit of lot size figures. These figures are proposed to be introduced through a new schedule to the Residential Zones and provide Councils with a degree of flexibility to suit local circumstances. The Committee's recommendation in this regard should not be seen as a form of density zoning.

Regardless of lot size, the Committee recommends the use of Neighbourhood Character Overlays to afford protection in areas where neighbourhood character warrants special attention. However, Neighbourhood Character Overlays should not be used as a blanket control mechanism. Neighbourhood Character Overlays will provide the mechanism to clearly establish those elements to be respected and protected in strategically identified areas and they can introduce appropriate standards on single dwellings which are necessary to protect the desired future character of those neighbourhoods. They should be introduced via the Planning Scheme amendment process.

The proposed Neighbourhood Character Overlay should be able to stand alone,

even though there may be reference to it from a particular study. The Committee recommends that a Planning Practice note be prepared by the Department to assist and guide the preparation of the Neighbourhood Character Overlay for Councils who choose to pursue this mechanism.

The Committee would be supportive of Councils preparing area based policies that address the issue of residential development from the perspective of meeting future housing needs. Such policy should be introduced in the context of meeting the tests of the Planning Practice Note dealing with Writing Local Policy, and in an overall context that addresses the housing needs of the municipality as a whole.

***What is the most efficient and effective process for endorsement of the site analysis for those developments which do not require a planning permit?***

The Committee sees no benefit in requiring a formal site analysis for developments which do not require a planning permit. The Committee's recommended approach to protecting neighbourhood character through the use of a Neighbourhood Character Overlay will ensure that the majority of single dwelling development in this State can proceed without being encumbered by the need for a planning permit or the need for site analysis. Nevertheless the Committee is of the view that site analysis should inform the design and siting of all dwellings even where a planning permit is not required. In cases where some dispensations from the Building Regulations is being sought, then it would be expected that some form of site context plan would form part of such a request and a basis for Municipal Building Surveyors or the Building Appeals Board's decision.

With respect to dwellings requiring a permit the Committee believes that site analysis and design response is fundamentally important. However, the Committee believes that site analysis and design response should rightfully remain part of the permit application process rather than be introduced as a separate process. This issue is discussed more fully in Sections 4.9 and 5.3. The Committee sees the need for formal site analysis and design response for the majority of single dwelling development as an unwarranted burden on both industry and local government, and an imposition, which in any event is unlikely to improve outcomes.

***Who should endorse the site analysis?***

It follows from the Committee's recommendation that no separate process for endorsement of site analysis is warranted, that it will be the responsibility of the responsible authority to satisfy itself that site analysis material provided in support of an application is adequate.

The Committee can see no justification for independent "surveyors" to become part of this process. Similarly, the Committee can see no justification for site analysis to be required to be prepared by independent persons. In other words, inadequate site analysis and design response should be a sufficient and supportable ground for refusal of a planning permit or a request for further information.

***Should there be a time limit on issuing endorsements of neighbourhood character and if so, what should it be?***

The statutory time limits that apply under the *Planning and Environment Act 1987* in



respect to dealing with applications for permits is a well entrenched and accepted part of the planning process. The Committee sees that where inadequate site analysis is provided, a responsible authority has the opportunity to ask for further information, in which case the application “time clock” stops, or alternatively, it has the opportunity to refuse an application where a proposal is not responsive to those aspects that should have been noted on adequate site analysis.

*Should the standards which are proposed to apply to proposals which do not require a planning permit be called up in the Building Regulations 1994 in place of the current siting requirements (S4.4) which call up VicCode 1 performance measures?*

It is the Committee’s view that where single dwellings do not require a planning permit, it is appropriate that those standards sought to be imposed under ResCode which achieve a planning purpose should be called up in the Building Regulations. The standards the Committee believes important are those relating to building height, front, side and rear setbacks, walls on boundaries, habitable room windows of adjoining dwellings, access to daylight, overlooking and overshadowing, energy efficiency, private open space and car parking. The Committee does not support all these standards as proposed and where changes are recommended, these are discussed in the Part 2 Report.

In the opinion of the Committee, basic standards applying to resident amenity and energy efficiency should be called up in the Building Regulations. The Building Regulations provide an efficient mechanism for seeking dispensations, which was generally supported by most submitters.

*Should there be an appeal mechanism available for applicants against a decision not to endorse the neighbourhood character elements for an application not requiring a planning permit? If so, what is the preferred model for an appeal mechanism, and what regulatory or legislative changes would be required to implement the preferred mechanism for appeals?*

As the Committee has recommended that site analysis should not be required for dwellings not requiring a planning permit, no dispute mechanism is required, and as a consequence no regulatory or legislative changes are required.

With the suggestion that some of the proposed Part A standards should be called up by the Building Regulations 1994, the existing appeal provisions under those regulations will apply. This has proven to be a most satisfactory and efficient method of assessing variations to standards required under the Building Regulations.

## **6.2 Mandatory Standards for Developments**

*Are the mandatory standards to be applied under Part A of the Code appropriate? Should they apply only to single dwelling proposals? Should they be added to, or deleted, or changed from the wording in the draft Code? Who should check compliance with these standards?*

As already outlined the four neighbourhood character standards are an inappropriate response to the task of achieving outcomes that will automatically

respect neighbourhood character. The Committee's recommendation that neighbourhood character be protected through the use of a Neighbourhood Character Overlay renders the inclusion of mandatory standards in this regard as unnecessary.

The mandatory standard requiring each dwelling on a lot to address the same street is also unnecessary in Part A of the Code given the Committee's recommendation that wherever 2 dwellings are proposed on a lot, a permit should be required.

With respect to the other standards set down in Part A, the Committee's specific comments and recommendations are set out in the Part 2 report.

Those standards to be included in the Building Regulations will be assessed by a Building Surveyor as part of the normal building permit process, and dispensations from those approved at the discretion of the Building Appeals Board.

### **6.3 Processes for Residential Developments Requiring a Permit**

*Is the two-step process of endorsement of the site analysis and design response, followed by a consideration of the planning permit application an appropriate, efficient and effective process for consideration of applications for three or more dwellings on a lot?*

The Committee is strongly opposed to a two step process involving endorsement of site analysis prior to a planning permit application. The two step process has significant resource, time and cost implications without any guarantee of better outcomes. The site analysis and design response requirements of an application should remain part of the permit process.

A single process, in which Councils can require further information where site analysis and design responses are considered to be inadequate, is an existing understood system and the mechanisms for third party involvement and dispute resolution are clear and an accepted part of the planning process. Councils should not, however, require information for information's sake. The information required should be that which leads to better decision making.

Submitters had mixed views on the two-stage process envisaged by the draft code. Generally industry was opposed to the concept, local government had reservations about the implications while community groups were in support. Those in support, however, were uncertain of the role of third parties and of how to handle disputes. Options put forward on these matters were, in the Committees opinion, inappropriate and inefficient and would only serve to exacerbate the resource, time and cost implications identified by those opposed to the two-stage process.

The Committee does not believe that lengthening and complicating the residential approvals process will guarantee better outcomes. It believes that if better outcomes are to be achieved then three things are required:

- first, applicants will need to improve the quality of the information provided to support proposals and indicate that they appreciate and respect the character of the neighbourhood in which their proposals are to be located and that they have considered the amenity of their immediate neighbours;

- secondly, local government will need to provide greater practical guidance on neighbourhood character and on its policies in respect of managing change in its residential areas (also see Section 3.2); and
- thirdly, planning schemes including municipal strategic statements and local policies need to provide a clear and unambiguous statutory framework within which Councils, and VCAT on review, can make decisions.

The Committee also restates here its recommendation that dual occupancy development should be included with, and treated in a similar manner to, all multi-dwelling proposals under the new revised Code.

*What should the maximum lot size be for application of the integrated residential code? What should be the process for considering applications for lots over that maximum lot size threshold?*

ResCode suggested that the maximum lot size to which the code would apply would be lots up to 4000 square metres in area.

The Committee can see no justification for imposing a maximum lot size where single dwellings require a permit. Given the Committee's strong view that the majority of single dwellings should not require a permit, then the inclusion of a maximum lot size would appear unnecessary. On large lots in sensitive areas, overlays can trigger the need for a permit for single dwellings but otherwise no permit should apply.

For proposals to two or more dwellings the Committee is similarly of the opinion that the code should apply regardless of lot size. Whether large sites be inner area brownfield sites or outer area sites where densities are likely to be less intense, the Committee is firmly of the view that assessment of multi-dwelling proposals including dual occupancy, is necessary to ensure that neighbourhood character, environmental sustainability, amenity and diversity, choice and livability standards apply.

It follows from the above discussion that no separate process is required as the Committee believes no maximum lot size should apply.

## **6.4 Standards to be Applied in Consideration of Developments**

*Are the standards in Part B of the code appropriate to the assessment of applications for three or more dwellings on a lot, subdivisions, and other applications which do not need the mandatory standards of Part A? How should particular standards be improved?*

The Committee has spent a good deal of its deliberations on this particular question. Having formed the view that the code in its exhibited form was unworkable it has developed a new model which it has recommended be subjected to further, targeted consultation. In arriving at its new model, it has evaluated each of the standards in the draft code and its response to each is detailed in the Part 2 Report.

Where changes to standards have been recommended, these are detailed in the Part 2 Report and then accommodated in the Committee's revised code which is included

as the Part 3 Report.

In proposing a new model, the Committee states that in general it is not the standards per se that have led to it rejecting ResCode. Rather it is the manner in which the standards have been packaged, the new processes contemplated and the failure of the code to meet the Government's own objective of being a clear, simple single code.

In fact the Committee has found that many of the standards of VicCode 1 and the Good Design Guide to be adequate and it acknowledges the fact that many of these have indeed been incorporated into ResCode.

The Committee believes its revised model will better meet the Government's objective and that the rationale for the standards that it has recommended to be imposed, will better be understood.

## **6.5 Standards and Processes to be Applied to Subdivision**

*Are the processes and standards in Part B that would particularly apply to subdivision applications appropriate? Should the subdivision related standards be integrated with the code?*

The Committee recommends that for clarity, the standards applying to subdivision be contained in a discrete section of the new code. As shown in the Part 2 report, the Committee has few concerns regarding the standards applying to subdivision and found during the hearing process that submitters also had few concerns.

The Committee observed, however, that although the process associated with fringe area subdivisions have not been contentious, some submitters believed ResCode had not developed sufficiently the livability, sustainability and accessibility issues associated with community design (Element 0 VicCode 1).

As a consequence, several of the VicCode 1 standards, adapted in ResCode, are in need of review if future large scale fringe subdivisions are to help create the sustainable communities of tomorrow.

Major concerns in respect to subdivision related to brownfield sites such as redundant schools sites or former industrial sites which sit within established suburbs and the subdivision of residential lots as a mechanism to enable dual occupancy or multi-unit development to occur without the need for a planning permit.

Regardless of the nature, location or size of a proposed subdivision, the Committee strongly endorses the need for site analysis to be part of subdivision application process and it supports the ability for Councils to impose building envelopes on lots in appropriate circumstances. In saying this the Committee acknowledges a recent Supreme Court decision that questioned the right to impose envelopes and recommends that any necessary statutory changes be made to clarify this situation. Mechanisms need to be introduced that will put this issue beyond doubt.

## 6.6 Local Variations to Statewide Residential Provisions

*Should the code be given effect through the Victoria Planning Provisions in order to provide clarity, ease of use and local flexibility? Should the Code be integrated into the Victoria Planning Provisions with local variations being made to mandatory and locally variable provisions through schedules to the various provisions or should the code be a stand alone document which would be an incorporated document of the VPP, with local variations effected by local policies in the Local Planning Policy Framework of relevant planning schemes?*

The Committee is strongly of the view that the new Code should sit within the VPPs. The VPP format provides an ideal framework within which local variations can be introduced through schedules in respect to those issues where different standards, in different municipalities, can be justified.

One of the Government's main objectives is to have a clear, simple and transparent system which can respond to local circumstances.

The Committee considers that the revised code should sit within the VPPs in the form of Residential and Subdivision Provisions. This is a logical and transparent way to link the new provisions with State and Local planning policy, zone provisions and overlay provisions, particularly the proposed new Neighbourhood Character Overlay.

The Committee considers that the Part A and Part B provisions would sit within the Particular Provisions section of the VPPs as Clauses 54 and 55, and the Part C (Subdivision) provisions could be included as Clause 56.

The Committee is aware of the Government's commitment to producing a single code, but it sees no conflict with this commitment and its recommendation to include the new provisions within the VPPs.

For convenience, the proposed Residential and Subdivision Provisions could be easily extracted for the convenience of those users who have no need to maintain or refer to the complete contents of a local Planning Scheme.

Residential provisions within the VPPs will provide a transparent and uniform system across the State with an ability to respond to different local circumstances where these can be strategically justified. The recommendations of this Committee include the introduction of a Neighbourhood Character Overlay, a new schedule to the Residential 1 Zone, and the opportunity for policy to assist in the exercise of discretion in decision making. It is important to reiterate, however, that the Committee is not recommending density controls.

The Committee heard lengthy submissions from a number of Councils which had embarked on local planning scheme amendments to introduce local provisions to respond to particular concerns. Without passing judgment on this work, it appeared to the Committee that the work undertaken by the Councils would provide a useful foundation for local schedules to the revised Code should it be included within the VPPs as recommended.

It is the recommendation of the Committee that Ministerial Direction No 8 be revoked as it would be made redundant as a result of the proposals and recommendations put forward by the Committee to allow municipalities to add to

the level of control that they seek. Such additions will be by way of the Planning Scheme amendment process. Guidance by way of the Planning Practice Note is considered to be the most appropriate means to direct the correct preparation and use of these additional controls.

## 6.7 Planning Practice Notes

*The Advisory Committee is to consider and make recommendations on the content and usability of the draft practice notes and on other topics which should be covered in the practice notes. The Committee is also required to make recommendations on the status of practice notes in the planning practice.*

The Committee admits to finding the package of documents circulated for consultation to be a little confusing and repetitive. The amount of new material found in the “Commentary”, the “Draft Code” and the “Planning Practice Notes” documents gave rise to several submitters struggling for sufficient time to respond to the new code and it is clear that in many cases, submitters concentrated mainly on the draft code.

The Planning Practice Notes as exhibited relate to the structure of the draft code and the standards it contains. As a consequence changes will be needed.

The Committee sees value in Planning Practice Notes where discretionary standards apply and on issues relating to Neighbourhood Character which the Government has determined as being the mandatory “starting point” in the assessment of new housing proposals.

Submitters, particularly Councils, also saw value in Planning Practice Notes because of their ability to demonstrate how the provisions of the Code might be achieved, and suggestions were made on additional topics including:

- construction standards and finish of walls on boundaries;
- protection of trees in the public domain or in neighbouring properties which may be damaged during construction;
- management of clearance of a site prior to construction;
- techniques for on-site retention of stormwater drainage.

The Committee has some concern about several of the exhibited Planning Practice Notes, but in view of its concentration on considering the most appropriate form of a new code, it has spent little time reviewing the details of the various Planning Practice Notes. It is recommended that a comprehensive User Guide be prepared as part of the finalised ResCode to assist all users of the new provisions.

It is important, in the Committee’s view, to reach agreement on a new format and set of standards, before Planning Practice Notes are finalised.

In view of the Committee’s recommendations about the way ahead, it will be necessary to refine the Planning Practice Notes on Neighbourhood Character and it will be essential for a new Planning Practice Note to be prepared to assist in the development of Neighbourhood Character Overlays.

The Committee adds that it sees some danger in the use of drawings in Planning Practice Notes which are designed to be useful hints for users of the Code. These can become a sole basis for design solutions or in some cases a yardstick against which Councils or neighbours might respond to a proposal. One of the shortcomings of the Good Design Guide is the frequent belief that design suggestions are mandatory standards.

The Committee believes that the Department should give consideration to the production of a 'User Guide' or a 'Best Practice Guide' to assist users of the new system. Such a guide, however, should be about processes rather than solutions and it should be a tool to assist the preparation of better planning frameworks and better development outcomes. Careful consideration should be given to who the user will be. It maybe that different guides or Planning Practice Notes could be directed at different users for different purposes.

## **6.8 Implementation of the Code**

*The Advisory Committee is required to identify any legislative or regulatory changes needed to implement the Code.*

The package recommended by the Committee provides the capacity for residential development provisions to respond to local circumstances through three key mechanisms:

1. An amendment to the Residential Zone in the form of new Schedules to allow for a menu of lots sizes below which a permit is required for a single dwelling.
2. The introduction of a Neighbourhood Character Overlay to protect specific characteristics in highly valued areas.
3. The ability to exercise discretion about how Code objectives are met to take account of the circumstances of a site.

The first two mechanisms involve an amendment to the Planning Scheme, with the appropriate strategic back-up. The Committee recognises that, like the local variation process proposed in ResCode, the amendment process places significant resource demands on Councils. However, it is vital that the imposition of new constraints on development opportunities and limits on people's choices have the support of the local community and are introduced through an open, accountable process. Local communities would identify the need for local provisions. Alternatively, Council's can choose to rely on the new provisions without specific local provisions.

The amendment process also allows evaluation of new planning provisions in terms of consistency with State Policy and their effectiveness in achieving their intended purpose. It will be important for clear guidelines to be provided through a new Planning Practice Note to ensure that a consistent approach to local amendments is adopted. Some basic amenity standards should be uniformly applied throughout the State.

Some Councils have already committed substantial resources to achieving residential development that is more compatible with the existing or preferred neighbourhood character and this work would feed into the local framework proposed by the Committee.

The recommended change to ResCode Part A will involve an amendment to the Building Regulations by replacing reference to VicCode 1 in Clause 4.4 with a reference to the proposed new clause 54 in the Planning Scheme. Alternatively, the standards contained in the proposed Clause 54 could also be included in the Regulations. This is something that will require further attention in the road testing phase of the recommendations and consultation with the Building Control Commission.

## **6.9 Regulatory Impact Statement**

Section 4.2 of the Terms of Reference says:

*Where recommendations propose a regulatory change, the Advisory Committee is required to report on the social and economic costs and benefits of the proposed change, and the costs and benefits of alternatives to that regulatory change. In considering any regulatory changes, the Advisory Committee should have regard to the requirements of the Subordinate Legislation Act 1994 for the content of regulatory impact statements and the premier's guidelines as set out in s.26 of that Act, and the Regulatory Impact Statements Handbook issued by the Office of Regulation Reform.*

To assist in carrying out this task, a consultant was commissioned to undertake a Regulatory Impact Assessment, and a draft report was presented to the Committee late in October, and then revised and submitted in December. The full report of the consultant is included as Appendix B to this report.

This report had clear implications for ResCode in its draft form and while the Committee accepts that it has made a number of recommendations about how to take ResCode forward, it also accepts that the consultant's brief was based on an assessment of the draft code as exhibited.



## 7. CONCLUSIONS AND RECOMMENDATIONS

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### 7.1 Conclusions about ResCode

The Committee has been impressed by the level of interest in ResCode, the extent and comprehensive nature and quality of submissions, and the thoughtful presentation of oral submissions. It has found the task of analysing the submissions and reaching a view as to the way forward to be a most challenging and difficult one given the time frame in which it has had to report.

The Committee appreciates that the task of producing ResCode in the first place was an equally challenging one, and it recognises that the exhibited Code attempts to address the problems highlighted by many members of the community and some local Councils.

The Committee acknowledges the fact that problems exist. These relate, in the main, to the introduction of medium density housing in established (particularly inner and middle ring) suburbs and with the establishment of large as-of-right detached housing on small blocks.

The Committee also acknowledges the fact that some bad outcomes have resulted from the use of the Good Design Guide and that some bad outcomes have resulted from loopholes in the planning process such as the ability to demolish houses, 'moonscape' blocks, and subdivide to allow as-of-right housing without the need for rigorous assessment required of medium density housing proposals. The Committee agrees that the consequences of the above have led to examples of housing development which has had a detrimental impact on the character of some areas or on particular streetscapes.

Whilst acknowledging the problems that exist, the Committee believes that these problems relate to a only small percentage of total new housing development.

Also the Committee believes that the new VPP based planning system, which is a policy driven approach to controlling development, is fast overcoming its "teething" problems and together with the Good Design Guide and the emphasis given to Neighbourhood Character through Amendment VC9, is now leading to far better outcomes than in the past.

The Committee and most submitters agree that most of the objectives of the Good Design Guide were laudable and appropriate but that its failure was largely a result of the application of its techniques, and industry's inability to undertake adequate site analysis and/or responsive design. It is significant to note that the first objective of the Good Design Guide is to support urban consolidation, and that the proposed new Metropolitan Strategy highlights the challenge Melbourne faces in the future in accommodating increased population and new growth.

It is very important that all stakeholders be aware that the concept of urban consolidation should not be jettisoned. Urban consolidation should remain a key imperative in any future code or strategy, particularly if the concept of 'ageing in place' is to be carried forward. A challenge in this regard is how to achieve a balance between the best of what we have got and the individual and unique aspects of particular areas and the need to give effect to urban consolidation.

The Committee believes that the exhibited Code, despite its understandable intent, is an impractical and unacceptable document. It will impose inefficient and unnecessary constraints on the major part of the housing market without guaranteeing better outcomes.

The Committee believes that ResCode will impose considerable costs without any guarantee of commensurate benefits. In saying this the Committee acknowledges the fact that the costs are easily quantifiable whilst the benefits in terms of improved built form outcomes can neither be quantified nor guaranteed. The Committee is of the opinion that there are already many planning tools available to ensure better outcomes. Some of these tools have little to do with ResCode but should be complementary to it.

As a result of these observations the Committee believes that the concept of ResCode should be restructured and refined and then undergo further targeted consultation. In addition, other measures are needed to provide industry and the community with a greater degree of certainty.

In redrafting and introducing new measures the Committee concludes as follows:

- A new Neighbourhood Character Overlay should be added to the VPPs to enable adequate controls to be placed over particular neighbourhoods whose characteristics are such as to warrant special protection.
- The majority of new detached housing should not require a town planning permit. A permit should only be needed for detached housing in the following circumstances:
  - single storey housing on a lot less than 450m<sup>2</sup>.
  - double storey housing (or a second storey extension) on a lot less than 600m<sup>2</sup>.
  - on sites where an Overlay requires that a permit is needed.
- A permit should always be required for two or more dwellings on a site.
- There should be no separate process for endorsing site analysis and/or design response. These should form part of the permit process where Councils have the ability to require further information if these are not up to scratch.
- Controls aimed at achieving basic amenity standards, such as area of windows or noise transmission should, wherever possible, be placed in building regulations.
- The new Code should apply to all housing that requires a permit regardless of lot size or zone.
- All matters dealing with subdivision should be in a separate section of the Code. Some of the standards in VicCode 1 will require modification and the Code should place greater emphasis on sustainability to ensure that the subdivisions of today create the foundation for sustainable suburbs of tomorrow. A comprehensive review of VicCode 1, in consultation with key stakeholders, is necessary rather than tweaking of performance measures.
- The concept of attempting to protect Neighbourhood Character through

reliance on frontage setbacks, retaining mature trees, front fences and roof pitch is ill-conceived and should be removed from the Code. There are many other aspects of housing which contribute to a neighbourhoods character. Guidance in this regard should be through the use of strategically derived and based Neighbourhood Character Overlays rather than the Code.

- Site Analyses should not follow a prescribed formula and content. It should be sufficiently detailed to recognise the relevant features of the neighbourhood into which development is proposed and highlight in detail the features of adjacent properties. It should only include information that will influence the design of a proposal. This would also include reference to the existence of Overlays.
- The Code and other measures will need to apply in a proper local and metropolitan strategic context. That context must recognise and identify areas where and how change should be managed.
- The revised Code should sit within the Particular Provisions section of the VPPs in the form of Residential and Subdivision Provisions to provide transparency and a direct link with the zone, overlay and policy requirements of each Planning Scheme.

The Committee believes that its revised Code, which has been prepared in the context of the above recommendations, should, with refinement, meet the concerns of the majority of submitters. This will only be the case however if complementary controls, such as the use of Neighbourhood Character Overlays, are properly prepared and employed.

The Committee understands industry's reliance on standard products to assist/meet the fundamental objective of housing affordability. However, standard models can pay little regard to neighbourhood character. Notwithstanding the industry's knowledge of the market, the Committee expects that industry should accept criticism about the impact of certain models on inappropriate sites and locations and explore alternative models.

The Committee notes the important, and sometimes pre-eminent role the public realm plays in determining a neighbourhood's character. In such areas decision making should recognise the role of the public realm and not impose unnecessary constraints on development which will have minimal impact on the area's character.

## **7.2 Alternative Models for A Single Code**

For the reasons contained within this report, the Committee does not support the draft ResCode in its current form. The Committee recognises the political imperative of the government in attempting to develop a single code for residential development and subdivision, and in principle, supports this imperative. However it is quite clear that the draft ResCode simply will not work.

It would be easy for the Committee to finish its work here and submit this report without any further comment. However, the Committee strongly considers there is a way forward and that there are a range of planning mechanisms available to develop a residential code model that will achieve the objectives of government.

Some of these may result in a longer time frame than earlier anticipated for its completion and others require substantial work to be undertaken. Other options can be undertaken quite readily by the Department and should result in a relatively smooth transition process.

During the course of reviewing the submissions and from the oral presentations, a number of options were discussed with the Committee. These can be summarised in five distinct groups. One of the criticisms made by submitters was that the Department presented the planning and development community with ResCode as a first and final product and that it did not explore a range of options on how best to develop a residential and subdivision code first. In addition, while the planning and development community had the opportunity to attend a number of workshop sessions on ResCode, it did not have any opportunity to assist in its development.

The Committee found that in order to complete its obligations, it needed to examine other options for satisfying the Government's objectives. The five options identified by the Committee to further develop a residential and subdivision code were:

**(i) Retain Good Design Guide and VicCode 1**

The first option to be explored was to retain the Good Design Guide and VicCode 1 as the tools for residential development and subdivision with some modifications. It was submitted that with the addition of Amendment VC9 to the SPPF, the increased awareness of issues of neighbourhood character and improved use of the new format planning schemes by Councils and others, there appears to be a lessening of concern about the Good Design Guide. In addition it is clear that there are few problems with VicCode 1 that could not be rectified with some minor modifications.

Improvements to the Good Design Guide could be to better define the objectives of the guide, to provide assistance in the weighting of elements, particularly Neighbourhood Character and by providing guidance as to how to exercise discretion. A further way would be to place more emphasis on achieving the objectives of the guide and less reliance on the deemed to comply provisions of the techniques. The controversy surrounding the Guide's application would be greatly assisted by the development of a strategic policy dealing with the locational needs for medium density housing which presumably will occur in the proposed Metropolitan Strategy.

While the Committee sees this as a serious option it generally rejected it because it did not achieve one of the key government objectives of having a single code to deal with residential development and subdivision. Further, it considers that the Good Design Guide has become so tainted in the eyes of the community that it would not be a solution that would be accepted by the community at large. Also Councils are seeking a new model and this option would be difficult to reconcile with those who are expecting a code that provides greater certainty.

**(ii) Revised ResCode**

A second option was to retain and further develop ResCode in accordance with the Department revised model as outlined in its supplementary submission. In its submission at the commencement of the hearing process, the Department proposed a number of structural changes to ResCode that would address what it saw as some

of the major problems with the draft code.

### **(iii) Residential and Subdivision Provisions**

A third option was to develop new provisions (based on a fusion of the Good Design Guide and VicCode 1 and the general principles of ResCode) and use the existing tools in the VPPs, including a new Neighbourhood Character Overlay, and allow the development of a stronger local policy imperative for municipal Councils to develop a range of options for the location and management of new development.

### **(iv) Menu of Standards Code**

A fourth option was to allow Councils to develop a new code with a menu of standards. This option was explained as the “pattern book” approach where each Council would assemble its own code by selecting the relevant components from the “pattern book” based on the same method by creating the new planning schemes from the VPPs.

### **(v) Council Code**

The final option to be explored was to allow for each Council to develop its own residential code, either

- a. ‘carte blanche’ based on each municipality’s own specific requirements, or
- b. in accordance with an agreed model framework to be developed by the Department.

There were some submissions that expressed the view that each Council should be able to develop its own code in accordance with their own specific requirements. The Committee sees a danger in this approach because it would effectively enable Councils to ‘shut the door’ on new development in a range of locations without an overarching State strategic housing policy giving guidance and direction for regional housing needs. This option could be modified by Councils being required to develop such a code in accordance with a framework prepared by the Department,

The Committee considers this last option to be fraught with difficulties. It also represents a retrograde step. Part of developing VicCode 1 and VicCode 2 (later the Good Design Guide) in the first place was to overcome the plethora of individual codes throughout Victoria, the uncertainties, inconsistencies and costs associated with this. It would ‘turn back the clock’ and give rise to the concerns that plagued the metropolitan area in the flat boom of the 1960s. The Housing Industry especially would oppose such an outcome. Consistency demands there be a common code for use by all within Victoria, with variations allowable where there is a sound strategic basis or because of the particular characteristics of specific local areas.

### **(vi) Preferred Option**

The Committee recommends the third option be adopted by the Department as the way forward in developing new residential development and subdivision provisions in Victoria. To assist in this process, the Committee has prepared a model

framework of how this option could be further pursued and developed. The full details of this option are contained in the Part 3 Report of the Committee.

### 7.3 Final Recommendations

In undertaking its review, the Committee was greatly assisted by the extensive number of submitters and those who undertook follow up work. Without this assistance, it would have been difficult for the Committee to complete its work.

In developing its final recommendations, the Committee considers that as a matter of principle it is preferable to use the current tools in the VPPs to develop a more integrated approach to residential development. Many Councils believe that with the advent of Amendment VC 9 and modifications to the SPPF which elevate the importance of neighbourhood character, there are sufficient tools to controls development.

Therefore the primary recommendation of the Committee is that ResCode in its current form be abandoned and replaced with a revised code to be contained in new Residential and Subdivision Provisions. This is outlined in the Part 3 report of this Committee. These new provisions should be developed in conjunction with a new Neighbourhood Character Overlay, and new provisions to the Residential Zones, including the introduction of a Schedule to those zones to allow for the identification of lot sizes where a permit must be sought for single residential dwellings.

It would seem that the two most contentious residential development issues include development of single housing in established residential areas and the impact of some forms of medium density development in inner and middle ring suburbs. Development of housing and subdivision in the outer and fringe municipalities did not seem to generate the same level of concern, and most submitters were of the opinion that ResCode should not be applied to these areas.

Many Councils are in the process of developing neighbourhood character studies and residential strategies, and these should be encouraged to be taken forward. The development and use of neighbourhood character studies should be prepared in conjunction with housing studies that identify the short and long term housing needs of each municipality and then identify how those needs will be accommodated within the municipal boundaries. This could then lead, through local policy development, to the identification of preferred development areas and housing strategies to facilitate appropriate development in those areas. In identifying preferred development areas, municipalities could also identify neighbourhood character areas where particular forms of housing may not be preferred because of key issues such character and heritage matters.

Therefore the substantive recommendations of the Committee are as follows:

1. That the exhibited Draft Residential Code for Consultation should be abandoned.
2. That the Department should refine the **Revised Residential Code** presented in the Part 3 report and based on the following principles:
  - a. That the Code be based on three parts:

**Part A** to deal with single dwellings that do not require a planning permit.

**Part B** to deal with development that requires planning approval because it is below the scheduled lot size or if it involves more than one dwelling.

**Part C** to deal with subdivision.

- b. That the Code be incorporated into new Residential and Subdivision Provisions at Clauses 54, 55 and 56 of the Victoria Planning Provisions.
- c. That a Neighbourhood Character Overlay be introduced into the VPPS.
- d. That the Residential Zones of the VPPs be amended to include a schedule that provides for a planning permit to be sought for a menu of lot sizes, with default provisions if Councils do not wish to amend the current situation.

It is important to note that Parts 2c and 2d of this recommendation are to provide opportunities for Councils to undertake strategic work to support these initiatives which would result in a Planning Scheme amendment prior to inclusion in the scheme.

3. That VicCode 1 should be used as the basis for standards in the revised Subdivision Provisions, and that there be a separate and comprehensive review of those objectives and standards.
4. That the Department should undertake a full and thorough educative process to inform and advise all users, and in particular Councils how to make best use of the new residential provisions and the proper use of site analysis and design responses. In conjunction with this, the Department should prepare a 'Users Guide' or a 'Best Practice Guide' of the revised code.
5. That the Department should prepare a series of Planning Practice Notes on the following matters:
  - Preparation of a Neighbourhood Character Overlay.
  - Application of the Schedule to the Residential Zones.
  - Use of the Subdivision provisions.
  - How to prepare for an amendment to the Residential and Subdivision Provisions.
6. That the Department undertake further, targeted consultation of the revised Code and in particular focus and fully test the following matters:
  - Application of the Residential and Subdivision Provisions in all Residential Zones;
  - The process of considering variations to the standards in Clause 54.03 in conjunction with dwellings that require a permit under an overlay.
  - Proposed schedule of lot sizes;
  - Site context documentation requirements for Part A;
  - Documentation necessary to accompany applications;

- Application on sites over 4,000 square metres;
  - Application for developments over 4 storeys.
7. That the Minister revoke Ministerial Direction No 8.
  8. That the Department consider amending the purposes section of the Residential Zones in Planning Schemes to strengthen the need for responsive design and respecting neighbourhood character.

The Committee would like to emphasise that it does not regard its recommendation as providing the definitive residential code, as due to time constraints, it has not been tested. It does, however, take into account the general thrust of submissions from a wide group of interests and it does take the original ResCode proposal a great deal further. It uses the tools of the VPPs as much as possible, and it provides for Councils to adapt existing strategic work or to undertake further strategic work necessary for full implementation.

It provides Councils with a choice to have better controls over areas that exhibit valued characteristics and it will enable Councils to introduce changes to their Planning Schemes in an ordered manner. It recognises that *“one size does not fit all”* and that even within municipalities, some areas justify greater protection than others. It provides Councils with the mechanisms to control single dwellings through the permit process, however, these choices would need to be made through a strategic evaluation and assessment, with the input of all stakeholders.

The recommendations of the Committee, when implemented, will allow Councils to do very little or a great deal. The choice rests with those who would be most affected by development proposals. It recognises that all areas are different and therefore the level of control and protection must be able to accommodate those differences.



**APPENDIX A: TERMS OF REFERENCE FOR ADVISORY COMMITTEE**

**APPENDIX B: REPORT TO COMMITTEE FROM JAGUAR CONSULTING**

**APPENDIX C: LIST OF WRITTEN SUBMITTORS**

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**APPENDIX D: HEARING TIMETABLE FOR ORAL PRESENTATIONS**

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*Planning and Environment Act 1987*

**DRAFT RESIDENTIAL CODE FOR CONSULTATION**

**RESCODE 2000: PART 2 REPORT**

**EVALUATION OF STANDARDS**

**Report of the Advisory Committee  
Pursuant to Section 151 of the Act**

**Advisory Committee:**

**Christopher Wren, Chair**

**Helen Gibson**

**John Glossop**

**Ann Keddie**

**Cathie McRobert**

**Kathryn Mitchell**

**Raymond Peck**

**Lester Townsend**

**David Whitney**

**20 December 2000**

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**RESCODE 2000**

**PART 2 REPORT**

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**20 December 2000**

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## **ABBREVIATIONS**

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Committee	Advisory Committee appointed to consider Draft Consultation Residential Code (ResCode) 2000
Department	Department of Infrastructure
GDG	The Good Design Guide for Medium Density Housing Department of Planning and Development 1995 (as amended)
ResCode	Consultation Draft Residential Code Department of Infrastructure June 2000
SAC	Standing Advisory Committee to Review Provisions of VicCode 1 and the Good Design Guide
VicCode 1/VC1	Victorian Code for Residential Development – Subdivision and Single Dwellings Department of Planning and Housing 1992

## **INTRODUCTION**

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*An Advisory Committee (the Committee) was appointed under Section 151 of the Planning and Environment Act 1987 by the Minister for Planning, the Hon. John Thwaites, (the Minister) to consider a proposed replacement for the Good Design Guide for Medium Density Housing (July 1995 and revisions) (the Good Design Guide) and the Victorian Code for Residential Development – Subdivision and Single Dwellings (April 1992) (VicCode 1) on 12 June 2000.*

*The Committee comprised Chris Wren (Chair), Helen Gibson, John Glossop, Ann Keddie, Cathie McRobert, Ray Peck, Lester Townsend and David Whitney. Kathryn Mitchell was appointed on 1 August 2000.*

*The proposed replacement of the Good Design Guide and VicCode 1 was the consultation Draft Residential Code for Victoria (ResCode) which had been released for public consultation by the Minister on 7 June 2000.*

*The Committee has prepared three reports. The Part 1 report contains the response of the Committee to its Terms of Reference and its recommendations. This Part 2 report contains the Committee's evaluation of the standards contained within the draft ResCode report for consultation. The Part 3 report contains the detailed proposals on how the Committee's recommendations might be put into practice, which, in particular have resulted in the preparation of new planning scheme provisions for residential development and subdivision in Victoria.*

The following evaluation of the individual ResCode standards has been undertaken to present the key issues raised in submissions, the Committee's comments taking into account the submissions received, and the approach recommended by the Committee to address particular aspects of residential development. The approaches identified in this part have generated the recommendations of the Committee in the Part 3 report, which has been developed for further targeted consultation.

### **Format and Methodology**

The review of each ResCode standard involves the following components:

- **The Standard** is cited but the Purposes, Basis and Practice Notes are not repeated. Comments are provided on these components of the code under specific standards in some cases.
- **Origin:** The origins of the standard are identified as a reference to determine the nature of the changes proposed in ResCode and the reasons for those changes. The ResCode standards are commonly derived from VicCode 1, the Good Design Guide and the SAC Final Report. The Committee drew on material from the Department that identified the source of standards which was confirmed by the Committee. In many cases the SAC Final Report included extensive discussion of the rationale for the approach it recommended. In this analysis, only a very brief summary is provided with the relevant pages of the report cited.
- **Status:** The capacity to depart from prescriptive requirements is identified under status for each standard, that is, whether it is mandatory or discretionary and, for Part B standards, whether local variations are permitted. For Part A standards, it is also noted whether there is any effective opportunity for dispensations or review of decisions by applying for a permit under Part B.
- **Issues Raised in Submissions:** Collie Planning & Development Pty Ltd was commissioned to prepare a summary of issues raised in written submissions. The Committee also had access to the Department's summary of key issues from selected written submissions. The Committee drew heavily on these summaries but supplemented those analyses with additional input from the hearing process and its own review. The Department's submission to the Committee also suggested changes to some standards and the nature of those changes is noted where appropriate.
- **Committee Comment:** This section provides a brief response to submissions on the specific ResCode standard and its view of the approach that should be adopted.
- **Recommendations:** These suggest the approach that should be adopted to

## Sequence

Analysis of standards proceeds sequentially through the Code but Part A and B standards with substantially the same requirement are dealt with together in Part A to minimise duplication. The table of contents at the beginning of this report indicates the page on which any particular standard is evaluated.

## Common Themes and Matters Not Addressed in Evaluation of Specific Standards

A number of common issues were raised regarding ResCode that do not relate to particular standards or were recurring themes relating to a number of standards. They included:

- A single Code with mandatory prescriptive standards ignores particular local conditions. Recovery of a workable set of provisions would be dependent on the introduction of local variations which would be a resource-intensive exercise and would be unlikely to be in place on day one of the Code. Inner-city Councils in particular emphasised that many ResCode standards are not relevant to their area and would preclude most renovations and additions. The Committee agrees.
- The absence of discretion to depart from most prescriptive standards was supported by many individual submitters and community groups but opposed by many Councils and industry submissions. The Committee believes that discretion must always be available to allow site and context responsive design but prescriptive standards can provide a useful benchmark. Objectives to indicate the outcome sought and decision guidelines to apply when discretion is exercised are essential to promote consistency in decision-making.
- Some submitters opposed non-quantified standards being mandatory. The Committee is comfortable that mandatory consideration of the matters in standards that are not quantified is appropriate, because it makes it clear that those matters cannot be neglected in the design and evaluation processes.
- As of right two dwellings on a site, even with the conditions proposed in ResCode, was considered unacceptable by the majority of submitters. The Committee agrees.
- The Committee believes that the combined effect of Part A standards would impose significant constraints on choice and a substantial burden on applicants and the regulatory system throughout the State, without achieving the objective of protecting neighbourhood character. The Committee prefers an approach whereby sensitive or highly valued areas and characteristics can be addressed specifically through a Neighbourhood Character Overlay.
- There were mixed views about the omission of density standards. Some community groups, residents and industry representatives argued that density provisions provide certainty for all parties, with the former often advocating lower densities. On the other hand, some submitters indicated that densities promote a bottom line approach to development and provide an inefficient means of providing a generalised safety net where low densities tend to be adopted. The Committee does not support the inclusion of densities in the Code, but sees an important role for strategic planning in identifying areas where more or less intensive development should be promoted. The new Code should explicitly require these strategies to be addressed at the beginning of the decision-making process.

- ResCode also proposed to apply the same construction standards to both public and private roads. This issue was not canvassed in either written submissions or at hearings. The requirement would impose substantially higher requirements and should be raised during the targeted consultation recommended by the Committee.

## **Subdivision**

There was almost universal agreement that VicCode 1, as it relates to subdivision, has proved to be a durable document which has a high level of support. In the Part 1 report, the Committee has generally endorsed the recommendations of the 1996 Advisory Committee that reviewed VicCode 1, in particular:

- Placing greater emphasis on Element 0 Community Design and explicitly requiring site analysis to be submitted with subdivision applications. The Committee believes that these initial processes in the design and evaluation of new subdivisions are the most challenging but also the most important to achieve better outcomes. There is an important role for the Department to enhance the skills applied in both the development industry and Councils to these fundamental planning tasks;
- Increasing the lot size threshold above which a planning permit for single houses is required;
- Requiring footpaths on access lanes and access places. It should be noted that the ResCode changed the definition of Access Place to a street providing alternative access to lots with an alternative frontage. The Committee does not believe that footpaths are necessary for these secondary access options but has reverted to the previous VicCode definition for access place.

The Committee has also expressed concern that ResCode has emphasised minimisation of road maintenance costs, ie generally costs to Councils which would often result in higher initial construction costs. VicCode 1 was underpinned by a principle that costs to the community as a whole should be contained and was based on analysis of the long term costs of higher upfront investment taking account of future maintenance requirements. The Committee was not presented with any analysis to support a change in emphasis to focus primarily on maintenance costs and believes that the VicCode 1 approach to the issue remains sound.

With regard to movement networks, ResCode sought to address concerns raised by emergency and waste collection services as well as some developers that some VicCode 1 standards are too tight. Some submissions from traffic engineers

expressed concerns about these changes. For example, ResCode replaced alternative carriageway widths in VicCode 1 with a range that embraced the two options. The VicCode 1 approach was designed to provide for specific design solutions whereas the range allows widths that do not directly relate to the components to be accommodated and could result in roads that promote less safe driver behaviour. Similarly, traffic calming approaches were a central component in VicCode 1 and should not be removed without careful evaluation. The Committee accepts submissions that modification of requirements should be addressed on a comprehensive basis with specialist technical input.

The Committee has adopted a basic principle that VicCode 1 requirements should remain until a comprehensive review based on appropriate technical analysis is undertaken with the active participation of all stakeholders. The Committee also suggests that such a review of VicCode 1 should explore ways of achieving more sustainable new urban areas.

The discussion associated with many subdivision standards in ResCode is limited, either because the translation of VicCode 1 requirements was not contentious or the Committee was not prepared to endorse ad hoc changes in the absence of comprehensive technical evaluation.



## PART A STANDARDS

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### Front Setbacks

**“As specified on the site analysis endorsed by the responsible authority.”**

The exhibited Practice Note Responding to Neighbourhood Character indicates in relation to front setbacks that *Where there is a consistent setback on adjacent properties, it is preferable to match this setback and Where the setbacks vary on adjacent properties, take the average of the two to provide a transition.*

It is assumed that where a streetscape plan (S35) or building envelope establishes a front setback for new development, endorsement in the site analysis for those setbacks would be routine.

#### ***Proposed Status:***

- Mandatory
- Non-prescriptive with responsible authority discretion via the site analysis process.
- No appeal mechanism proposed.

#### ***Origin:***

- New ResCode approach relying on site analysis.
- If the approach suggested in the Practice Note is adopted, setbacks would be increased from VicCode1E2 PM7 setbacks of 4.5m where adjacent property setbacks are less than 7m, or 6m where adjacent setbacks are more than 7m in pre-VicCode streets and 4–6m in new subdivisions.
- The SAC recognised the importance of front setbacks on streetscape and the impact of intrusions into prevailing front setbacks in an area. The need for judgement in evaluating trade-offs regarding the use of the front setbacks was acknowledged. (See discussion pages 65–72 SAC Final Report). The SAC recommendations allowed for some encroachment into prevailing setbacks except where the prevailing setback was 5m or less (see SAC Final Report Pages 77–79) as follows:
  - Prevailing setbacks should be established based on 10 properties on the same side of the street.
  - Alternative setbacks in streets without prevailing setbacks.
  - Corner setback of 3m on sites less than 1200m<sup>2</sup>.
  - In greenfield locations VicCode E2.PM7 should continue to apply.

The SAC also addressed the location of garages and carports in relation to the front setback (see SAC Final Report pages 75–76). The SAC emphasised the impact of carports and garages on streetscape and the value of a practice note to highlight ways of reducing their visual impact. It was noted that a permit could

be granted if circumstances justified the location of garages in the front setback (eg. Topography or a common feature in the area) and that policies could be developed to address these areas. It was acknowledged that, in greenfield locations, garages forward of the dwelling are a common feature of many project homes designs and therefore of many new areas. The SAC recommended that the exclusion of garages and carports from front setbacks apply to all dwellings but in greenfield locations the requirement would be a default measure so that local variations could remove the requirement where appropriate.

***Issues Raised by Submitters:***

- It is possible and highly desirable to increase certainty by specifying requirements.
- Councils in established areas and community groups supported measures to ensure that setbacks match the setbacks in the area based on an average of setbacks of properties in the street. An average of ten properties was commonly suggested, some also suggested properties opposite should be included.
- Support for 'prevailing' setback, as adjoining setbacks may be atypical.
- There was a strong view that placing buildings forward of adjoining dwellings can disrupt the rhythm of a streetscape.
- Industry submissions highlighted cost increases and implications for urban consolidation if the prevailing or average setback was applied.
- Consideration should be given to the impact on development where adjoining development has very large setbacks eg 9 metres +.
- Increased land in the front setback reduces private, more functional space valued by consumers.
- Improvements within the public realm can be more effective in achieving character objectives than borrowing amenity from private allotments through increased front setbacks.
- The treatment of corner sites should be specifically addressed.
- The influence and treatment of encroachments, particularly garages, and the effect of adjoining vacant land should be clearly defined.
- A requirement for garages to not project into the front setback would have a major impact on current project home design, potentially requiring wider blocks, increasing the cost of the house and land package and reducing the ability to achieve urban consolidation.
- Default requirements should be identified for greenfield situations.
- The effect of streetscape plans and building envelopes for newer subdivisions should be explicitly recognised.
- It is important that 'setback' and 'allowable encroachments' be clearly defined.
- The Department's submission to the Committee suggested that buildings should:
  - *be no closer to the street than the closer of the two adjoining properties;*
  - *be no further back from the street than the further of the two adjoining properties;*
  - *for two dwellings on a lot, the difference between the front setback of each dwelling on the same lot must not be more than 20%;*

- *verandahs and eaves can project into this front setback area by up to 1.0 metre;*
- *on corner lots, side walls of new dwellings must not be closer to the street than 3 metres;*
- *a garage or carport must not be located closer to the street than the front setback of the dwelling or dwellings on the same lot;*
- *this standard should be capable of being varied with the consent of the building surveyor.*

***Committee Comment:***

The treatment of the interface with the street is an important element in achieving development that is compatible with neighbourhood character. The Committee recognises the cost implications where new development is required to be consistent with existing front setbacks in established areas, but accepts the view that the additional constraint is justified to meet the greater emphasis placed on the protection of neighbourhood character.

The Committee believes that, although the setbacks of adjoining properties may be atypical of an area, they are the most relevant to the development of a site. Adopting an average of the setbacks of the adjoining properties, excluding garages, provides for a transition between properties. Applying prevailing setbacks or average setbacks over a larger number of nearby properties that are greater than the adjoining properties may well create “holes” in the streetscape which disrupt the rhythm established by the immediately adjoining properties.

The practice of building an as of right dwelling at the rear of a lot, where amenity impacts may be greatest, and then applying for a second dwelling, is a loophole that should be addressed. The specification of a maximum front setback, say one third of the depth of the lot, would avoid this concern. Dispensations would be possible to address the specific circumstances of a site.

Corner sites require particular treatment. In suburban areas there has been a long established norm that side walls of corner houses have lesser setbacks than the adjoining property. The Committee questions the contribution made on corner sites by a small side setback which is commonly fenced and provides little opportunity for any meaningful planting. It is suggested that side walls adjoining a second street not be required to be set back.

Garages can have a significant influence on streetscape, but the Committee believes that the determination of the average front setback for as-of-right development of single houses should disregard existing garages. However, the influence of existing encroachments into front setbacks, including garages, would be a matter that should be taken into account in decision guidelines for the exercise of discretion through a dispensation.

ResCode did not provide a default front setback for developing areas. The VicCode 1 standards, with opportunities for alternative approaches under streetscape plans, were not challenged in submissions and should be maintained. Councils could address the location of garages in streetscape plans associated with new subdivisions.

Recommendations:

- **For infill development front setbacks relate to the average setback of adjoining properties. Garages and encroachments such as verandahs and eaves should not be taken into account in determining the average setback.**
- **In greenfield areas VicCode E2 PM7 should continue to apply, together with the potential for alternative approaches via approved streetscape plans or building envelopes.**
- **On corner sites, side walls not be required to be set back from the second street.**
- **Decision guidelines should specifically address circumstances where alternative approaches may be justified including where the encroachment of garages into the front setback is a common feature, discounting of extraordinary setbacks, specific site constraints, the need to accommodate vegetation.**

## Front Fences

The maximum height of a front fence is 1.2 metres or any other height specified on the site analysis endorsed by the responsible authority

*Proposed Status:*

- Mandatory but responsible authority may approve any other height via site analysis.

*Origin:*

- New for single houses.
- GDG E3.C6 design suggestion (part)

- *Keep front fences to a maximum of 1.2m in height if solid or 1.5m in height if more than 50 per cent transparent.*
- *Where high solid front fences are essential, limit them to parts of the frontage in order to maintain views between the dwelling and the street.*
- The SAC recommended that front fences should reflect the predominant height of other fences in the street unless substantial change is anticipated. Front fences should be no higher than 1.2m; and no front fence should be provided where 80% of properties within 10 properties on the same side of the street do not have front fences. It was noted that the standards should not be binding and guidelines could address issues such as where noise attenuation is an important consideration, together with measures to reduce the impact of high fences. These recommendations were to apply to all single dwellings with necessary changes to Clause 62.02, which excludes fences from the requirement for a permit.

#### ***Issues Raised by Submitters:***

- The industry submissions sought certainty regarding requirements rather than any requirement being possible under the site analysis.
- There is insufficient flexibility to respond to site conditions/context, eg. privacy to front windows, noise attenuation on busy roads, wind protection etc.
- The inflexible standard does not take account of design solutions to minimise impact, eg. degree of transparency, fence articulation, extent of boundary fenced.
- It should be possible to prevent front fences where this is characteristic of the area.
- The definition of front fence should be clear, eg. prevent a second fence in the front setback, the treatment of fences to side streets.
- Height definitions should be clarified, eg. from ground level or footpath level, on sloping sites.
- Fences are often constructed after the house - results in either inequitable application of requirements or the burden of a second permit process.
- Too restrictive in greenfield areas where character is evolving.
- The Department's submission to the Committee suggested that:
  - The maximum height of a front fence must not be higher than the average of the height of fences on the two adjoining properties, 1.2m where there are no adjoining front fences on adjoining properties, or 2 metres where the site fronts a Road Zone.
  - Any additional fence to the front fence must not be located in the front setback.
  - Dispensation with the consent of the building surveyor.

#### ***Committee Comment:***

The Committee was particularly concerned that the ResCode standard would only apply when a development application for other works was made. The SAC had anticipated this issue and recommended that all front fences require a planning

permit but the Committee believes that the introduction of a new permit requirement for front fences would not be justified in all areas.

A neighbourhood character overlay would provide a mechanism for responsible authorities to seek this type of control where it is considered necessary and is supported by the community.

Where a planning permit for more intensive development is required, fencing is an issue that is reasonable to take into account because the pressures to maximise the use of space including the front setback encourage the use of high solid fences.

Whereas site layouts for single houses typically provide secluded private open space behind the front setback without the need for a specific control, this is not the case for more intensive single-house and multi-unit development. The GDG E3.C6 design suggestion provides a reasonable benchmark with decision guidelines allowing consideration of the nature of prevailing fencing to be taken into account, the need for noise attenuation, the appropriateness of providing privacy to open space in the front setback and the like.

***Recommendation:***

- That front fences for single house development be addressed via a neighbourhood character overlay, where fences are determined to be a significant local characteristic that warrants planning approval.

## **Roof Pitch**

The roof pitch must be characteristic of the area (either flat or pitched), as specified on the site analysis endorsed by the responsible authority.

The Neighbourhood Character Practice Note indicated that this requirement primarily applies to roof form visible from the street, promoted the use of similar roof materials but discouraged copying period style or detailing (page 5).

Practice Note 3 Visual Bulk supports the roof pitch, upper storey and walls on boundaries standards of Part A as well as Part B standards. It suggests approaches to minimise visual bulk through articulation, varying front, side and rear setbacks,

building materials and colours, height, use of slope and complementary landscaping.

***Proposed Status:***

- Mandatory standard
- Non-prescriptive with responsible authority discretion via the site analysis process.
- Alternative approaches and appeals via a Part B planning permit application.

***Origin:***

The SAC considered that roof form is often an important factor in development which was unsympathetic to neighbourhood character and recommended that infill development should use characteristic roof forms and pitch. This was seen as a useful qualitative assessment standard but *it should not be made mandatory and the element of judgement should not be removed*. It was acknowledged that rooflines will be irrelevant in some cases (see discussion in the SAC Final Report pages 62–63).

***Issues Raised by Submitters:***

- Roof pitch may be relevant to neighbourhood character in some areas but not others.
- The requirement would stifle innovative design.
- An unnecessary limit is imposed on personal choice.
- Pitched/flat is poorly defined - would surveyors be necessary to establish precise pitch?
- In developing areas pitches often vary or the alternatively first house could determine the roof form of all other houses.
- Requirements to match the characteristic roof pitch can add significantly to cost.
- Some housing products using very steep pitches would be prevented, while flat roofs would not be permitted over extensive areas.
- The Department's submission to the Committee suggested the following change to the standard: *For dwellings of two or more storeys, the roof must be pitched if the nearest two adjoining dwellings are pitched.*

***Committee Comment:***

The Committee believes that roof pitch can be a significant factor in achieving sympathetic infill development but in some areas roof pitch will not be relevant. This may be due to a range of factors such as the dominance of vegetation, the diversity of built form in an area, or the unifying influence of the public realm. The spaces between buildings are also significant and a well-designed building may

adopt a roof form that is not characteristic of the immediate area but sit comfortably in its context. Further, in some areas change may be desirable. The Committee agrees with the SAC that roof form is a relevant consideration where a planning permit is required but judgement should always be exercised and innovative designs should not be precluded. It is noted that the Practice Note only provides examples where the roof form of adjoining properties, but not detailing, is replicated. Examples that do not mimic the existing roof form should also be provided.

In areas where the protection of neighbourhood character is considered to warrant additional controls and roof pitch is relevant, it may be a matter addressed by the proposed Neighbourhood Character Overlay.

The imposition of roof pitch requirements in developing areas where character is evolving is not supported.

***Recommendation:***

- A Neighbourhood Character Overlay may include consideration of roof pitch of single houses where roofs are a key characteristic of the neighbourhood character of an area.

## **Retention of Mature Trees**

*Mature trees within the front and side setback areas must be retained if specified for retention on the site analysis endorsed by the responsible authority.*

The Neighbourhood Character Practice Note (page 6) indicates that *trees in the front and side setback should be retained... Wherever practicable, any mature tree on a site should be retained through design modification.*

***Proposed Status:***

- Mandatory if retention is specified on the endorsed site analysis.
- The responsible authority has discretion not to require retention of mature trees.
- No appeal mechanism proposed.

***Origin:***

GDG E3.C3

*New development should provide for the retention or planting of trees with spreading crowns.*



The SAC acknowledged the important contribution made by trees with spreading crowns and noted the potential for the recommended overlay to address moonscaping, but the report did not specifically recommend protection of mature trees.

***Issues Raised by Submitters:***

- The standard is unworkable unless *mature tree* is clearly defined and consideration is given to reasonable tree maintenance, protection of the root zone and the like.
- In the absence of a universal requirement for a permit to remove vegetation, there is a strong risk of moonscaping prior to permit applications .
- Consideration of tree removal only when a development application is lodged is inequitable. Other properties not undertaking development could remove trees without any consideration of impacts.
- The cost of accommodating trees, either in terms of space or structural modifications may far outweigh the value of the tree in terms of neighbourhood character or value to the consumer.
- The development industry raised concerns regarding liability for structural damage. The CSIRO guidelines are typically adopted and impose an onerous setback from trees (generally 1.5 x height). This would exclude large trees from most new development.
- The Department's submission to the Committee suggested that trees with a girth of 300mm measured at 1m above ground level, and over 3m in height must be retained.

***Committee Comment:***

The contribution of large trees, particularly those with spreading crowns, is recognised. The SAC suggested that where tree retention requirements are justified they should apply to all properties, not just those where development is proposed. The mandatory requirement proposed by the Department captures quite small plants and does not acknowledge that particular trees may be inappropriate in the existing location, or that the health of the tree may not justify its retention. The merits of tree retention should be considered on a case-by-case basis where a permit is required for development.

The proposed Neighbourhood Character Overlay provides a mechanism for local communities to introduce a requirement for a permit for tree removal which should apply to all properties in areas where vegetation is a key characteristic determining neighbourhood character. It is also noted that the CSIRO guidelines used by many builders impose a substantial constraint on large trees in the vast majority of urban

areas.

***Recommendations:***

- In areas where large trees are a key characteristic of the neighbourhood character, consideration be given to introducing a requirement for a permit for tree removal via the proposed Neighbourhood Character Overlay.
- The effect of using the CSIRO guidelines should be re-evaluated.

## **Addressing The Street**

The principle frontage of each dwelling on the lot must address the same street.

*A dwelling must not be located behind another dwelling on the same lot.*

***Proposed Status:***

- Mandatory standard.
- May apply for permit under Part B
- Appeal rights under Part B application

***Origin:***

- New

***Issues Raised by Submitters:***

- It should be clarified that this standard only relates to the development of two dwellings on a lot.
- The rationale for the standard is unclear.
- The standard does not promote good outcomes for corner lots or lots adjoining open space.
- The required side by side layout may disrupt the rhythm of some streetscapes and can create undesirable streetscape outcomes with two crossovers/driveways reducing on-street parking or dissecting front setbacks.
- Principle frontage is not defined.

***Committee Comment:***

The Committee agrees with the criticisms in submissions. It believes that two dwellings should always require a planning permit, and that therefore the standard should be deleted.

***Recommendation:***

- **The Part A Standard Addressing the Street be deleted.**

## **Building Height (Part B Standard 9)**

The height of a building must not exceed 9 metres.

### ***Proposed Status:***

- *Mandatory standard;*
- *A permit may be applied for under Part B, up to a maximum of 12 metres, unless a local variation is in place;*
- *Appeal mechanism available under Part B application.*

### ***Origin:***

VicCode 1 E2PM8 allows a maximum height of 12 metres.

*A building must not exceed a building height specified in a local variation. If no height is specified a building must be no higher than 12 metres...Preference should be given to graduated changes of building heights between existing dwellings and new development.*

### ***Status (Part B):***

- *Mandatory standard.*
- *May be locally varied.*

### ***Origin:***

- GDG E6.T4
  - *Specifies maximum height 12m outside a 7km radius of GPO, except where lower height is specified in a local planning scheme;*
  - *Height in GDG is related to setback by a formula whereby as building increased in height, so too did the setback;*
  - *Urban conservation areas were excluded.*
- GDG E3C5
  - *Provides that significant changes of building height between existing dwellings and new development should be graduated, but is not mentioned in any of the design suggestions.*
- *The SAC Review of the GDG and VicCode 1 identified height as one of the most contentious issues in planning, but pointed out that it is not height itself, but rather height in conjunction with other factors within a particular context, which results in a development which is appropriate or otherwise.*

### ***Issues Raised by Submitters:***

- Ability to implement local variation to the maximum building height where there is strategic justification was recognised by submitters as important, particularly in areas which are predominantly single-storey or Victorian terraces;
- Some submitters believed that discretion should be available to accommodate site conditions, for example, slope or context.

***Committee Comment:***

The Committee supports the observations made by the SAC in its Final Report pages 96–101, where the relationship between height and neighbourhood character and height and visual bulk is discussed at length. It agrees that *Height is always a relative issue. It needs to be seen in context, in terms of its relationship with other elements and with the proportions of the development.*

The Committee agrees with submitters who believe that an as-of-right height of 12 metres is excessive for single houses and or as a benchmark for multi-unit development. Discretion, however, should continue to be available, measured against objectives and decision guidelines. Councils should have the mechanism to increase the height of dwellings in, for example, areas of substantial change, or large sites, or to recognise topography.

It is acknowledge that *natural ground level* can be difficult to interpret where sites have been cut or filled but definition is difficult and a reasonable approach must be adopted in interpretation.

***Recommendations:***

- **The height specified in standards for both single houses and multi-unit development should be 9 metres.**
- **Dispensation should be available, measured against objectives and decision guidelines to allow increase in height in areas of substantial change, or on large sites, or where the site analysis indicates that greater heights may be appropriate.**
- **The VPP definition of height should apply.**
- **A user guide should promote education about the role of proportion in avoiding visual bulk.**

## **Side and Rear Setbacks (Part B Standard 13)**

*For a wall not on a boundary, the minimum setback of a wall from:*

- *The most northerly boundary of an adjoining lot must be 1.2 metres, plus 0.6 metres for every 1 metre of height between 3.0 metres and 7.0 metres, and 1 metre of height above 7.0 metres;*
- *Any other side or rear boundary must be 1.2 metres, plus 0.3 metres for every 1 metre of height between 3.6 metres and 7.0 metres, and 1 metre for every 1 metre height above 7.0 metres.*

*Eaves, fascias and gutters, masonry chimneys, flues, pipes, domestic fuel tanks, cooling or heating appliances or other services may encroach not more than 0.7 metres beyond the side and rear setbacks to a distance between the outermost point of the structure and the boundary.*

**Status:**

This standard is almost identical in both Part A and in Part B.

- Mandatory standard.
- Part B may be varied.
- Appeal to VCAT via Part B application

**Origin:**

- *For single houses VicCode 1 E2PM8 requires the following setbacks:*
  - 1 metre minimum setback for walls up to 3.6 metres in height unless the wall is built to the boundary;
  - for that part of the wall over 3.6 metre in height a minimum setback of 1 metre plus 0.3 metres for each 1 metre of height over 3.6 metres up to a height of 6.9 metres;
  - for that part of the wall over 6.9 metres in height a minimum setback of 1 metre for every 1 metre of height.
- For multi unit developments, setbacks are covered by the GDG Element 6.01 and E6.T4 (in part) applies:
  - *If not on the boundary, the setback of any wall is 1 metre minimum plus 0.3 metres for every metre of height over 3.6 metres of height up to 6.9 metre; and, for that part of the wall over 6.9 metres in height, a minimum setback of 1 metre for every 1 metre of height.*

This technique does not apply to urban conservation areas.

The SAC considered side setbacks as part of its analysis of visual bulk (Final Report pages 36–95) and recommended a standard for infill developments to the following effect:

- *The setbacks of at least 20% of all ground floor perimeter walls should be greater than any minimum setbacks for side and rear boundaries.*

The policy basis for this standard was to express the principle that variation in setbacks can assist in minimising the overall impact of a new development. It was recommended that this standard not apply in the inner metropolitan area.

### **Issues Raised by Submitters:**

- *This standard will greatly impact on both the siting and design of dwellings on narrow lots, particularly if the dwelling is two storey, or on a sloping site.*
- *The setback of 3.6 metres minimum from the northern boundary of the adjoining lot and 2.22 metres from other boundaries was thought to be unduly restrictive on two-storey housing.*
- *Many submitters supported the ability to insert a local variation for this standard to allow flexibility to ensure site responsive designs.*
- *The proposed setbacks from the northern boundary of the adjoining allotment are, in many situations, an unreasonable imposition on design and siting, for example, where the neighbouring house has no relationship to its northern boundary. It is unreasonable to impose a control that protects non-existent solar access.*
- *Unusable side yards on the southern boundary would be created.*
- *Some Councils submitted that setbacks should be increased further to be more useful for planting and solar access;*
- *Streetscape issues should be able to overrule this mandatory standard. Particularly in areas with a heritage overlay, a local variation would be needed;*
- *The Sustainable Energy Authority supported the differentiation of setbacks between north and non-northern boundaries of adjoining properties;*
- *While greater setbacks relative to height will provide higher levels of protection for solar access, this raises issues of its impacts on urban consolidation objectives. Clearly the greater the setback, the lower the development yield per site. The relationship between urban sprawl and energy consumption has been demonstrated in several studies. In the context of these issues, the proposed setbacks relative to the north boundary of neighbouring dwellings represents a reasonable compromise position between the increased heating requirements due to overshadowing and the energy saving obtained through urban consolidation.*

### **Committee Comment:**

ResCode increases the minimum standards for all side and rear setbacks. Part of this standard seeks to ensure that a dwelling constructed to the north of an existing or proposed dwelling does not unduly overshadow that dwelling. It also seeks to ensure that habitable rooms receive sufficient daylight, and that sunlight to main living rooms and the ability to be energy efficient is not compromised.

The SAC also acknowledged the importance of solar access, both in its contribution to the amenity of private open space and as one of the factors contributing to energy efficiency in housing. The SAC also noted that in the inner suburbs other factors may play a larger role in reducing energy consumption.

Most existing built-up areas were subdivided at a time when solar access was not a consideration. It is in these suburbs, often with predominantly single-storey houses,

where the negative impact of two-storey development in terms of overshadowing and increased building bulk is most keenly felt.

Many individual submitters thought that the winter solstice was a better basis for calculation than the equinox. The Committee does not accept this. Work undertaken for the SAC Issues and Options Paper comprehensively examined the winter solstice as a basis for calculating solar access to secluded open space and rejected it.

The Committee believes that the proposals to increase side and rear setbacks would provide limited additional amenity whilst consuming additional land area. Material included in the SAC final report, submitted by the Sustainable Authority highlighted the complexity of this issue. The Committee was concerned at the unintended consequence whereby the amenity of the private open space of the new dwelling would be significantly compromised, because of the increased setback to the south of the building. Industry submissions highlighted the costs associated with increasing widths of allotments to offset this effect.

***Recommendations:***

- **Setbacks should remain as they are currently defined under VicCode 1 and the GDG;**
- **Allowable encroachments should be clearly defined;**
- **Discretion should be available to vary the standard. Decision guidelines should consider context, siting, neighbourhood character and the impact of any development on the principal open space of adjoining dwellings.**

## **Upper Storeys (Part B Standard 10)**

*A dwelling's upper storey must be at least 20 per cent less in area than the floor area of the main lower-level storey of the dwelling.*

Practice Note 3 Visual Bulk supports the roof pitch, upper storey and walls on boundaries standards of Part A as well as Part B standards. It suggests approaches to minimise visual bulk through articulation, varying front, side and rear setbacks, building materials and colours, height, use of slope and complementary landscaping.

***Proposed Status:***

- Mandatory standard.
- Dispensation from Part A standard not available because Part B Standard 10 repeats the mandatory requirement.
- No local variation.
- No opportunity for appeal in either Parts A or B.

***Origin:***

- New Standard

SAC recommended that upper storeys should have a footprint 20% less than that of the lower level unless the neighbourhood character is one where upper storeys are generally the same as lower storeys.

*The need for articulation in the walls of buildings would be better expressed as a qualitative assessment standards rather than a quantitative standard....*

The new articulation standards were not recommended for greenfield situations. The report recognised that articulation standards would not work if the focus is on measuring compliance and that the techniques would not be necessary if articulation were satisfactorily addressed by other means. The benefit of a Practice Note was emphasised. The potential for local variations was advocated. (See SAC Final Report pages 87–95)

***Issues Raised by Submitters:***

- The Part B Element purpose, basis and standard title do not provide any guidance regarding the objective of the standard or outcome sought.
- Some styles of housing would be prohibited throughout the State although they are appropriate to specific areas, eg. terrace houses.
- The standard does not deal with sloping sites where upper storeys may have greater floor areas than lower levels.
- Drafting of the standard would enable a ‘tacked-on’ lower-level component to satisfy the standard without meeting the implied articulation objective.
- A simplistic universal ‘solution’ to a complex issue that requires qualitative assessment.
- Good designers can often achieve better articulation outcomes with alternative approaches.
- Better outcomes can be achieved at lower costs, eg. use of verandahs, bay windows etc.



- Lower-level footprint is likely to be increased as consumers are unlikely to want to compromise on space.
- ‘Box-type’ two-storey construction provides an affordable product that appeals to consumers and is welcomed in many areas. The extent of this form of development means it is becoming a common component of neighbourhood character in many areas.
- Stepping back of upper storeys would be an expensive way of meeting objectives — HIA estimate of \$5,000. Examples of the cost of modifications to existing project homes were cited, eg. Simmonds — ranged up to \$18,000.
- Consumers would have to make significant changes to their preferred housing packages in terms of space, materials, fittings, etc. to offset costs.
- Requires wider lots, if existing products are to be used, which would increase the cost.
- Issue would benefit from Practice Note.
- Drafting:
  - It is not clear how voids would be treated or whether garages are included
  - A number of Councils suggested exclusion of garages from the floor area calculation.
  - Should refer to building rather than dwelling upper level to capture multi-unit development.
- The Department’s submission to the Committee acknowledged that the standard will increase construction costs and may be difficult to apply to terrace housing and on sloping sites. The Committee’s advice on whether the standard should be deleted or modified/clarified was sought.

***Committee Comment:***

The Committee agrees with submitters that the standard is fundamentally flawed. The standard would result in poor development outcomes in many areas; the standard is not effective in achieving the implicit objective and the costs to consumers are not justified in many areas. The problems associated with the standard are exaggerated by the complete lack of discretion to depart from the requirement. A range of approaches to minimise building bulk should be accommodated.

In areas where neighbourhood character is particularly valued, sensitive or vulnerable, a Neighbourhood Character Overlay could be applied and may address articulation. In these areas, a qualitative provision should be adopted, supported by decision guidelines and a Practice Note.

Elsewhere, this standard should not apply.

***Recommendations:***

- The upper storey standard be deleted.
- In areas where built form is particularly important to neighbourhood character, the neighbourhood character overlay indicate approaches that are relevant to that area.
- A user guide promote potential means of reducing visual bulk.

## **Walls On Boundaries**

*The total length of walls of buildings on a boundary is 50 per cent of the length of the adjacent boundary or 10 metres, whichever is the lesser. The height of a wall on a boundary must not exceed an average of 3.0 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall. Windows in walls on side or rear boundaries must have fixed obscure glazing, except where the boundary is onto a street or lane.*

### ***Proposed Status:***

- Mandatory standard.
- Local variations possible under Part B.
- Discretion and appeal to VCAT only available where a local variation has been approved.

### ***Origin:***

#### **VicCode 1 E2PM9**

*Dwellings and outbuildings on lots over 450m<sup>2</sup> may be built to the boundary\* under the following conditions:*

- *Maximum building height of 3.6m on and within 1m of the boundary;*
- *A maximum of 20m total wall length (including carports) along a side or rear boundary.*

#### **VicCode 1 E2PM10**

*Dwellings and outbuildings on lots between 300m<sup>2</sup> and 450<sup>2</sup> or less may be built to the boundary:*

- *As specified in PM9 along boundaries nominated on a two dimensional building envelope plan: or*
- *In accordance with a nominated three dimensional building envelope which may provide for built to boundary or party wall heights of up to 8m.*

### ***Issues Raised by Submitters:***

- Definitions of 'on a boundary' and 'adjacent boundary' are required. Does the VicCode 1 150mm rule still apply? Is a carport on a boundary regarded as 'having a wall on boundary'?
- Could local variations produced by councils be performance based, or must they set prescriptive measures?
- Could a steep roof be pitched on a 3-metre high boundary wall? If not, this may serve to undermine the objective of specifying a roof pitch on the site analysis.
- As a mandatory standard, it does not allow the flexibility to ensure the efficient use of land, nor encourage site responsive designs. It would be particularly problematic for infill developments and it would also preclude particular housing choices such as attached houses.

- In the situation where there is an existing wall on the boundary greater than 10m, why should the new wall be restricted to 10 metres?
- This standard reduces the allowable length of the wall on the boundary from 20 metres to 10 metres and the average height from 3.6 metres to 3 metres. This is a significant difference from the existing situation.
- Submitters generally considered that this requirement could prejudice site responsive, efficient or innovative designs even on larger allotments. For example, even where side boundary is 40 to 50 metres, the standard limits the wall on the boundary to 10 metres. Conversely, on a boundary of 20 metres, 10 metres may be excessive. This would depend on the individual situation;
- It was submitted that on greenfield sites, this significant reduction is unwarranted, as no problems have arisen from the current situation. The majority of these walls are for garages and, with additional storage space required by the Draft ResCode, the length of 10 metres may be insufficient.
- Restrictions should be considered for walls on the adjacent allotment's most northerly boundary.
- There is no allowance to protect light and ventilation of the adjoining property.
- A reduction in the useable length of walls on boundaries will stifle innovative design response and mitigate against optimum use of the site.

***Committee Comment:***

In this standard the Draft ResCode proposes a more stringent standard than the existing one. The maximum allowable length of side walls on boundaries has been halved from 20 metres to 10 metres, and a percentage measure added. It does not include the provision in the Good Design Guide for greater wall length where there are existing abutting walls, which the Committee believes should be acknowledged. The Committee also accepts the view of many submitters that a 10-metre length is unduly restrictive in most situations allowing little more than a garage on the boundary. In greenfield areas the current 20-metre length allows more effective use of the site. Building envelopes also provide opportunities for the use of zero lot line development and should be recognised in the standard.

The Committee has formed the view that it is the height of the wall on the boundary in many cases, rather than the length, which impacts adversely on adjoining properties, particularly in regard to visual bulk and overshadowing.

***Recommendations:***

- **For walls on boundaries, the height should not exceed 3 metres, unless a dispensation is granted, or the wall abuts another. The decision guidelines should be used in the assessment of individual developments.**
- **The standard should allow flexibility where amenity impacts have been addressed by building envelopes.**

- For single houses not requiring a planning permit, the length of wall on the boundary should remain as in VicCode 1 but with recognition of the effect of existing development to the boundary on adjoining lots.

## **Habitable Room Windows Of Adjoining Dwellings (Part B Standard 41)**

*A proposed habitable room window with a direct outlook to a habitable room window of an existing or proposed dwelling within 9 metres must be either:*

- Offset by at least 1.5 metres from the edge of one window to the edge of the other.
- Have a sill height at least 1.6 metres above floor level.
- Have fixed obscure glazing in any part of the window less than 1.6 metres above floor level.

### ***Proposed Status:***

- Mandatory standard.
- No provision for local variation.
- No appeal mechanism.

### ***Origin:***

- VicCode E2 PM3  
*Windows located in walls on side or rear boundaries are of translucent material, except where the boundary is onto a street or lane.*
- VicCode E2 PC4 (part)  
*The privacy of existing dwellings ... to be protected taking into account local community expectations, and new dwellings ... to be designed and sited to minimise overlooking from the adjacent development.*

### ***Issues Raised by Submitters:***

- Offset provision for windows within 9 metres of neighbouring habitable room windows will not achieve meaningful privacy.
- The proposed sill height of 1.6 metre minimum will result in substandard living conditions for occupants and poor design outcomes in terms of form and appearance of the window.
- In most project home designs, it would be almost impossible to offset windows from the edge of neighbouring windows, given that the location of rooms within the houses are basically similar, as are the front setbacks. In addition, bedroom windows of approximately 1.8 x 1.2 are almost always centred on a 3.0–3.6-metre long wall. Both internal room planning and external appearances will be seriously compromised.
- It was submitted that, within greenfield sites, where adjacent development is often not known, the 'first in best dressed' basis is unfair. In addition, the 1.8-metre boundary fence provides acceptable levels of privacy and prevention of overlooking.

- SOS submitted that no provision based on obscure glazing should be included, as it is impossible to police its ongoing use. A distance of 9 metres is not necessarily sufficient to provide privacy.
- Other submitters raised the problems associated with housing in areas where distant views are an important and valued asset, or where the topography is hilly.

### **Part B Standard 41    Overlooking:**

*Direct views from windows, balconies, terraces and decks or other private, communal or public areas within a development into the secluded private open spaces and habitable rooms of existing dwellings must be obscured or limited.*

*Windows and balconies must be designed to prevent overlooking of more than 50 per cent of the secluded private open space of an adjacent dwelling or a dwelling directly below and within the same development.*

*Windows in walls on side or rear boundaries must have fixed obscure glazing, except where the boundary is onto a street or lane.*

*Habitable room windows with a direct outlook to habitable room windows in an adjacent dwelling within 9 metres must meet one of the following requirements:*

- *Be offset a minimum of 1 metre from the edge of one window to the edge of the other;*
- *Have sill heights of 1.6 metres above floor level;*
- *Have fixed obscure glazing in any part of the window below 1.6 metres above floor level.*

### **Proposed Status:**

- Mandatory standard.
- No provision for local variations.
- No appeal mechanism.

### **Origin:**

- GDG E7 C1  
*Secluded private open space and habitable rooms of adjacent existing dwellings should be reasonably protected from direct overlooking.*
- GDG E7 T1, T2 (part), T3  
*Outlook from windows, balconies, stairs, landings, terraces and decks or other private, communal or public areas within a development is obscured or screened where a direct view is available into the secluded private open space of an existing dwelling. Windows and balconies of an upper-level dwelling are designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling directly below and within the same development.*

***Issues Raised by Submitters:***

- Visual privacy standards should not be based on the assumption that a distance of 9 metres is sufficient to protect privacy.
- Screening and obscure glazing can greatly reduce the amenity of a dwelling, and be visually intrusive to those dwellings it is designed to protect.
- The wording in regard to screens within 9 metres is ambiguous and should be clarified.
- There should be an adjustment to distinguish real privacy. Hence, overlooking beyond 45 degrees and 9 metre limits is not acceptable.
- The standard only addresses overlooking of adjacent existing properties and ignores issues of overlooking within the property itself.
- Overlooking from first-floor bedroom windows should not be considered a threat to privacy.
- The standard should not apply to single storey dwellings or ground floor windows, as the boundary fence provides privacy.
- The opportunity to screen clear windows to prevent unreasonable overlooking is not available.
- Overlooking could occur to the 50% of the private open space which is the most desirable.
- Nine metres is an insufficient safeguard to privacy. No approval should be based on obscure glazing or ephemeral screening materials.
- This standard promotes the adoption of obscure glazing almost as a default provision. The code should seek to limit the potential for overlooking as a design response as suggested elsewhere by window offsets, a simple control that a competent designer can achieve rather than the perceived easier option of obscure glazing.
- The diagrams in the Practice Note are difficult to read. Those in VicCode 1 and the GDG are better.
- Standards 41 & 42 should be combined and design solutions provided which can only be used when there is absolutely no alternative.

***Committee Comment:***

SAC Issues and Options Paper identified (page 11) one of the biggest problems articulated by concerned communities as ‘new developments which overlook and/or overshadow their neighbours’. It quickly became apparent that single houses not requiring planning permission made a considerable contribution to the problem. One of the primary reasons that the draft ResCode was produced was to address this very issue. It was suggested by the SAC that bringing single houses under the umbrella of a single Code for siting and design as medium density would overcome the major problems associated with overshadowing and overlooking.

In addition, the SAC was not of the view that design standards should entrench expectations of absolute privacy nor discourage opportunities to interact with one’s

neighbours, but noted that VicCode 1 has no performance measures dealing with overlooking in the way that Element 7 of the GDG suggests techniques.

Submissions from SOS and other individual submitters highlighted the problem of large single houses built on infill sites in the middle ring suburbs of Melbourne. The use of the techniques in fringe areas, it was submitted, is a nonsense, as they are dependent on knowing what surrounds a site, and in greenfield development their application is simply not possible. Other submitters raised the problems associated with housing in areas where views are an important asset, or where the topography is hilly. It became apparent that it is important to define 'reasonable' where it relates to overlooking. In addition, the issues of 'reciprocal rights' and the use of vegetation, blinds and screens to ensure privacy were raised. The issue of perception as opposed to real overlooking was also raised, as was the issue of 'real' and 'perceived' privacy.

The Committee is in agreement with the SAC which observed (page 114) that highlight windows, translucent glazing and screens are a mark of poor, unimaginative design, that buildings should be designed to restrict overlooking, and that rooms where use is infrequent or specific, eg. bedrooms, could have reduced the requirement in respect to overlooking.

The issue of reduction of internal amenity to the inhabitants of the new dwellings should also be considered in the development of standards for overlooking. It was put to the Committee that overlooking in greenfield locations is accepted by residents buying into those estates. Where these matters are perceived as a concern, they are addressed by the developers' design guidelines. In addition, many submitters put forward the proposition that on larger allotments each house could and should be designed to protect its own amenity.

In the light of submissions put to it, the Committee considers that views between upper storeys are of minor concern where the rooms are bedrooms. It is the situation where elevated living rooms and decks overlook adjacent properties that needs to be addressed in the context of single dwellings.

Most existing built-up areas were subdivided at a time when solar access was not a consideration. It is in these suburbs, often with predominantly single storey houses,

where the negative impact of two-storey development in terms of overlooking and overshadowing is most keenly felt.

The Committee wrestled with the concept put forward by the SAC that lesser standards of overlooking and overshadowing should apply to greenfield sites, but came to the conclusion that there is a certain level of amenity which should be required in all housing, although the ways of achieving it may differ and informed discretion will be required by the decision-makers. Overlooking and overshadowing should not be used by Councils simply as tools to preclude new development. Conflict in the established suburbs will continue as a balance is sought between the desire of residents to redevelop or extend their dwellings, and the protection of adjoining dwellings from overshadowing and overlooking.

***Recommendations:***

- **The standard applying to multi-unit and single houses should be the same.**
- **Overlooking of private open space from upper level living rooms, decks and the like should be limited.**
- **Screening of views between bedrooms should not be included in overlooking controls.**
- **Avoiding direct views between rooms and secluded open space should be the preferred option to high sills or obscure glass or screens. Where possible this should be achieved through site responsive design rather than by elements added after the design is complete.**
- **Discretion to alter the standard be exercised after considering the level of overlooking typical of the neighbourhood, the existing level of overlooking from adjacent sites, and the internal amenity of the proposed development.**

## **Access To Daylight**

Habitable rooms in dwellings must have clear windows:

- having a total area of at least 10 per cent of the room's floor area;
- facing outdoor space open to the sky, a light court (of minimum area square metres and dimension 1 metre), an open verandah or an open carport;
- located not less than a horizontal distance of 1 metre clear to the sky from any boundary or other building measured perpendicular to the face of the building.

***Proposed Status:***

- *Mandatory standard.*
- *No council discretion.*



- *No appeal mechanism.*

**Origin:**

- *VicCode 1 E2 PC1*  
Habitable rooms to be capable of receiving adequate daylight.
- *E2 PC5*  
Dwelling and outbuilding walls to be sited and be of length and height to ensure no significant loss of amenity to adjacent dwellings, private open space or streetscape.
- *E2 PM1*  
Dwellings where each habitable room has clear windows totalling in area at least 10% of the room's floor area, and such windows are located to face a light court (of minimum area 3m square and dimension 1m), or other outdoor space open to the sky, or an open verandah or open carport, and are not less than a horizontal distance of 1m clear to the sky from any boundary or other building measured perpendicular to the face of the window.
- *E2 PM2*  
Where a habitable room window of an existing dwelling on an adjacent lot is in a wall less than 1m from a boundary, or where eaves above the window project to within 1m of the boundary the new building to be set back a minimum of 1m from the boundary for a minimum length of 3m (or the length of the window, whichever is the larger) opposite the window.

**Issues Raised by Submitters:**

- *The provision requiring windows to be a minimum of 10% of the floor area is already a requirement under the Building Code of Australia.*
- *Does the ResCode delete the need in VicCode 1 to provide a 3m x 1m light court to protect existing non-compliant habitable room windows?*

**Part B Standard 38 Daylight:**

Dwellings should be sited, designed and constructed to maximise daylight in habitable rooms of new dwellings and existing dwellings.

Habitable rooms in dwellings must have clear windows:

- Having a total area of at least 10 per cent of the room's floor areas;
- Facing a light court (of minimum area 3 square metres and dimension 1 metre), other outdoor space open to the sky, open verandah or open carport;

- Located not less than a horizontal distance of 1.2 metres clear to the sky from any boundary or other building measured perpendicular to the face of the window. Where a habitable room window of an existing dwelling on an adjacent lot is in a wall less than 1.2 metres from a boundary, or where eaves above the window project to within 1.2 metres of the boundary, the new building must be set back a minimum of 1.2 metres from the boundary for a minimum length of 3 metres (or the length of the window, whichever is the larger) opposite the window.

The height of walls higher than 3 metres opposite existing walls containing habitable room windows must not be more than twice the horizontal distance between the two walls for a distance defined by a 55-degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the window. Where the existing window is above ground floor level, the height restriction is calculated from the floor level of the room containing the window.

*The standard is accompanied by an explanatory sketch.*

***Proposed Status:***

- *Mandatory standard.*
- *Council has no discretion.*

***Origin:***

- *GDG E6 C3*  
Habitable rooms within developments should receive adequate daylight for carrying out daily tasks.
- *GDG E6 C4*  
Daylight to habitable rooms in adjacent dwellings should not be significantly reduced.
- *E6 T7*  
Habitable rooms in dwellings have clear windows:
  - totalling in area at least 10 per cent of the room's floor area;
  - located to face a light court (of minimum area 3 square metres and dimension 1 metre), other outdoor space open to the sky, open verandah or open carport;
  - not less than a horizontal distance of 1 metre clear to the sky from any boundary or other building measured perpendicular to the face of the window.
- *E6 T8*  
*Is an explanatory diagram explaining the requirement to protect existing windows.*

### **Issues raised by Submitters:**

- *Submitters found the statement dwellings should be sited...to maximise daylight not sufficiently precise.*
- *The suggestion was made that habitable room windows should have a glazed area of 15% of the floor area, and be located not less than 2m from boundaries.*
- *Submitters found the last two paragraphs confusing and the explanatory diagram unhelpful in explaining the standard.*
- *The clear glazing required in this standard is difficult to achieve given its apparent conflict with Standard 41, Overlooking, which requires habitable room windows with a directed outlook to habitable room windows in an adjacent dwelling within 9 metres to be of obscure glass and/or have raised sill heights.*
- *Details of window sizes are a Building Control matter.*

### **Committee Comment:**

*The Committee is of the view that where quantitative amenity standards are defined under the BCA they are unnecessary in ResCode.*

*The Committee agrees with submitters that this standard could be more clearly written.*

### **Recommendations:**

- *Delete quantitative requirement which is in the BCA.*
- *Retain GDG provisions for protecting amenity of habitable room windows in existing adjacent dwellings from upper storey living rooms, decks and the like.*

## **Car Parking (Part B Standard 70)**

One car space must be provided for each one- or two-bedroom dwelling. Two car spaces must be provided for each three- or more bedroom dwelling. (Note: a separate studio is considered to be a bedroom for the purposes of this standard.)

*Car spaces must be provided in accordance with the requirements of the local variation. If a requirement is not specified in the local variation, the following number of spaces must be provided:*

- *1 space per one- or two-bedroom dwelling.*
- *2 spaces per three- or more bedroom dwelling.*

*Notes: A separate studio or study is considered to be a bedroom for the purposes of this standard.*

*These requirements do not apply if the responsible authority has approved a parking precinct plan that includes a relevant alternative requirement.*

Practice Note 2 Car Parking was exhibited to promote best practice and included design advice to reduce visual impacts, specify space and access dimensions, crossover treatments, design templates and the like.

***Proposed Status:***

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- Mandatory.
- Part B requirements may be varied locally.
- Appeal mechanism provided by Part B application for planning permit where a local variation has been approved.

***Origin:***

- New for single houses
- Translates SAC recommendation that car-parking provision be linked to the number of bedrooms in a dwelling with local variations to take account of the degree of car dependency in an area. These variations would need to be assessed in terms of impact on housing affordability, and the promotion of car use, lower densities and increased hard surfaced areas on environmental sustainability. (See SAC Final Report pages 161–164).
- Replaces GDG E8.T1 — 1 car space/1-bedroom dwelling, 1.5 car spaces for other dwellings, 1 car space/3 dwellings where low car ownership is likely. Parking for one dwelling may be in tandem.
- VC1 E4 PM1, PM4 — 2 car spaces/dwelling, one capable of being covered, may be in tandem, integrated development 1.5 car spaces/dwelling. This requirement is not referred to in the building regulations and therefore has little influence in the approval of as-of-right houses.

***Issues Raised by Submitters:***

- Standard does not accommodate conversions or extensions of existing buildings with access or space constraints.
- Local variations are unlikely to address specific site conditions.
- Many well-designed developments will be prohibited unless discretion is available.
- There may be confusion between Part B Standards 70 and 72 as to whether all resident parking is required to be on site, or if some can be accommodated in the street.
- This standard should be reworded to allow some provision of resident parking to be on the street in accordance with Standard 72.
- Removal of tandem option will promote wider crossovers resulting in lost on-street parking, domination of the streetscape and wasted space.
- Discretion to reduce parking requirements in inner areas is essential.
- Some outer municipalities with poor public transport and high car dependence advocated a minimum of 2 spaces for 2-3 bedrooms and 3 spaces for 4+ bedroom dwellings.
- Social housing providers emphasised the need to accommodate development where residents have low levels of car ownership.
- The Department's submission to the Committee suggested that extensions and additions to existing dwellings from the standard be excluded from the standard and the Part B car space dimensions should be applied to the Part A standard.

***Committee Comment:***

The Committee believes that the VicCode 1 car parking requirement (2 spaces, one capable of being covered) is reasonable on larger lots where a planning permit is not required and should be given statutory weight. However, discretion should also be available to reduce requirements to take account of the constraints imposed by existing development where extensions or conversions are proposed or the planning strategies for the locality. It is recognised that at some stages in the life cycle of a household, more than two car spaces may be generated by a large dwelling but the highest generation is unlikely to be long-term. Further justification would be necessary to impose higher requirements for large dwellings.

The ResCode rates of parking provision for more intensive development requiring a permit are reasonable. The increased parking requirement for 3+ bedroom dwellings in ResCode is considered an acceptable default standard. Again discretion should be available to reduce Parking requirements.

Where Councils intend use discretion to routinely reduce car parking requirements (eg in highly accessible locations) this should be addressed through a local policy in the LPPF.

Social housing providers emphasised the importance of relating car-parking requirements to likely generation. The Office of Housing referred to research that consistently indicates low car ownership rates for many of the residents of their developments, eg. elderly-person housing, single-person housing, youth. Excessive levels of car-parking provision not only add to costs but also create significant ongoing management problems. The Committee agrees that the specific reference to lower levels of parking provision where residents are likely to have low car ownership should be maintained.

The SAC Final Report highlighted difficulties where visitor car spaces being in tandem with resident car parking and recommended that specific reference to tandem car spaces should be removed. Tandem parking would remain an option with Councils determining if issues such as neighbourhood character justify or preclude this form of layout. This Committee accepts that tandem parking for resident parking provides an acceptable, land-efficient form of provision in many

cases, although residents' convenience may be reduced. Visitor parking should not be in tandem. The Committee believes that tandem parking to serve a single dwelling should remain in the standard or be addressed through decision guidelines.

The separation of subdivision and dwelling development standards recommended by the Committee should remove the concerns expressed regarding the relationship between Standards 70 and 72 in the draft ResCode.

***Recommendations:***

- **Car parking requirements for single houses on larger lots be 2 spaces per dwelling which may be provided in tandem**
- **Where a planning permit is required car parking provision be at a rate of one car space for one or two bedroom dwellings, two car spaces for three or more bedroom dwellings, and maintain GDG E8.T3 standard to accommodate development where residents are likely to have low levels of car ownership.**
- **Tandem parking for individual dwellings should remain an option.**
- **Parking requirements should be capable of being reduced due to constraints imposed by existing development of the site or to reflect local strategies and parking precinct plans.**

## **Vehicle Crossover**

There must be no more than two single or one double crossover.

***Proposed Status:***

- **Mandatory - may apply for a permit with discretion available under Standard 74.**
- **Appeal mechanism via Part B permit application.**

***Origin:***

- **VC1 E4 PM5 addresses crossover widths specified as a single crossover of 3.8–4.5 metres depending on street width, double crossover for lots with frontage of more than 16.5m. (Not incorporated in the building regulations.)**
- **New standard in response to impact of hard surfaced areas on streetscape and impact on street parking.**

***Issues Raised by Submitters:***

- **Need clarification whether the standard applies to the site or the dwelling.**
- **Crossovers should take account of constraints such as street trees, poles etc.**

- The Department's submission to the Committee suggested the following additions to the standard: *The total width of crossovers must not be more than 40% of the lot frontage. Crossovers must be located to take account of the location of existing street trees and underground services.*

***Committee Comment:***

This standard was not contentious. The revisions to the standard proposed by the Department of crossovers up to 40% of frontage appears to be intended to accommodate access to single-fronted lots in inner areas but would be excessive in most other situations. On wider sites a lower proportion of the frontage is necessary to meet access requirements. The GDG E8.T12 recognises the lower proportion of frontage necessary for access on wider sites. The Committee believes that a single crossover should be the normal standard with discretion to consider particular circumstances, impacts on the streetscape and the loss of on-street parking.

***Recommendation:***

- *A single crossover per property be established as the benchmark with discretion to consider wider or additional crossovers in the context of decision guidelines.*

## **Private Open Space**

*One dwelling on a lot must provide private open space equivalent to 20 per cent of the lot area or 80 square metres, whichever is greater. Two dwellings on a lot must each provide a private open space area at ground level totalling 40 square metres. The minimum dimension of private open space must be 2.5 metres. One part of the private open space must contain an area of 25 square metres with a minimum dimension of 4 metres. The area between the front of the dwelling and the street at ground level must not be included in the calculation of private open space.*

***Proposed Status:***

- Mandatory.
- May apply for a permit for lesser provision only if a local variation to Part B Standard 46 has been approved.
- Appeal only available if a local variation has been approved.

***Origin:***

- Single dwelling VicCode 1 E3 PM1 – *Private open space of the dwelling having a minimum area equivalent to 20 per cent of the lot area or 80m<sup>2</sup>, whichever is the greater, and where:*
- *The minimum dimension of private open space is 2.5m;*
- *One part of the private open space comprises an area of 25m<sup>2</sup> with a minimum dimension of 4m, and is conveniently accessible from a major living area of the dwelling.*

- **Two dwellings GDG E9.T1 –**

*Dwellings have private open space consisting of at least:*

- *An area at ground level totalling 40m<sup>2</sup>, with one part at the side or rear with an area of 25m<sup>2</sup> and a minimum width of 3m which has convenient access from a living room: or*
- *A balcony with an area of 8m<sup>2</sup> and a minimum width of 1.6m which has convenient access from a living room: or*
- *A roof-top space with an area of 10m<sup>2</sup> and a minimum width of 2m which has convenient access to a living room.*

***Issues Raised by Submitters:***

- The extent of private open space required was not generally contentious although some community groups sought higher rates of provision.
- Inner Councils highlighted the need for discretion to reduce the rate of provision where appropriate and noted that if discretion were not available, many extensions and renovations would be prohibited.
- The distinction between single-house and multi-unit open space provision was questioned.
- Exclusion of area in front from the open space provision:
  1. represents a significant increase in the requirement;
  2. does not recognise circumstances where the front setback represents the most desirable location from the residents' perspective due to factors such as orientation, noise exposure and the like.
- Need to balance streetscape, neighbourhood character, privacy, security and efficient use of land in relation to this and front fence standards
- The Department's submission to the Committee suggested that the standard should be clarified that provision is at ground level and has convenient access from a living room.

***Committee Comment:***

The Committee believes that consistent private open space requirements should apply to all dwellings and the current GDG requirement provides a sound benchmark which would accommodate development on smaller lots where expectations for space are lower. It is recognised that this may appear to be a significant reduction in the VC1 private open space requirement but on larger lots open space provision is not a determining factor because site coverage imposes a more significant constraint. It should also be noted that current regulation of single houses relies on site coverage because the VC1 Private open space requirements are not included in the building regulations.

Again discretion must be available to address specific situations such as building conversion and renovations.

The Committee believes that secluded private open space should not normally be



provided in the front setback area as it requires fencing with streetscape impacts. However, the front setback should be included in the open space calculation and discretion should be available to consider provision of secluded private open space in the front setback taking into account alternative locations, benefits to resident amenity and management of streetscape impacts.

***Recommendations:***

- Private open space requirements be consistent between housing types and the GDG provide the basis for standards in proposed provisions.
- The front setback area be excluded from the secluded private open space calculation but included in the total open space provision. Discretion should be available to allow secluded open space to be provided in the front setback.

## **Permeability (Part B Standard 21)**

Twenty per cent of the area of the lot must have a permeable surface.

*Residential development should facilitate on-site stormwater infiltration by maximising the area of permeable surface and reducing the amount of hard sealed surfaces. At least 20 per cent of the area of the lot must have a permeable surface.*

***Proposed Status:***

- Mandatory.
- Not locally variable.

***Origin:***

- New

***Issues Raised by Submitters:***

- There was widespread support for concept of minimising run-off.
- The UDIA indicated  
*The requirement does not necessarily reduce stormwater flows and should not be set as a mandatory requirement, with no regard for site-specific requirements or other stormwater mitigation measures utilised.*
- Inner Councils in particular expressed concerns regarding relevance to inner areas. The complete absence of discretion would prevent many renovations, additions and conversions in inner areas.
- In some areas a requirement for greater permeable area is appropriate.
- Discretion is not available to consider the constraint imposed by existing development on the site or alternative measures to manage peak run-off.

- The standard would be impossible to enforce after development is completed, eg. paved BBQ area, swimming pools and surrounds etc.
- Guidelines should promote the use of a permeable base for paved surfaces, reuse of waste and storm water on gardens, and roof collection in water tanks.
- A definition of 'permeable surface' is required.

***Committee Comment:***

The limited application of such a requirement only to sites undergoing development, the limited relevance to many inner areas, the extreme difficulty in enforcing the standard after development has been completed and the potential for alternative approaches to stormwater management to be more effective, all support the deletion of the standard. Maximising permeable surfaces could be promoted in the a User/Good Practice Guide.

***Recommendations:***

- *The Permeability and Storm Water Infiltration standards be deleted.*
- **The User Guide promote the maximum use of permeable surfaces and other best practice approaches to manage stormwater runoff.**

## **Noise (Part B Standard 44)**

Any equipment or plant associated with a dwelling must not generate a noise level greater than 5db(a) above ambient L90 sound level at the boundaries of the lot at any time of the day.

Dividing walls and floors between dwellings must be constructed to limit noise transmission to 45 STC (Sound Transmission Class) in accordance with Part f(5) of the Building Code of Australia.

***Proposed Status:***

- Mandatory.
- May not be varied.
- Same requirement apply in Parts A and B, therefore no discretion or appeal mechanism.

***Origin:***

GDG E7.T5 & E7.T6 — Direct translation.

***Issues Raised by Submitters:***

- Queried whether the standard conflicts with Environment Protection Act S48A(5) which does not allow noise from equipment and plant in habitable rooms in prohibited hours (night time).

- Difficulty in establishing performance of equipment at development application stage - more appropriately addressed as a permit condition.
- This standard is already addressed under Part F5 of the BCA. Regarding measurement of noise, *sound transmission class* has been replaced by the *weighted sound reduction index*.
- Unnecessary repetition of BCA requirement which may complicate appeal process.

***Committee Comment:***

The Environment Protection Act provides a more effective mechanism for ongoing enforcement of its more onerous requirements which is particularly important as plant and equipment ages. The Committee notes that enquiries to Councils suggest that the current GDG technique to satisfy AS 3671 Traffic Noise is not currently applied. Further, where Aircraft Noise is an issue the Airport Environs Overlay should apply specific requirements. There is no need to duplicate other statutory provisions although they could be highlighted in a user guide or Practice Note and as a note on development permits.

***Recommendations:***

- Delete requirements for single houses but maintain acoustic privacy objectives and performance standard for dwellings requiring a permit.
- Highlight noise performance expectations and good practice in the proposed User Guide

## **Energy Efficiency (Part B Standard 17)**

A new dwelling must satisfy either the thermal insulation criteria specified in the Building Code of Australia (Vic) Part 6 or achieve a house-energy rating of at least three and a half stars, as designated by Sustainable Development Authority

*One or two dwellings on a lot must satisfy either thermal insulation criteria specified in the Building Code of Australia (Vic) Pt 6, or achieve a house-energy rating of at least three and a half stars as designated by Sustainable Development Authority.*

*Three or more dwellings on a lot must achieve a house-energy rating of at least four stars as designated by Sustainable Development Authority.*

***Proposed Status:***

- Mandatory.
- Local variation to Part B standard may only increase the standard.

- Part B standard more onerous, therefore dispensation to Part A requirement not available.
- No discretion or appeal mechanism.

***Origin:***

- Star rating option is new.
- Thermal insulation option from the BCA.
- GDG E5.C2 –

Developments should be designed and constructed to reduce fossil fuel energy use and make the best use of natural ventilation, daylight and solar energy.

*The GDG note requirements under BCA Part 6.*

***Issues Raised by Submitters:***

- The Sustainable Energy Authority noted :  
*There needs to be recognition that in some circumstances the achievement of the four star minimum will be constrained. In the ACT where a four-star minimum has been in place for over three years, the regulations state that in situations where significant site constraints exist, a three-star minimum may be acceptable.* Examples cited included renovations of existing buildings, heritage buildings, building conversions. A similar qualification was recommended.
- The option of thermal insulation will severely undermine any energy efficiency gains. The BCA thermal insulation option should be removed.
- Both single- and multi-unit development should be required to meet the four-star standard.
- Some important components cannot be recognised at the planning stage, eg. solar hot water, window and floor coverings, type of heating. Rating at the building permit stage may be more effective.
- Effective administration of the standard, expertise, and the cost of assessment were questioned. The rating system should not be adopted until sufficient accredited services are available.
- The Department's submission to the Committee suggested that the BCA thermal insulation option should be removed.

***Committee Comment:***

The Committee agrees that the option of thermal insulation as an alternative to energy rating weakens the standard and should be deleted. The Committee also accepts the Sustainable Energy Authority advice that the improved energy performance of housing to a four-star rating from the current standards would generally be cost effective for consumers as well as providing substantial environmental gains. However, it is clear that existing development, subdivision

layout or site constraints may compromise the capacity to meet the rating standard in a cost-effective way and discretion should be provided. The Committee also recognises that if properties are not connected to reticulated gas at the development phase, future connection may not be a viable option. A lead time for the introduction of the standard would be necessary to ensure that the housing industry has sufficient time to adapt standard plans and assessment processes are effective.

Consideration of matters such as orientation, window location and the like have a significant impact on energy efficiency and must be addressed at the earliest stage of the design and development assessment processes, even if the treatment of some features must be assumed. More specific evaluation of the proposal's actual energy performance is possible at the building permit stage where greater detail is available. Consideration of energy performance is appropriate in both processes.

***Recommendation:***

- A four-star energy rating be applied to all housing with discretion to vary requirements to take account of site or building constraints. Connection to reticulated gas, where it is available at the property boundary, should be required. A transition period should be provided to allow the building industry and regulators to prepare for the introduction of the requirement.

### **Storage Space (Part B Standard 49)**

A new dwelling must provide at least 6 cubic metres of externally accessible, secure storage space.

***Proposed Status:***

- Mandatory.
- Non-variable.
- No discretion or appeal mechanism

***Origin:***

Recommended by the SAC in response to concerns that inadequate external storage compromised the use of garages and parking areas for their intended purpose (see discussion SAC Final Report page 178).

***Issues Raised by Submitters:***

- A positive inclusion.
- This provision should not apply to single houses where external storage is normally adequate.
- Will result in a proliferation of tin sheds.
- May need to indicate the form the structure must take to avoid poorly designed and/or flimsy structures that may later be removed. Storage space should not include a door to under the house where the height between ground and floor is less than 1.5 metres.
- A minimum dimension should be specified to ensure a useable space — suggested a minimum width of 1.5 metres and a height of 2 metres.
- Storage space is most likely to be provided in a garage. A standard 6m x 6m double garage or a 6m x 3m single garage should be deemed to comply with the provision on the basis that the required length to accommodate a car is 5 metres. A double garage will provide 6m x 2.7m at the rear of a garage resulting in 16.2 cubic metres of storage space.
- Limiting this provision to external provision is not supported.
- 6 cubic metres is an insufficient area — suggest increase to 12 cubic metres.

***Committee Comment:***

The Committee accepts the industry view that opportunities would normally be available to provide for external storage requirements on single houses on lots above the planning permit threshold lot size. The introduction of a new requirement is not necessary as residents will be able to provide storage if they consider it necessary. However, in more intensive development the space may not be available to provide adequate storage after the development is completed and should be addressed through the planning permit. Decision guidelines could indicate that this storage could be provided within a garage or carport if space in addition to that required to accommodate vehicles has been provided.

***Recommendations:***

- External storage only be required for more intensive development.
- The external storage area may be provided in a garage that exceeds minimum dimensions.

## **Site Analysis Requirements For One Or Two Dwellings on a Lot**

*A planning permit is not required to construct one or two dwellings on a lot provided a site analysis is endorsed by the responsible authority and the mandatory standards are met.*

**The site analysis must include a plan showing:**

- The dimensions and shape of the site and any existing or proposed easements;
- The orientation and slope of the site;
- The proposed front setback and the front setback of adjacent properties;
- The proposed front fence height and the front fence height of adjoining properties;
- The proposed roof pitch of buildings and the roof pitch of buildings on adjacent properties;
- Any existing mature trees on the site and those proposed to be retained;
- The height of any existing buildings on the site;
- The height of buildings on adjacent properties;
- The proposed side and rear setbacks and existing side and rear setbacks of adjoining properties;
- The location and height of any existing or proposed walls built to the boundary of the site;
- Any secluded private open space and habitable room windows on nearby properties that have an outlook to the site, particularly those within 9 metres of the site;
- The existing and proposed access points on the site and existing access points on adjacent properties;
- The existing and proposed drainage and services connections.

The site analysis is not required for an existing dwelling or a dwelling where:

- A building envelope has been approved by the responsible authority under another provision of this scheme;
- The dwelling is being extended and the extension is not more than ten square metres in area.

**Proposed Status:**

- Mandatory requirement.
- Council can vary content of site analysis.
- A copy of the endorsed site analysis must be submitted to the Building Surveyor when applying for a building permit. Not required where there is an approved building envelope on the allotment or an extension of not more than ten metres is proposed.

**Origin:**

- New Standard.
- The GDG introduced the concept of site analysis:  
*A site analysis must be prepared in advance of the design. The purpose of the site analysis is to record and evaluate information on the site and its surroundings, and what this evaluation means for the design response;*
- The SAC identified site analysis and the design response to it as vital components of the design and evaluation process that should underpin all other elements.

**Issues Raised by Submitters:**

- The preparation of even a limited site analysis for single dwellings was seen as a step forward.
- The reduction in requirement for as-of-right street facing dual occupancy developments as proposed was almost universally opposed. It was submitted that all multi-unit developments should require a permit and thus a Part B site analysis.
- The apparent confusion in the draft ResCode in the mandatory requirements of the site analysis, where seven out of thirteen requirements refer to the proposal rather than the existing situation.

- Many individual submitters commented on the frequency of inaccurate information being submitted to council and the necessity to verify the information provided on site analysis.
- SOS maintains that while 10 square metres is a small area, it was considered by some to include only a small number of extensions. However, these small numbers could have considerable impact on neighbourhood character, for example, if they occurred at the front of the house.
- There was some confusion regarding requirements at the near identical examples of a Part A site analysis in the Draft Code which shows the proposal, ie. design response, and that in the commentary which does not.
- As a general principle, standards for as-of-right developments should be equally as stringent as those for developments requiring permits. An oft-quoted example was the reference to properties adjacent to or adjoining the subject property, where Part B requires analysis of properties within 100m. It was submitted that site analysis requirements for all developments should be identified.
- No reference number or any requirement for the analysis to be to scale or accurate is requested.
- Other issues raised included the costs involved in preparing site the analysis, put at between \$3,000 & \$5,000 for Part A, the requirement to employ surveyors to determine adjoining roof pitches, etc., and precise setback heights, or window details.

***Committee Comment:***

*Site analysis is a valuable tool to establish whether development amongst established housing respects the character of the neighbourhood or helps achieve a preferred future character where this has been identified.*

The SAC surveyed ways in which councils dealt with site analysis. They noted (Final Report p84) that, whilst site analysis was desirable, it was near impossible to get people like first-time applicants, owner-builders or small builders who do their own plans, to meet the site analysis requirements. For this reason a consistent standard is not applied in assessing the site analyses. All Councils agreed as to the benefits of site analysis in assessing proposals, however, the site analysis did not always identify the critical issues which help drive a good design response, and generally were prepared independently or as an afterthought to the design, simply in order to meet Council's planning scheme. This issue was reiterated in many submissions to the Committee. In areas where detached single dwellings and/or two-storey extensions are seen as causing the greatest problems within the municipality, the extension of the requirement for a site analysis was seen as essential. Nonetheless, respondents to the SAC survey believed that the practice of site analysis preparation being unrelated to the design response was even more



likely in the case of single houses.

The Committee believes that:

- The site analysis requirements of Part A are largely redundant and will not achieve any desired design outcome for as-of-right development because if there are prescriptive standards associated with as-of-right single dwellings, then site analysis is not required as the development will need to fit within, for example, a setback or a building envelope.
- The cost of implementing the proposed approval process is excessive. Certifying the accuracy of site analysis, followed by a design response and a subsequent permit application for Part B will involve duplication, delay and may not achieve the desired outcome, ie. having a context-responsive design solution.
- The process envisaged involves a quasi-planning permit process without an appeal mechanism. In regard to the accuracy of site analysis information, Councils would retain the opportunity to clarify existing conditions or request further information.

*Recommendations:*

- **For single houses, demonstration of compliance with standards should form part of the building permit application. It should not be a separate process. Documentation accompanying the application should include applicable planning overlays, covenants, easements, bylaws and other statutory requirements as necessary.**
- **A user guide should promote the principle of site analysis to inform the design process.**

## **PART B STANDARDS**

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### **SITE ANALYSIS STANDARDS**

#### **Site Analysis Requirements for Three or More Dwellings on a Lot or Subdivision into Three or More Lots**

*A site analysis must contain a plan with a reference number and date. The plan must be to scale and accurate.*

*In relation to the site, the site analysis must show:*

- *The dimensions and shape of all lots and any existing or proposed easements;*
- *The orientation and slope;*
- *Any existing trees and other significant vegetation;*
- *Any existing buildings;*
- *The existing and proposed access points;*
- *The existing and proposed drainage and services connections;*
- *The location and height of any existing or known proposed walls built to the boundary of the site;*
- *Any other features or characteristics of the site likely to influence the design response;*
- *Any matter specifically required to be shown in a local variation.*

*In relation to land abutting or adjoining the site, the site analysis must show:*

- *The location and use of surrounding buildings;*
- *The difference in levels between the site and surrounding properties;*
- *Any secluded private open space and habitable room windows on nearby properties which have an outlook to the site, particularly those within 9 metres of the site;*
- *The extent of existing solar access available to adjacent properties;*
- *Any significant trees on adjacent properties or roads;*
- *The built form, scale and character of surrounding and nearby development;*
- *Street frontage features such as utility poles, street trees and kerb crossovers;*
- *Any matter specified in a local variation.*

*In relation to the neighbourhood or locality, the site analysis must:*

- *Include a statement of the preferred neighbourhood character for the area, consistent with any statement of preferred neighbourhood character for the area contained in a Local Planning Policy, where one exists;*
- *Show the location and characteristics of any nearby public open space;*
- *Show traffic volumes and movements on adjacent roads;*
- *Show the direction and distances to the nearest local shops, community facilities and public transport;*
- *Show any other features or characteristics likely to influence the design response;*
- *Include any matter specified in a local variation.*

*For a residential subdivision of more than six lots, a site analysis must show:*

- *Any significant natural features of the site or environs, including drainage lines and watercourses, significant flora and fauna habitats and movement corridors;*
- *Soil conditions, including any areas affected by contamination or salinity;*
- *Any significant cultural features of the site or environs;*
- *Existing and proposed people movement networks;*
- *The direction and distance to the nearest school, public open space and any other nearby community or recreation facility;*
- *Any matter specified in a local variation.*

*A site analysis need not include any requirement which is specifically waived or reduced by a local provision of*

*the scheme, provided any condition specified is met.*

*A site analysis is not required if:*

- *The responsible authority waives the need for all or part of the requirement;*
- *Building envelopes have been specified for all dwellings under another provision of the planning scheme.*

**Proposed Status:**

- **Mandatory standard, except where:**
  - *the responsible authority waives the need for all or part, where building envelopes have been specified for all dwellings under another part of the planning scheme;*
  - Council may vary matters to be considered by local variation.

**Origin:**

- *Site analysis (Standard 1) and design response (Standard 2) in the draft ResCode are emphasised as fundamental to the assessment of all elements.*
- **GDG E3C1**  
*Medium density development amongst established houses must be designed to respect the character of the neighbourhood.*
- **Changes from the design suggestions include:**
  - Site analysis and design response must be separately submitted and endorsed before an application for permit is lodged.
  - An existing or a proposed future neighbourhood character must be identified and design must respond to it.
  - VPP provisions such as Clause 19.03 Urban Design Principles and Overlays are recognised.
  - Extent of area considered in relation to scaled elevations and significant trees is specified as 100m.

**Issues Raised by Submitters:**

- The 'purpose' as defined was generally thought to be suitable, though greater clarity and more emphasis on the text to make each purpose more tangible and to set the site within the context of the neighbourhood was sought.
- The question was posed as to why 'site analysis' is an element in the same sense as 'neighbourhood character', 'sustainability', etc., when it is a procedural tool.
- Other general issues were how the standard would be administered, and whether the site analysis should be submitted and approved prior to advertising an application.
- Requirement for a 'site analysis incorporating a design response' to be submitted may not mitigate against the practice of preparing a site analysis at the same time - or after - the design proposal for use as a means of justifying that proposal.
- The suggested separation of approval for site analysis and design response raised the issue of possible further delays in the planning approval process.
- The introduction of a range of new requirements for subdivision applications which may be difficult to access at such an early stage.
- For greenfield sites in growth corridors, requirements duplicate existing planning controls created under, for example, development plan overlays.

- The process could discourage applicants from lodging applications for whole estates resulting in fragmented smaller applications, which may be more difficult to access as they need to be considered in context of the overall estate.
- Some requirements for neighbourhood information are either too onerous or add little to generate a picture of the site and its surrounds. The site analysis should not be cluttered by information with no relevance to the design of the development or subdivision.
- The requirement for depicting development within 100m either side of the site was thought by many submitters to add little to the design response process, with 50m or three properties thought to be appropriate. One submission took the reverse view suggesting all properties within 150m of the site should be described.
- The need for traffic volumes and vehicle movements for three-lot subdivisions considered not relevant in almost all cases and could be addressed by Councils requesting further information once a permit is lodged.
- It was suggested that the form of a proposal is almost never influenced by the location and characteristics of nearby open space, direction and distance of shops, community facilities, nor public transport. These factors should influence local planning policy, not individual site analyses.

## **Standard 2: Requirements for the Design Response to the Site Analysis**

### ***Proposed Status:***

- Mandatory standard.
- May be locally varied by Council.
- A design response is not required if no site analysis is required.

### ***Origin:***

See Part A above.

### ***Issues Raised by Submitters:***

- The requirements for the design response are generally considered to be appropriate and the inclusion of the SPPF, IPD or DPO, local variations and the like welcomed by those Councils who made mention of the requirement. It was suggested that the LPPF should also be addressed by the design response.
- Requirement to show subdivision within the context of surrounding land to ensure issues such as street connectivity were addressed was applauded.
- The requirement for engineering details, housing form and streetscape elevations in a greenfield subdivision was considered an unwarranted cost as such an early stage in a development.
- The requirement for scale elevation details of properties within 100m of the site was described as *a poorly considered, over-zealous attempt to ensure that the application documents the character of the area!* It was suggested that a photographic representation of streetscape would be sufficient and far less costly. In the case of major subdivisions, an aerial photograph will indicate subdivision patterns, but this was considered unreasonable for under 10-lot subdivisions.

- Some Councils commented that pre-application meetings can help applicants to ensure that the design response adequately addresses issues arising from the site analysis.
- Some submitters argued that the site analysis requirements should include *all public street conditions in front of the site, such as street reservation width, land use on the other side of the street, street pavement width and location, footpaths and trees in the street for larger developments an estimate or count of traffic in an appropriate inclusion.*

***Committee Comment:***

- The draft ResCode requires that wherever a permit is required, a site analysis and consequent design response is also required. The committee is of the view that consistent amenity based siting requirements should apply to development whether or not a permit is required.
- Much of the information requested by ResCode will not, in the Committee's view, generally influence the design of the development in any way, for example, information on traffic movement will only rarely be a factor in design.
- The Committee believes that the site analysis should contain detailed information about adjoining development, but that the level of analysis of the location and neighbourhood character necessary to inform the design will vary widely across applications.

***Recommendations:***

- **The site analysis and design response should form part of the application for a Planning Permit.**
- **The information required to be shown on the site analysis and design response should be confined to matters directly relevant to the proposal and which influence the design process.**
- **A Neighbourhood Character Overlay can ensure that additional information to reflect local circumstances are reflected in the site analysis and design response.**
- **Where the exercise of discretion is sought, the site analysis and design response should indicate in some detail how the objectives and decision guidelines are met. They should be used to inform the decision-making process.**
- **Additional information which should appear on the site analysis includes planning overlays, covenants, easements, by-laws and other statutory requirements as necessary.**

## **RESPONSIVE DESIGN STANDARDS**

### **Standard 3: Responding To Preferred Neighbourhood Character**

*Subdivision and residential development must be designed to acknowledge the preferred neighbourhood character. Preferred neighbourhood character is established by the site analysis required to be included with an application and by reference to the neighbourhood character objectives set out in a local planning policy, where there is one.*

*Preference should be given to subdivision and residential development that:*

- *Is innovative rather than imitative.*

- Takes into account the orientation of the site and that of adjacent sites.
- Respects the scale of neighbourhood properties.
- Is sited to acknowledge the positioning of neighbouring properties and the rhythm of spaces between them.
- Respects the characteristic built form of other dwellings in the street.
- Addresses the streetscape.
- Takes into account the dominant landscape character.
- Retains significant vegetation.
- Provides continuous planting and, where possible, trees with spreading crowns.
- Provides fences and front gardens which blend with the neighbourhood.
- Discretely locates garages and garbage and mechanical plant in relation to the streetscape.

### **Proposed Status:**

- Mandatory unquantified standard.

### **Origin:**

- New — develops themes from GDG E3

### **Issues Raised by Submitters:**

- Concerns that mandatory standards using terms such as *preference should be given to* and *should*, which indicates discretion, were seen as inconsistent with the standard's mandatory status and ambiguous.
- Qualitative mandatory standards that rely on the exercise of judgment do not provide certainty or promote consistency. Differences of opinion and consequent disputes are inevitable.
- The use of terms such as *taking into account*, *respecting*, and *acknowledging* are open to interpretation. Clearer specification of requirements should be provided.
- More specific criteria should be provided regarding matters such as:  
*Scale of buildings* (some are predominantly single storey in scale and new bulky two storey developments could impact on the neighbourhood character);

*Proportion of a building* (if buildings are set up above others in the street, or set down below the level of others in the street, this can have an impact on the existing rhythm of a street);

*Detachment of houses* (the "space around a building" is a strong determinant of character so side setbacks are important is necessary);

*Materials* (choice of materials for wall, roofs, fences, etc and the colour, texture of materials also have a significant influence of neighbourhood character);

*Roof Forms* ( it is not just the pitch of a roof that is important. The style, the selection of materials and colours, the actual degree of pitch (even flat roofs have a pitch) and the use of eaves and parapets, also play an integral role in establishing neighbourhood character);

*Garages* (the prominence of garages and carports can have a detrimental effect on neighbourhood character. In many areas recessing garages is important).

- The preference for innovative rather than imitative development tends to contradict the thrust of other provisions to reflect existing development patterns/ characteristics. This statement should be qualified that it refers to style as it may be desirable to imitate other characteristics.
- The nomination of preferred future character was questioned in relation to developing areas where character should be allowed to evolve in response to consumer preferences rather than being dictated by Councils.

- The reliance on preferred future character imposes a burden on Councils to commit resources to identify preferred character although in some areas other issues may be of higher priority. Significant resistance to identification of areas for change is also likely.
- The Department's submission to the Committee made the following suggestions:
  - Clarify that preferred character may be the existing character and that if preferred character is different from the existing character a local policy would be needed.
  - Consider removing mandatory status because assessment requires judgement and to avoid a checklist approach to preferred features.
  - Consider including reference to heritage strategies.

***Committee Comment:***

The emphasis placed on mandatory quantified standards in the exhibited ResCode creates an unrealistic expectation that all important matters can be quantified. Although some requirements directed at achieving development that is compatible with neighbourhood character have quantified standards, the Committee does not believe that consideration of all relevant matters, or their cumulative effect, can be adequately addressed through prescriptive mandatory standards for more intensive development. Judgement will always be necessary. The language used also reflects this need to exercise judgement. This means that absolute certainty regarding requirements cannot be achieved, but it should not be interpreted as meaning the issue is any less important than matters that are capable of being distilled to generally acceptable quantified benchmarks.

The Committee agrees that in infill situations the discrete location of garages and carports setback behind the building line will often be desirable. However, in some established areas and many greenfield developments, garages/carports forward of the dwelling a common features that should not be precluded. This arrangement is common in many project home plans and appears to be accepted in developing areas.

The 'greening' of urban areas is widely recognised as a positive objective, while trees with spreading crowns can make a strong contribution to minimising the visual impact of buildings. However, in built-form dominated areas and some garden suburbs, continuous planting and trees with spreading crowns, which the standard suggests should be preferred, may not reflect the existing or preferred character.

The approach recommended by the Committee places less reliance on mandatory satisfaction of prescriptive requirements but seeks to achieve greater certainty and consistency through decision guidelines. In particularly valued or sensitive areas the proposed Neighbourhood Character Overlay would allow more detailed requirements and guidelines to be developed that are specific to the locality. Neighbourhood character is not isolated as a separate element in the proposed revised provisions but is addressed at each level of the development assessment and underpins many of the development requirements. Compatibility with existing character is treated as the basis for evaluation unless a specific policy to change the character of an area has been adopted.

***Recommendations:***

- **Neighbourhood character be addressed throughout the design and evaluation processes for development requiring a permit.**
- **In particularly valued or sensitive areas the proposed Neighbourhood Character Overlay provide specific provisions designed to achieve the preferred character or to protect the valued existing characteristics of that locality.**

## **Standard 4: Subdivision Of More Than 6 Lots**

*Subdivision of more than 6 lots must be designed to produce a residential environment with a positive identity, by responding to site characteristics, setting, landmarks and views, and through the street and open space networks.*

*The design must integrate with the surrounding environment, and encourage dwellings to address existing and proposed streets.*

***Proposed Status:***

- Mandatory non-quantified standard

***Origin:***

- VicCode 1 E0 PC1 (direct translation), PC11 — dwellings encouraged to address major streets.
- GDG E4 C1 (including design suggestions) — integrate with existing neighbourhood and encouraged to address existing and proposed streets.

***Issues Raised by Submitters:***

- The term '*positive identity*' does not clearly indicate the type of outcome sought.
- A qualitative assessment that should not be a mandatory standard.



- General support for the standard.
- The Department's submission to the Committee suggested that the title of the standard be changed to *Establishing character in new areas*.

***Committee Comment:***

This standard, which was substantially a translation of VicCode criteria, was not contentious. The recommended restructuring of the new code to separate subdivision requirements should restore clarity and emphasise that the identity of new area should be considered at the outset of the evaluation process as part of community design.

***Recommendation:***

- **Retain standard.**

## **LANDSCAPE STANDARDS**

### **Standard 5: Landscape Design**

*The landscape design should protect existing mature vegetation, allow for intended vegetation growth and incorporate appropriate tree planting where practicable or desirable, by:*

- *Maintaining on-site vegetation, especially trees with spreading crowns.*
- *Providing sufficient open space for the planting of trees with spreading crowns.*
- *Protecting neighbours' trees from root damage.*
- *Planting semi-mature trees in open space along boundaries adjacent to neighbouring open space.*
- *Providing water-permeable outdoor surfaces that enable existing and new vegetation to grow and thrive.*
- *Using footings that allow root growth of large trees.*

The Neighbourhood Character Practice Note provides additional design suggestions including use of a suitably qualified person to assess vegetation and in landscape design, minimising disruption to vegetation during construction, providing permeable areas around trees, building outside the tree drip line and using trees without invasive root systems.

***Proposed Status:***

- Discretionary standard

***Origin:***

GDG E3.C2, C3 - respect or maintain landscape or garden character where a

dominant feature and retain trees with spreading crowns. Design suggestions incorporated.

***Issues Raised by Submitters:***

- Generally not contentious.
- Application to subdivision is not clear.
- This is the only standard specifically directed at landscape design but the purpose, basis and standard only focus on neighbourhood character. *“Other important values of vegetation such as improving energy efficiency, providing habitat, maintaining biodiversity, climatic control, (providing shade, microclimates etc.), preventing erosion, maintaining stable water tables, and so on are not addressed in ResCode.” (City of Banyule)*
- The emphasis on trees with spreading crowns does not recognise the contribution to neighbourhood character of other plants such as conifers, allocasuarinas, grevilleas etc. Trees with spreading crowns also usually have more extensive root systems which can cause problems, or may be problematic close to dwellings in bushfire-prone areas.
- Planting of semi-mature trees along boundaries adjacent to neighbours’ open space should be qualified as the impacts may have adverse impacts that are comparable to building in the same location.
- Tree removal and protection measures should be supported by a report from a qualified arborist.
- Some industry submissions highlighted the substantial cost of ‘root friendly’ footings which commonly outweighs the value placed on the trees by consumers.
- The Department’s submission to the Committee suggested that the standard be revised to encourage professional landscape design plans.

***Committee Comment:***

Other values of vegetation are important and should also be recognised in the revised Code although their relevance will vary from area to area. The Committee agrees with the SAC that promotion of the use of trees with spreading crowns is appropriate because they make a greater contribution to neighbourhood character than smaller plants or ornamental trees in many suburban areas.

***Recommendations:***

- **Landscaping objectives and standards should not be limited to issues of neighbourhood character.**
- **The User Guide and/or local policies should highlight good practice approaches to landscaping.**

## **Standard 6: Replacement Of Lost Trees**

Where a proposal results in the loss of one or more existing mature trees, the responsible authority should require the planting of up to three replacement trees for each tree lost.

***Proposed Status:***

- Discretionary

***Origin:***

- New

***Issues Raised by Submitters:***

- Concept of requiring replacement of lost trees was generally endorsed but the nomination of three replacement trees was considered simplistic by many.
- The standard does not address the appropriateness, contribution to character, health or longevity of the trees removed.
- The requirement for significantly larger areas to be devoted to replacement trees would be costly and may compromise the design process.
- Unless replacement of trees removed prior to the application is lodged is required (or some other meaningful penalty), moonscaping would remain a problem.
- Similar requirements do not apply to removal of trees where development is not proposed.
- The Department's submission to the Committee suggested that the type of replacement planting may need to be more specific.

***Committee Comment:***

This standard appears to be a response to the very real issue of moonscaping sites to eliminate development constraints prior to submission of development applications. Removal of existing vegetation and replacement planting is a relevant consideration that should be addressed in objectives and as part of the decision guidelines associated with planning the site layout.

Nominating a number of replacement trees does not take account of the specific circumstances of the development or its context. In areas where vegetation is considered a key characteristic contributing to a highly valued neighbourhood character, vegetation protection applicable to the whole area, not just sites when development applications are considered, could be achieved through the application of an Overlay.

The Committee believes that consideration of applications as if trees which have been removed prior to the application still existed, would remove the incentive to clear sites. This is not a perfect solution but would provide a significant disincentive for moonscaping without resulting in a blighted site as would occur if the site were

quarantined from development for a significant period.

***Recommendations:***

- That removal of mature trees and replacement planting should be addressed as part of landscape design but the requirements should not be quantified.
- In areas where removal of vegetation is a key characteristic of a valued character, a significant landscape overlay or local laws can be used to control the removal of vegetation throughout the area and not just when a development application is made.
- Mature vegetation should be retained on site until development proposal have been approved.

## **Standard 7: Building Protection**

Landscape proposals should ensure the structural protection of existing and proposed buildings from root damage.

***Proposed Status:***

- Discretionary

***Origin:***

GDG E4.C11 design suggestion:

*Allow for intended vegetation growth and structural protection of buildings.*

***Issues Raised by Submitters:***

- The term *ensure* implies a guarantee which is considered ambiguous in the context of a discretionary standard.
- Some Councils expressed concerns that the condition may result in Council liability if buildings were damaged.

***Committee Comment:***

The protection of buildings from damage caused by landscaping is a relevant consideration that should be addressed in the proposed User Guide. The SAC comments regarding the need for more rigorous evaluation and enforcement of landscape plans is noted (see SAC Final Report pages 60–62).

The Committee has already expressed concern about the significant limitation imposed by CSIRO guidelines which provide a conservative approach to the issue

and preclude large trees from urban areas excepts where lots are very large. Specialist advice in developing a reasonable approach to the issue should be sought by the Department.

***Recommendation:***

- CSIRO *Guide to Home Owners on Foundation Maintenance and Footing Performance* 1996 be evaluated.

## **SITE COVERAGE STANDARDS**

### **Standard 8: Site Coverage**

*The maximum site coverage must not exceed the site coverage specified in a local variation. If no site coverage is specified the maximum site coverage is 60 per cent.*

***Proposed Status:***

- Mandatory.
- Local variation may be approved.

***Origin:***

- GDG E6.T6 (60%)
- VicCode 1 E2 PM5 (55%)

***Issues Raised by Submitters:***

- The basis does not provide any assistance in interpretation.
- In suburban and landscape dominated areas the site coverage was considered too high but in inner areas the site coverage would be exceeded on a routine basis. In both cases local variation would be necessary due to the lack of discretion.
- Local variations will be necessary for the Code to function and maintain development opportunities but have significant resource implications and lead times.
- Discretion must be available to take account of renovation of existing buildings already exceeding the permitted site coverage, to accommodate isolated lots or small groups of lots that may not be typical of the wider area and may not be addressed by local variations that would apply more widely in a municipality.
- Suggested that site coverage should relate to lot size.
- Definition of areas included in site coverage are required.
- The Department's submission to the Committee suggested that discretion on a site-by-site basis may be more appropriate than local variations for inner city locations.

***Committee Comment:***

The Committee agrees that discretion should always be available to take account of the particular circumstances of the site.

One approach could be to identify different benchmarks for site coverage based on built-form-dominant, garden suburb and landscape-dominant typologies. This would reduce the need for each Council to develop local variations while recognising the character of the neighbourhood but would still require specific areas to be characterised and mapped. The 60% default could be maintained unless Councils identified areas which fit an alternative typology.

The HIA submission suggestion that site coverage should relate to lot size (less than 200m<sup>2</sup>: 80%, 201-300m<sup>2</sup>: 75%, 301-400m<sup>2</sup>: 70%, 400m<sup>2</sup>+: 60%) to avoid the need to identify areas. The Committee agrees that site coverage related to lot size provides a simple means of recognising different development expectations in different areas or types of lots. It is acknowledged that this approach does not recognise areas where the character of the area depends on extensive areas not being built on which may require specific treatment under an overlay.

***Recommendation:***

- That site coverage benchmarks for all development relate to lot size supported by decision guidelines relating to departures from the benchmarks;
- Decision guidelines should recognise the constraints imposed by existing development on a site.

## **HEIGHT & SETBACK STANDARDS**

### **Standard 9: Building Height**

See Part A Standard 2.6 Building Height

### **Standard 10: Upper Storeys**

See Part A Standard 2.8 Upper Storeys

## Standard 11: Front Setback

See Part A Standard 2.1 Front Setback

## Standard 12: Walls On Boundaries

“The total length of walls of buildings on a boundary must not exceed the length specified in a local variation. If no length is specified the total length of walls of buildings on a boundary is 50 per cent of the length of the adjacent boundary or 10 metres, whichever is the lesser.

*The maximum height of a wall on a boundary must not exceed the height specified in a local variation. If no height is specified the height of a wall on a boundary must not exceed an average of 3 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall”.*

### **Status:**

- Mandatory standard.
- Provision for local variation by Council.
- Appeal rights to VCAT.

### **Origin:**

#### **GDG E6C2**

- *Building height, length and location should not cause significant loss of amenity to neighbours.*

#### **GDG E6.T3**

- *Buildings are located on side and rear boundaries as follows:*
  - *The maximum length of new boundary walls is 50 per cent of the length of any adjacent residential boundary; or*
  - *Where a wall of an existing dwelling or outbuilding on an adjacent lot abuts the boundary, the maximum length of new boundary walls is that abutting the existing walls plus 50 per cent of the length of the remaining boundary; or*
  - *Where slope and retaining walls or fences would result in the effective height of a wall built to the boundary being less than 2m on the adjacent property boundary; or*
  - *Within a 7km radius of the Melbourne GPO, buildings may fully abut boundaries of side or rear access lanes.*
  - *A building on boundary includes a building setback up to 150mm from a boundary.*

The SAC review of GDG and VicCode 1 Issues and Options paper briefly considered walls on boundaries as a component of visual bulk. In its Final Report, the SAC (page 87) did not support suggestions to greatly reduce heights or lengths of walls

on boundaries.

***Issues Raised by Submitters:***

See comments under 2.9 Walls on Boundaries Part A

***Committee Comment:***

The Committee formed the view that this is a standard where base compliance on the standard alone will not result in a good outcome. It supports the view expressed by the SAC (Final Report page 87) that proposals to reduce heights and/or lengths of walls on boundaries *will no more guarantee good outcomes than the present technique or performance measures, but will depend equally on context and execution.* They are likely to hinder the good developers without necessarily improving the quality of other developments.

The emphasis placed on site analysis and design response in ResCode, if firmly based on objectives and criteria, properly administered is more likely to achieve a true response to the site and its context. However, the Committee does agree that the standard should be reduced in terms of height, due to the potential for adverse amenity impacts on neighbours.

The Committee believes that site layout should be strongly emphasised at the beginning of design and evaluation processes.

It should be noted that a distinction has been drawn between single houses and multi-unit development in the Committee's recommendations. This is because evaluation of proposals takes place in the context of a planning permit process and on large sites the 20m limit could be unduly and unnecessarily restrictive.

***Recommendations:***

- **For walls on boundaries, no height should exceed 3 metres, unless there is a local variation, or the wall abuts another. The decision guidelines should be used in the assessment of individual developments.**
- **The standard should allow flexibility where amenity impacts have been measured by building envelopes.**
- **For as-of-right single houses, the length of wall on the boundary should remain as in VicCode 1.**



## **Standard 13: Side and Rear Setbacks**

See 2.7 Side & Rear Setbacks Part A Standard.

## **FRONT FENCE STANDARDS**

### **Standard 14: Front Fences**

A front fence must not exceed the maximum height specified in a local variation. If no height is specified the front fence height must not exceed 1.2 metres.

#### ***Proposed Status:***

- Mandatory prescriptive standard
- Not variable

#### ***Origin:***

- GDG E3.C6 design suggestion (1.5m if 50%+ transparent, discretion to allow higher solid fences.)
- SAC comments noted under Part A Front Fence standard.

#### ***Issues Raised by Submitters:***

Many issues common to those noted under Part A Front Fence standard.

#### ***Committee Comment:***

See comments noted under Part A Front Fence standard.

The Committee accepts that as the intensity of development increases, it is a more complex task to achieve development that is compatible with its surrounds and there are greater pressures to maximise the use of available land. Therefore consideration of front fence (and associated front setback) treatment remains relevant where a planning permit is required. However, discretion must be available to take account of the circumstances of particular proposals and decision guidelines should indicate how that discretion is exercised. GDG E3.C6 design suggestion provides a reasonable benchmark with consistency with prevailing fence treatment being emphasised in the decision guidelines.

In areas where neighbourhood character is particularly sensitive or valued, the proposed overlay could address appropriate front fence treatments for the area.

***Recommendation:***

- GDG E3.C6 design suggestion to establish the standard for front fences with decision guidelines emphasising consistency with prevailing fence treatments in the immediate area.

## SOLAR ACCESS & ENERGY EFFICIENCY STANDARDS

### **Standard 15: Solar Orientation of Lots**

*Streets in new residential subdivisions should, where possible, be oriented east-west or north-south.*

*The orientation and dimensions of lots should maximise solar access while taking into account the likely dwelling size and the relationship of each lot to the street. Solar access to adjacent lots and buildings should be maximised.*

*Appropriate solar orientation is achieved on lots with long axes within the range N20°W to N30°E or E20°N to E30°S. At least 70% of all lots in a subdivision must have appropriate solar orientation, unless a local variation specifies alternative standards.*

***Proposed Status:***

- Mandatory.
- Local variation may be approved.

***Origin:***

VicCode E1 PC3 — orientation of lot criteria translated.

***Issues Raised by Submitters:***

- Mandatory nature of the standard restricts subdivision design and flexibility which may compromise the achievement of other objectives.
- The terms such as *where possible* imply discretion which is not reflected in the quantified standard or the mandatory status of the standard.
- Infill subdivision is subject to many constraints which are not recognised by the standard.
- The onus should be on the applicant to demonstrate why the standard cannot be achieved. Alternative wording was suggested: “...except where there is a demonstrated need to orient lots to meet the character of the area or take into account significant built and landscape features of the site or character of the areas.”
- Practice Notes should indicate circumstances where dispensations are reasonable.

- The standard should indicate which parts of buildings or sites require the best solar access, eg. principal private open space.
- Unclear whether the standard applies to subdivision of buildings.
- The size of lots, particularly the width of east-west lots, is also important for energy-efficient design.
- The Department's submission to the Committee suggested that a user guide could assist in interpretation.

***Committee Comment:***

Submissions did not indicate dissatisfaction with the current VicCode 1 provision. Earlier Committee comments (Introduction Part 3) support increased emphasis on these elements of VicCode, together with a stronger emphasis on training to promote better subdivision design and assessment.

***Recommendation:***

- **The provisions of VicCode should continue to apply, subject to a comprehensive review.**

## **Standard 16: Solar Orientation of Dwellings**

*Dwellings should be sited, designed and constructed to make the best use of natural resources, solar energy, daylight and natural ventilation by.*

- *Orienting dwellings along the north-south and east-west axes of lots.*
- *Setting back dwelling walls sufficiently from northern boundaries and structures.*
- *Locating living areas on the northern side of dwellings.*
- *Abutting or sharing walls with adjacent dwellings through multi-storey or attached construction, where practical and appropriate.*
- *Retaining buildings with efficient recycling potential.*
- *Maximising north-facing windows and minimising west-facing windows.*

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E5.C1, C2 — supported by design suggestions: dwelling, living room and window orientation, promotion of shared walls.
- GDG E3.C7 — building recycling promoted.

***Issues Raised by Submitters:***

- Infill development may pose contradictions between neighbourhood character and energy-efficiency objectives, eg. shared walls increases building bulk,

orientation compromised by existing lot layout. Some qualification should be included.

- Solar orientation should prevail in greenfield situations.
- Further guidance about other options should be provided, eg. eave treatments, shading devices and landscaping treatments as measures to improve energy efficiency and dwelling comfort should be highlighted. The Sustainable Energy Authority also advocated a requirement for connection to reticulated gas (where available) and provision of north-facing roof slope.
- Setting walls back from the northern boundary to enhance energy efficiency of the proposed development is in conflict with Standard 13 which requires buildings to be set back from the southern boundary to protect solar access of the adjoining property.
- Orientation along the north-south boundary is not always practical and may not take account of site conditions, eg. topography, views, location of noise sources, location of vegetation.
- Natural ventilation mentioned in the basis but not in standards.
- The Department's submission to the Committee suggested that a user guide could assist in interpretation. Consider deleting promotion of building recycling.

***Committee Comment:***

There are tensions between the planning objectives to protect neighbourhood character and to promote energy efficient development in some highly accessible established areas and in many landscape-dominated areas. These issues need to be addressed through both metropolitan and local strategic planning. In areas where neighbourhood character is particularly sensitive, the recommended Neighbourhood Character Overlay would highlight the importance of character issues in the evaluation of development proposals. Nevertheless there will be the need to exercise judgment in achieving a balance.

ResCode dilutes GDG and VicCode 1 objectives and criteria for sustainable development, eg. neglects issues such as landscape treatments, removes guidance on design approaches. A practice note or user guide would assist in indicating approaches to meet objectives.

The Committee has commented that in greenfield situations the opportunity exists to achieve better outcomes than in the past. It is much more efficient for each dwelling to be sited to provide for its own energy efficiency rather than relying on neighbours for solar access. Similarly, building to boundaries in greenfield locations can be designed to enhance both amenity and energy efficiency.

The Sustainable Energy Authority recommendation to promote provision of north-facing roof slope is endorsed but should not be a mandatory requirement.

**Recommendations:**

- Objectives and standards directed at Environmental Sustainability be extended to include consideration of matters such as landscaping, ventilation, north-facing roof slope.
- The proposed user guide promote energy-efficient siting and design.
- Standards relating to solar orientation should distinguish between infill and greenfield development.
- Dwellings be connected to reticulated gas where it is available.

### **Standard 17: Energy Performance of Dwellings**

See 2.17 Energy Efficiency Part A Standard

## **REDUCED FOSSIL FUEL DEPENDENCE STANDARDS**

### **Standard 18: Supporting Public Transport, Cycling And Walking**

*Railway stations and public transport stops should provide the focus of the movement network in subdivisions. The network should accommodate bus routes, and provide for access to public transport within reasonable safe and convenient walking distance of all dwellings.*

*A public transport stop should be provided within 500 metres of at least 90% of residential lots or dwellings in a new subdivision.*

*A safe and attractive network of pedestrian and cycle paths should be provided to link open spaces, community facilities, public services and other daily activities.*

*Subdivisions should provide for opportunities for local services and facilities and employment.*

*The movement network should be designed to minimise local motor vehicle travel distances, and to enable direct local vehicle trips within the neighbourhood and to local activity points*

**Origin:**

- VicCode E0 PC4, E6 PC 7, PC10–13 — Lot layout and density and movement network to promote public transport use, cycling and walking to daily activities.
- VC1 — E6 PM3 90% dwellings within 400m of a bus or tram route, 500m from a bus or tram stop or 800m from a railway station.

**Issues Raised by Submitters:**

- 
- The standard has limited relevance to infill development.
  - Most issues will generally have been addressed at the Outline Development or Incorporated Plan stage.

- Pedestrian movement should be given greater emphasis, particularly for greenfield development, eg. require walking routes, distances and times (ped sheds) to be documented with specific standards for evaluation developed (see Western Australian Livable Neighbourhoods June 2000).
- Need links to other relevant standards, eg. Movement Network Standards 52–54, S61, S62- 67.
- There is an anomaly between distance to public transport stop of 500m and to collector road of 700m (Standard 53) — should be consistent.
- Measurement of distances should be clarified.

***Committee Comment:***

The separation of these standards from requirements in Element 6 Residential Infrastructure fails to draw the association between sustainability objectives and key standards relating to pedestrian movement and planning for public transport. The Element 6 purpose makes no reference to this key objective that should underpin movement network planning.

The ResCode standards relating to subdivision design represent a ‘cut and paste’ approach which has not developed VicCode 1 approaches to sustainability and has resulted in a less cohesive document. The Committee emphasises the importance of achieving more sustainable new subdivisions which are capable of functioning with less reliance on fossil fuels. However, significant changes to VicCode should be developed as part of a comprehensive analysis undertaken with key stakeholders.

***Recommendation:***

- VicCode 1 be reviewed with a specific objective of achieving subdivision movement patterns that are capable of functioning with less reliance on cars. This review should be based on technical advice and with the active participation of key stakeholders.

## ENVIRONMENTAL AND HERITAGE STANDARDS

### **Standard 19: Protection of Environment and Heritage Features**

*Environmental and heritage features and places that are not recognised and protected by the planning scheme or by other statutory provisions, but which may be suitable for being provided with such protection, should be retained until their significance and the scope for their formal protection has been determined.*

*Environmental and heritage features and places that are not suitable for recognition and protection by the planning scheme or by other statutory provisions may still be of local*

*significance and can enhance the identity or neighbourhood character of a development. These features and places should be integrated into the design of the development where possible.*

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E3.C7 — retain buildings of recognised conservation significance.
- VicCode E0.PC10 — retain significant vegetation, natural and cultural features.

***Issues Raised by Submitters:***

- Clarification of the intention and scope of the standard is required. Identification of environmental and heritage features affected by the standard will be subjective.
- The standard cannot be implemented unless statutory protection (demolition control, vegetation protection) is provided.
- Heritage should include good examples of recent architecture.
- The standard makes a series of statements rather than establishing requirements or tests for assessment.
- The Department's submission to the Committee suggested that the standard should refer to implementation of local heritage studies.

***Committee Comment:***

This standard does not prevent moonscaping or assist in the assessment of proposals. The Committee agrees that the issue of demolition of potentially significant buildings needs to be addressed outside the Code. New controls over demolition have recently come into effect and should adequately address the issue of demolition where evaluation of the building indicates that it has heritage value. Moonscaping has been discussed in relation to standards directed at retention of vegetation. The integration of features and places not specifically protected by statutory mechanisms in proposals remain good design practice and should be addressed at the beginning of the design and assessment processes.

The relationship between requirements under other Overlays and the Code also requires clarification. For example, applications under the Heritage Overlay focuses on protection of heritage values which may well justify departures from normal siting requirements. However, amenity issues remain a relevant consideration which should also be taken into account in the design and evaluation processes. The

recommended approach addresses protection of heritage and environmental values in the first stage of assessment in the site analysis/design response and Element 1 Location form and site constraints. Discretion to depart from normal siting benchmarks (in either the building or planning permit processes) is available and the need to protect heritage and environmental values are identified as relevant matters in the decision guidelines

***Recommendations:***

- Site analysis and design response should address heritage or environmental value of the site and its surrounds, together with the implications of overlays.
- **Protection of amenity be a relevant matter in the assessment of all residential development proposals.**
- **Decision guidelines should provide for dispensations or alternative approaches where necessary to meet heritage or environmental objectives for significant places affected by an Overlay.**
- **The new Code should address the integration of heritage and environmental features at the beginning of the assessment process.**

## **ENVIRONMENTAL CONSTRAINTS STANDARDS**

### **Standard 20: Layout, Siting & Design**

*The layout of residential development and subdivision, and the siting and design of dwellings should acknowledge physical constraints by:*

- *Avoiding development on land subject to flooding, land with poor drainage or salt-affected soil.*
- *Orienting street networks along valleys where the street is part of the drainage system.*
- *Minimising soil erosion and surface disturbance.*
- *Incorporating bushfire protection measures in hazardous areas.*

***Proposed Status:***

- Discretionary

***Origin:***

- VicCode E2 PC8 – substantive issues translated
- VicCode E6 PC17 – part translated – (issues in 2<sup>nd</sup> dot point)

***Issues Raised by Submitters:***

- Guidelines or Practice notes would assist in implementation eg minimising soil erosion.
- Constraints such as vegetation and slope should also be mentioned.



- Suggested that VC1 E6 O7 wording be inserted *To integrate road layout and streetscape design with natural drainage and open space systems.*

***Committee Comment:***

The standard was not contentious. The Committee agrees that the development of a User Guide to indicate best practice approaches and detailed guidelines would be a valuable addition. The restructuring of the subdivision provisions should maintain the scope and content of matters currently addressed in VicCode 1.

***Recommendation:***

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- **That a User Guide be developed for residential development to promote best practice, provide detailed guidelines for development and highlight relevant reference documents.**

## **Standard 21: Stormwater Infiltration**

See 2.15 Permeability Part A Standard.

## **Standard 22: Managing Run Off**

The layout and design of the drainage system for residential development and subdivision should enable the management of run-off to prevent damage to property and maintain the quality of receiving courses. Standards and design guidance set out in Urban Stormwater Guidelines (CSIRO) 1999 should be used.

***Proposed Status:***

- Discretionary

***Origin:***

- VicCode E 12 – Drainage Network – refers to updated guidelines.

***Issues Raised by Submitters:***

- The standard should be mandatory.
- Reference to the CSIRO Guidelines will ensure universal use of the guidelines throughout local government.
- In established areas, some residents and community groups indicated that drainage is often a major problem but developers only provide minimum requirements for their own properties without taking the cumulative effects into

account. Drainage systems should be upgraded with developers paying the costs, possibly through a levy established for the purpose.

- Increasing permeable surfaces should assist in managing run-off.

***Committee Comment:***

The Committee agrees that current standards should be adopted. The development of a User Guide to indicate best practice approaches and detailed guidelines would be a valuable addition.

The Committee does not agree with submissions that developers should bear the costs of resolving drainage problems in an area that predate a development but rather they should only be responsible for the additional drainage works generated by the development.

***Recommendation:***

- 
- The standard be translated to the new Code.

## **CHOICE OF LOT SIZE & DWELLING STANDARDS**

### **Standard 23: Diversity of Lots and Dwellings**

Subdivision and residential development should provide a range of lots and dwelling sizes and types.

### **Standard 24: Adaptable Dwellings**

*Larger dwellings should have layouts that can be adapted to suit the needs of a variety of household types.*

***Proposed Status:***

- Discretionary

***Origin:***

- VicCode 1 E1 O1, & PC1 — range of lot sizes
- GDG E11.C3 — adaptable layouts in larger dwellings

### ***Issues Raised by Submitters:***

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- The rationale for standards is not provided — including adaptability to current and future housing needs.
- Locational distinctions are not made, eg. where certain housing forms are encouraged.
- Issue should be addressed through housing strategies with the interpretation of the standard linked to those strategies.
- Neighbourhood character impacts need to be recognised including the potential for saturation of multi-unit development or the importance of a consistent pattern of single houses on large lots.
- Standard 23 is seriously compromised by other standards which increase requirements.
- Dwelling adaptability also relates to matters such as open space provision and car parking.
- The GDG design suggestion provides a useful indication of how Standard 24 can be achieved.

### ***Committee Comment:***

The Committee agrees with submissions that the provision of a range of housing sizes or types may not be appropriate on an individual site. In smaller developments there may be little scope for a mix of housing types, there may be a gap in the type of housing provided in an area or particular heritage, environmental or character issues may impose constraints on the type of housing that is appropriate.

Housing strategies reflected in the SPPF and LPPF which are based on analysis of current and future housing needs over a wider area, provide a more effective means of achieving housing objectives. It is appropriate for the new Code to identify the relevance of the type of housing proposed to housing needs and strategies as an assessment consideration. In particularly sensitive areas, Overlays may also provide more specific guidelines for the form of housing provided.

### ***Recommendation:***

- **The new code and documentation accompanying applications should include explicit assessment of whether the type of housing proposed is consistent with state and local housing strategies and policies.**

## **Standard 25: Controlling Costs**

*The design of new streets and infrastructure should minimise future maintenance costs.*

*The siting and design of dwellings should take into account running and maintenance responsibilities,*

*requirements and costs.*

***Proposed Status:***

- Discretionary

***Origin:***

- 
- VC1E8 PC1
  - GDG – maintenance considerations identified in E9, E10

***Issues Raised by Submitters:***

- Development costs are only one component of housing affordability. Other issues such as location relative to services are not addressed.
- The standard is inconsistent with the thrust of ResCode to increase standards and therefore costs.
- A Practice Note should address how costs can be minimised.

***Committee Comment:***

The Committee comments regarding the cumulative effect of increased standards in ResCode are provided in Section 6 of the main report.

It is noted the purpose for this element encourages dwelling siting and design to minimise ongoing costs and maintenance. The emphasis on maintenance costs in this standard represents a significant shift from VicCode 1 which sought to minimise the costs to the community, including upfront capital costs. For example, before VicCode very high upfront road construction costs were imposed to minimise Council maintenance obligations in the long term. VicCode rejected this approach in favour of consideration of the total costs to the community, not just Councils. (See VicCode 1 E10 PC1.) Reasons for the ResCode policy shift were not given and the Committee believes that the VicCode approach has a sound basis.

***Recommendation:***

- The VicCode 1 emphasis on total costs to the community, not just maintenance costs, be maintained, particularly in relation to street and infrastructure standards.

## **COMMUNITY SERVICES & FACILITIES STANDARDS**

### **Standard 26: New Services and Facilities on Large Sites**

*Subdivision and residential development on land of more than 1 hectare should consider the provision of a*

*variety of non-residential land uses, arranged to encourage provision of local community services, facilities and local employment.*

*Any proposed non-residential land uses should be compatible with adjacent residential use.*

- ***Proposed Status:***

***Origin:***

VicCode 1 E0.PC7 — revised.

***Issues Raised by Submitters:***

- Standard should be mandatory above a certain land size or number of dwellings.
- The one-hectare size specified is too small, particularly for traditional residential subdivision. The number of dwellings or occupiers is more relevant than the size of land.
- The wider principles of residential amenity and sustainable development should be addressed.

***Committee Comment:***

The Committee agrees that sustainable communities should have access to a wide range of services and facilities. It is preferable that the location of nonresidential services and facilities be addressed through the Outline Development or Structure Planning processes. The funding of those facilities within a development should be consistent with the principles and philosophies of development levies as they currently apply.

The Committee also agrees that the responsible authority should prepare a Development Levies Plan clearly identifying all requirements. These should be based on the principles of nexus, need, accountability and equity.

***Recommendations:***

- **The location of nonresidential services and facilities be addressed through Outline Development or Structure Plans which should be recognised in the revised Code.**
- **Development levies should continue to apply for the provision of community facilities within a development based on the principles of nexus, need, accountability and equity.**

## **Standard 27: Access to Services and Facilities**

*To reinforce neighbourhood identity, the provision of local community services, facilities and employment*

*should be located at focal points within 500m or reasonable walking or cycling distance of most residents.*

*The design of the movement network should encourage residents to walk or cycle to local community services, facilities and employment.*

*People with special mobility requirements should be able to conveniently access and use local community services, facilities and employment.*

***Proposed Status:***

- Discretionary

***Origin:***

VicCode1 E0.PC4 & E7

***Issues Raised by Submitters:***

- Community facilities are now typically provided to serve a catchment of more than 500 metres.
- Staging to optimise development and use of services and facilities is not addressed.
- Location close to existing services and facilities should be addressed rather than only considering provision of new services for new development.
- The Good Design Guide reference to access to buildings for people with limited mobility is deleted in ResCode.

***Committee Comment:***

The Committee agrees that the design of the movement network should encourage pedestrian or cycle movements. Focal points which are accessible to pedestrians are important in establishing the neighbourhood identity but it is recognised that the catchment size nominated is unlikely to provide a full range of facilities and the value of co-locating facilities should also be taken into account. The Committee believes that the issue should be addressed during the preparation of the Local Structure Plans. The distribution of focal points should be addressed in the recommended comprehensive review of the standards of VicCode 1.

***Recommendation:***

- *The provisions of ResCode should generally continue to apply.*
- *Focal points should be identified in Local Structure Plans processes taking account of their contribution in establishing neighbourhood identity, the importance of pedestrian accessibility and the value of co-locating facilities.*

**PUBLIC OPEN SPACE STANDARDS**

## Standard 28: Appropriate Land Contributions

*Land that is proposed to meet public open space contribution requirements should:*

- *Be unencumbered.*
- *Provide well-distributed public open space. It should be accessible to the surrounding community.*
- *Be designed so that larger areas of open space are located to define the boundaries of neighbourhoods and do not form barriers to movement within a neighbourhood.*
- *Be designed to ensure that it has characteristics that cater for the needs of likely user groups and provides for an appropriate range of uses and activities.*

### ***Proposed Status:***

- Discretionary

### ***Origin:***

- VC1 E5 PM1
- VC1 E1.PC9, PC12
- VC1 GDG E4.C8

### ***Issues Raised by Submitters:***

- This standard should relate to open space already provided.
- The land should be required to be useable and appropriate for open space.
- The requirement for unencumbered open space unduly limiting within greenfield sites some form of encumbrance such as easements, drainage overland flow paths (water sensitive urban designs) and the like are common.
- The requirement for unencumbered land contradicts Standard 31 – Shared Use.
- The location and type of public open space provided should relate to open space policy or strategy where they exist.

### ***Committee Comment:***

*Although not raised in submissions, there appears to be scope for interpretation that local requirements are contemplated for public open space that are higher than required under the Subdivision Act. The Committee supports the basis for the Public Open Space standards which states:*

The open space requirements of the responsible authority will depend upon a range of factors including the availability of public open space, the nature and quality of facilities, demand for open space based activities and the degree to which open space can further landscape or natural environment conservation objectives.

As with other VicCode changes implied in ResCode, specific justification and comprehensive evaluation should be undertaken before requirements or emphasis

are changed. The Committee believes that the quantity of public open space required under the Subdivision Act should continue to apply until a more substantial review is undertaken. Such a review should occur with the active participation of stakeholders and was beyond the scope of this Committee.

**Recommendation:**

- *That VicCode 1 Public Open Space Requirements be maintained and consistent with the Subdivision of Land Act pending a more comprehensive review to be undertaken with the active participation of stakeholders.*

## **Standard 29: Location & Layout Of Public Open Space**

*The location and layout of public open space should ensure that it can be appropriately managed and used where appropriate to:*

- *Provide linear connections between streets, existing or proposed public open spaces.*
- *Provide additions to existing or proposed public open space on adjacent land.*
- *Provide viable, self-contained district parks, large or small local parks.*
- *Meet any another requirement set out in a public open space strategy.*
- *The walking distance from all new dwellings to an area of existing or proposed public open space should not exceed the distance specified in a local variation. If no distance is specified all new dwellings should be within 500 metres walking distance.*

**Proposed Status:**

- Discretionary

**Origin:**

- VC1 EO.PC12
- GDG E4.C8

**Issues Raised by Submitters:**

- Standards 28 and 29 address similar issues and could be combined.
- This standard should be linked to a Public Open Space Strategy where one exists.
- Melbourne Water suggested that the following wording from VicCode should be inserted: *“The layout to retain significant vegetation and habitat areas, incorporate natural and cultural features, minimise soil erosion, encourage local water retention, avoid development on flood plains and use drainage methods that protect and enhance streams”.* VC1E0, PC10.
- The standard should recognise that Public Open Space planning should incorporate significant vegetation or places/features of historical interest.

**Committee Comment:**



The Committee agrees that the location of Public Open Space should be consistent with the provisions of the Structure Plan. The Structure Plan should acknowledge existing significant vegetation and habitat areas.

***Recommendation:***

- *The location of Public Open Space should be consistent with the provisions of the Structure Plan and LPPF open space strategies or policies.*

### **Standard 30: Design of Public Open Space**

*The proposed design of new public open space should:*

- *Protect and enhance any natural environment, cultural and heritage assets.*
- *Provide a pleasant and attractive environment for users.*
- *Provide a safe environment for users including the provision of lighting to Australian Standard 1158.1 (1986) and play equipment to Australian Standard 1924.2 (1981).*
- *Provide for active recreation, passive recreation and nature conservation uses.*
- *Provide for the exercise of pets in a manner that does not compromise other uses.*
- *Be cost-effective to maintain as public open space.*

***Proposed Status:***

- Discretionary

***Origin:***

VC1 E5

***Issues Raised by Submitters:***

- Design should also provide for access by bicycle and walking, variety of seating, water, toilets, shelter/shading, opportunities for casual surveillance, reuse of stormwater runoff.
- Standard should be mandatory although may need to be reworded.
- Requirement for lighting increases open space development costs by 30–50%. All areas do not seem the same treatment with casual surveillance often being adequate.

***Committee Comment:***

Little comment was made about the less prescriptive approach adopted in this standard compared to VicCode 1. As with other aspects of subdivision requirements, the Committee has supported the retention of VicCode1 requirements pending a comprehensive review. That review should be based on specialist advice with the active participation of stakeholders.

The Committee expressed concern at the increased cost of the provision of addition lighting costs in Public Open Space. The provision of addition lighting should be qualified to “*as appropriate*” as in VicCode1.

***Recommendation:***

- ***The design of Public Open Space should also be in accordance with the requirements of the Outline Development Plan and VicCode 1 requirements should be retained pending a comprehensive review.***

### **Standard 31: Shared Use**

*The shared use of public open space with schools and other users should be encouraged.*

*The shared use of public open space for drainage control or stream and floodway purposes may be appropriate, but should not compromise the general availability of the land for recreational or nature conservation use.*

***Proposed Status:***

- Discretionary

***Origin:***

- VC1 E5.PC1, PC2

***Issues Raised by Submitters:***

- There should be a stronger link between this standard and the Standards 28, 29 and 30.
- Safety risks associated with dual use of open space and drainage/flooding control should be acknowledged.

***Committee Comment:***

Not Contentious. The Committee supports the principles expressed in the standard but it should be redrafted to provide tests for assessment.

***Recommendation:***

- **The provisions in ResCode should apply but should be redrafted to indicate a test for assessment.**

### **Standard 32: Public Open Space and Surrounding Neighbourhood Character**

*The design of public open space should enhance the character and legibility of surrounding subdivision and residential development.*

*The layout and design of subdivision and residential development next to public open space should complement the character and appearance of that space. When achieving this purpose, as many dwellings as practicable should be provided with an outlook over public open space.*

*The layout and design of surrounding subdivision and development should clearly delineate the boundaries of public open space and distinguish it from open space performing communal and private functions.*

### **Standard 33: Safe and Secure Open Space**

*The location and layout of public open space should be designed to minimise problems relating to personal security and surveillance, property security and vandalism.*

#### ***Proposed Status:***

- Discretionary

#### ***Origin:***

- VC1 E0 PC9, E1 PC5, VC1 E5 PC4
- GDG E4.C6

#### ***Issues Raised by Submitters:***

- Generally not contentious.
- The design of open space should also reflect the surrounding vegetation.
- The term 'legibility' is vague.
- The requirement to complement the character and appearance is less relevant in greenfield development.

#### ***Committee Comment:***

The Committee agrees with the principles expressed in these standards to provide secure environments and that the interface of Public Open Space with existing residential development should compliment the existing character. The standards should be combined and strengthened to retain the VicCode encouragement of dwellings fronting public open space. The role of Structure Plan provisions in addressing these issues should be recognised.

#### ***Recommendation:***

- **Standards 32 and 33 be combined and strengthened to promote subdivision design with dwellings fronting Public Open Space, with an emphasis on community safety and neighbourhood character.**

## **STREETSCAPE & LANDSCAPE STANDARDS**

### **Standard 34: Creating Streetscapes**

*Street design must create an attractive streetscape that helps to establish or reinforce the preferred neighbourhood character by:*

- *Designing dwelling fronts, front gardens, streets and public open spaces to encourage and support interaction between residents and other appropriate social and community functions.*
- *Encouraging the use of the street for walking and cycling.*
- *Responding to and where possible incorporating existing site features such as maintaining environmental assets, vistas, landmarks and landscapes.*
- *Providing green space and landscape opportunities within the street.*
- *Providing appropriate street tree planting.*
- *Providing coordinated and attractive street materials and furniture.*
- *Implementing other relevant requirements set out in a neighbourhood character strategy that applies to the site.*

#### ***Proposed Status:***

- Mandatory standard — non-prescriptive

#### ***Origin:***

VC1 E8 PC1 & PC2

#### ***Issues Raised by Submitters:***

- 'design dwelling fronts' cannot normally be met at subdivision stage.
- Surveillance of the street should also be encouraged.
- A Practice Note is necessary.
- Should not be mandatory as there are no quantifiable standard.
- Additional matters that could be addressed in creating streetscapes include:
  - Street design should be well integrated with the landscape character.
  - Designs should minimise the need for cut, fill and retaining walls.
  - The designs should aim for low maintenance and low water consumption.
  - Integration of tree planting and services.
  - Continuous kerb free pavements for pedestrians and cyclists.
  - Provision of cycle links to broader systems and use of appropriate signage.
  - Ramped access, steps and stairs in accordance with Australian Standards.
- Recognition of the effect of road width and parking on neighbourhood character.

***Committee Comment:***

Street design should help reinforce, or contribute to the establishment of, neighbourhood character. The standard was not contentious although additional matters that should be addressed were identified in submissions. The Committee has emphasised the vital role of the public realm in establishing neighbourhood character which is the focus of this standard. The User Guide could provide assistance in addressing this standard. It should also be recognised that the nature of responses to the standards will vary according to the nature of the development proposed, the extent to which preferred future character has been determined and the scale of the development.

***Recommendation:***

- The issues addressed in Standard 34 Creating streetscapes be retained in the revised Code and addressed in the user Guide.

## **Standard 35: Streetscape Plan**

*A streetscape plan for each new street must be prepared and show where appropriate:*

- *The street to be created and typical cross-sections.*
- *The location and detailing of carriageway pavement, parking bays, bus stops, kerbs, footpaths, cycle paths and speed control devices.*
- *The location and species of proposed trees and other landscaping.*
- *The location of any environmental assets to be retained and measures for their protection.*
- *Typical dwelling front alignments (taking account of preferred neighbourhood character).*
- *Relevant garden components such as drives, fences, landscape themes and post box locations.*
- *Any relevant details for the design and location of street furniture.*

***Proposed Status:***

- Mandatory — non-prescriptive requirements.

***Origin:***

VC1 E8 PC1 & PC2

***Issues Raised by Submitters:***

- The standard is more applicable in infill situations where a new street is being created in an area with an established character.
- The standard is costly and unworkable for large-scale residential projects.

- Many aspects are included on landscaping plans or on engineering plans that typically follow a planning permit application. Details such as the location of post boxes should not be required at subdivision stage.
- They should not be mandatory, as there are no quantifiable standards to establish compliance.

***Committee Comment:***

This is an existing VicCode requirement which it appears is not consistently applied. The Committee believes that the streetscape plan provides a valuable tool for achieving better new subdivision but agrees with submitters that the timing of submission of information and the detail to be provided should be appropriate to the development. In some cases the streetscape plan could be addressed by indicating themes to be adopted rather than very detailed specifications and permit conditions could be used to accommodate staged development. The User Guide could address this issue. Specific recognition of approved streetscape plans in the revised Code would provide a mechanism for alternatives to the default frontage setbacks proposed.

***Recommendations:***

**Streetscape plans:**

- **remain a requirement in the revised Code;**
- **be addressed in the proposed User Guide Code; and**
- **content and the timing of approval relate to the nature of the development proposed.**

## **Standard 36: Minimising Traffic Impact**

*The design of residential streets should manage the speed and behaviour of traffic by discouraging:*

- *Externally generated through traffic.*
- *The length of time local drivers need to spend in a low-speed environment.*

***Proposed Status:***

- Discretionary

***Origin:***

VC1 E6.PC5 & 6

***Issues Raised by Submitters:***

- This Standard is out of place and should be with or linked to Element 6.
- Streets impact on the ability of residential streets to cope with additional traffic.
- The traffic impacts created by on-street parking should be addressed.

***Committee Comment:***

The Committee agrees with submissions that identify that this standard should be incorporated with Standard 52.

***Recommendation:***

- **This standard should be abandoned and incorporated within the provisions of Standard 52.**

## **PERSONAL SECURITY & CRIME REDUCTION STANDARDS**

### **Standard 37: Designing for Personal Safety**

Subdivision and dwelling should enhance personal safety and minimise the potential for crime, vandalism and fear by:

- orienting lot frontages to streets and open spaces;
- providing streets on public open space boundaries;
- locating pedestrian and cycle networks along streets fronted by houses and by avoiding major breaks in surveillance routes to and from public transport and other routes used at night;
- providing good lighting and visibility of garages, parking areas and accessways;
- ensuring all landscaping and planting are designed to promote full visibility of streets and accessways;
- protecting private courts and accessways from inappropriate public access and use;
- maximising surveillance of gardens, adjacent streets and public open spaces from within dwellings, particularly from dwelling entrances;
- enabling dwelling entrances to be easily seen and identified from the street;
- eliminating visual obstructions, large areas of shadow and other opportunities for inappropriate concealment from the environs of dwelling entrances.

***Status:***

- *Discretionary standard.*

***Origin:***

*This standard is a compilation of many VicCode 1 and GDG elements.*

- *VicCode 1 – E104*  
To arrange lots in a manner that enhances personal and property safety

and security.

- *E1PC5*  
Lot frontages to be oriented to streets, including major roads and to open spaces such that personal and property security, deterrence of crime and vandalism and surveillance of footpaths and public open spaces is facilitated.
- *E5PM2 (abridged)*  
Unencumbered public open space is to be (part) *related to the street and lot layout in a manner that promotes personal safety and surveillance for uses of the public open space and surrounding areas.*
- *E0PC14*  
*The pedestrian network to be safe attractive and efficient, running largely along streets fronted by houses and avoiding uses that generate major breaks in surveillance on routes to and from public transport and other routes used at night.*
- *E8PC1 (abridged)*  
The street reserve together with dwelling fronts and front gardens to *ensure that informal surveillance of the public space is possible from within dwellings.*
- *GDG E4C5*  
*Layouts should provide for the safety and security of residents and property.*
- *GDG E3C6*  
*Developments should visually address public streets.*

**Issues Raised by Submitters:**

- *Right of way and pathway links are not addressed.*
- *Dot point referring to streets on to public open space should be rewritten to ensure that planting doesn't negate advantage sought.*
- *Cynicism was expressed about use by Council of cash contributions towards public open space. A separately identified audited fund was suggested.*
- *It was suggested that this standard could be linked with Standard 51.*

**Committee Comment:**

*This is an example of a standard well handled by VicCode 1 for subdivisions.*

**Recommendation:**

- *Retain VicCode 1 provisions and modify E4C5 to include both site layouts and dwellings.*

## **DAYLIGHT & SUNLIGHT STANDARDS**

### **Standard 38: Daylight**

See 2.11 Access to Daylight Part A Standard



## **Standard 39: Solar Access to Private Open Space of New Dwellings**

Private open space must be located and orientated to facilitate solar access and provide for maximum year-round use by ensuring that:

- At least 50% (or 20 square metres with a minimum dimension of 2 metres, whichever is the lesser area) of the private open space of the new dwelling receives a minimum of four hours of sunlight between 9am and 3pm on 22 September;
- The southern boundary of private open space is set back from any wall to the north of the space a minimum distance of  $(2 + 0.9h)$  metres, where 'h' is the height of the wall.

### ***Proposed Status:***

- *Mandatory standard.*
- *No appeal mechanism.*

### ***Origin:***

This is a new standard which includes solar access to both residents of proposed dwellings and to adjoining properties.

- *VicCode 1 E2 PC3 -Buildings sited to ensure good sunlight access to the main private open space.*
- *VicCode 1 E3 PC4 -Orientation of private open space to facilitate solar access and provide for maximum year round use.*
- *GDG E6 C6 -At least during the warmer half of the year, sunlight should be available to the majority of private open spaces within a development.*

### ***Issues Raised by Submitters:***

- *The mandatory requirement for 50% of the private open space of the new dwelling to receive 4 hours sunlight between 9am and 3.00pm at the equinox was considered a worthwhile addition.*
- *In regard to narrow north-south lots solar access may be constrained. In these situations it was submitted that it would be reasonable to increase the spread of hours or to lessen the period of sunlight required.*
- *Some submitters believe that the primary open space should be 24 square metres with a minimum dimension of 4 metres.*
- *Confusion is caused by having Element 3 for solar orientation of lots and dwellings, and Element 5 for solar access to open space. Cross-referencing is required.*
- *It was submitted that this standard is unworkable in greenfield subdivisions.*

### ***Committee Comment:***

See discussion under side and rear setbacks.

Sunlight to private open space is a major contributor to the amenity of dwellings.

The Committee agrees with the comment made by the SAC in its Final Report (page 122) that *“certain trade offs must be assumed in many inner suburbs between the advantages of location and access to transport and facilities, and the amenity impacts of more traffic, higher dwelling densities and poor solar access. Whilst it is not possible to quantify these trade-offs, and in many instances they may be unconscious, they reflect the general maxim that the nature of residential amenity is not constant and will vary according to location. What is reasonable must be considered in all the circumstances.”*

***Recommendation:***

- *Discretion to vary this standard should be available under decision guidelines to allow consideration of individual circumstances.*

### **Standard 40: Solar Access to Private Open Space of Neighbouring Dwellings**

Buildings must not significantly overshadow neighbouring private open spaces or main living room windows by ensuring that at least 50% (or 40 square metres with minimum dimension 3 metres, whichever is the lesser area) of the private open space of an existing dwelling receives minimum of four hours of sunlight between 9am and 3pm on 22 September.

*An explanatory diagram accompanies the text.*

***Proposed Status:***

- *Mandatory standard.*

***Origin:***

- *GDG E6 C2  
Building height, length and location should not cause a significant loss of amenity to neighbouring residents.*
- *GDG E6 C5  
Buildings should not significantly overshadow neighbouring secluded private*

*open spaces or main living room windows.*

**Issues Raised by Submitters:**

- *A number of submissions asserted that this standard should be calculated for the winter solstice rather than the equinox. The winter solstice is a time when overshadowing is most acute and there is little change over weeks.*
- *The proposal to reduce solar access to private open space by 50% if that 50% is less than 40 square metres is inappropriate. This is particularly so in the inner suburbs where many small backyards get little sunlight. To reduce this by 50% represents an unfair transference of amenity from one household to another.*
- *The reference to main living room windows should be deleted, as protection of solar access is included in side and rear setbacks standard of ResCode.*
- *The protection of solar access to private open space is more important than to main living room windows.*
- *Several submissions raised overshadowing concerns over the protection of solar equipment that relies on direct sunlight.*
- *The need for extremely thorough and accurate shadow diagrams was raised. Discrepancies could lead to enforcement problems, VCAT hearings and the like after the development is built and found to be non-complying.*
- *The standard is considered unworkable and impracticable to assess in greenfields subdivisions.*

**Committee Comment:**

*Submissions to the SAC review of VicCode 1 and GDG highlighted problems inherent in standards such as this one. For example, the difficulty in identifying 'main living rooms', the impact of design and orientation of the adjoining property, or how the house is used by its occupants.*

*The Committee acknowledges that some submitters thought that the winter solstice was a better basis for calculation of overshadowing than the equinox. The committee does not accept this. Work undertaken for the SAC (Issues and Options Paper, Review of VicCode 1 & GDG) comprehensively examined the winter solstice as a basis for calculating solar access to secluded open space and rejected it.*

*The Committee also recognises that other factors contribute to the energy efficiency and amenity of houses, for example, the siting, choice of glass, amount of insulation and central heating.*

**Recommendations:**

- ***Remove reference to 'main living room windows' from standard.***

- *The responsible authority should have discretion to decrease the standard in accordance with decision guidelines.*
- *A user guide should define an agreed method of calculation of shadow diagrams.*

## **VISUAL PRIVACY STANDARDS**

### **Standard 41: Overlooking**

See 2.10 Habitable Room Windows of Adjacent Dwellings Part A Standard

### **Standard 42: Screening Devices**

*Screening devices must be integrated with the building design and have minimal negative effect on residents' or neighbours' amenity.*

*Screening devices must be:*

- *Solid translucent screens, perforated panels or trellis having a maximum of 25 per cent openings.*
- *Permanent and fixed.*
- *Constructed of durable materials.*
- *Designed and painted or coloured to blend in with the development.*

*If a screening device is used, the view of the area overlooked must be restricted within 9 metres and beyond a 45 degree angle from the plane of the wall containing the opening, measured from a height of 1.6 metres above floor level.*

*Screening devices are not required on:*

- *Windows to bathrooms, toilets, laundries, storage rooms or other non-habitable rooms having translucent glazing or sill heights of at least 1.6 metres.*
- *Windows to habitable rooms having sill heights of 1.6 metres or more above floor level or translucent glazing to any part of a window less than 1.6 metres above floor level.*
- *Windows to habitable rooms which face a property boundary where there is a visual barrier at least 1.6 metres high and the floor level of the room is less than 0.6 metre above ground level at the boundary.*

#### ***Proposed Status:***

- *A mandatory standard.*
- *Responsible authority cannot vary standard.*
- *No appeal mechanism.*

#### ***Origin:***

- *VicCode 1 E2 PM3*  
*Windows located in walls on side or rear boundaries are of translucent materials, except where the boundary is onto a street or lane.*
- *GDG E7 C1*  
*Secluded private open spaces and habitable rooms of adjacent existing dwellings should be*

*reasonably protected from direct overlooking.*

- **GDG E7 T1**  
*Habitable room windows with a direct outlook to habitable room windows in an adjacent dwelling within 9m:*
  - *Are offset a minimum of 1m from the edge of one window to the edge of the other; or*
  - *Have sill heights of 1.6 metres above floor level; or*
  - *Have fixed obscure glazing in any part of the window below 1.6m above floor level.*
- **GDG E7 T2**  
*Outlook from windows, balconies, stairs, landings, terraces and decks or other private, communal or public areas within a development is obscured or screened where a direct view is available into the secluded private open space of an existing dwelling.*  
*If screening is used, the view of the area overlooked must be restricted within 9m and beyond a 45 degree angle from the plane of the wall containing the opening, measured from a height of 1.6m above floor level.*  
*No screening is required where:*
  - *Windows are of bathrooms, toilets, laundries, storage rooms or other non-habitable rooms and they have translucent glazing or sill heights of at least 1.6m;*
  - *Windows are of habitable rooms and they have sill heights of 1.6m or more above floor level or translucent glazing to any part of a window less than 1.6m above floor level;*
  - *Windows are of habitable rooms which face a property boundary where there is a visual barrier at least 1.6m high and the floor level of the room is less than 0.6m above ground level at the boundary.*
- **GDG E7 T3**  
*Windows and balconies of an upper-level dwelling are designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling directly below and within the same development.*

### ***Issues Raised by Submitters:***

- See comments made under Standard 41: Overlooking.
- Some submitters believe that any screening devices on habitable rooms are an admission that the proposed dwelling is likely to have an unreasonable effect on the visual privacy of neighbours.
- This standard should be deleted as the inclusion in the code of screening devices will result in a minimum standard design rather than a site-responsive one. If it can be demonstrated that there is no alternative means to avoid overlooking, then this provision should form part of Standard 41.
- Screens can be removed by unscrupulous owners, or innocent new owners who are unaware of previous objections.
- Single houses should be exempt.
- Screening should prevent direct views into adjoining properties.
- The control should not apply to ground-floor windows and single-storey developments.
- The Code must establish the principle that overlooking from bedroom windows does not constitute an unreasonable invasion of privacy.
- For greenfields subdivision, the standard is considered unworkable and impracticable to assess.

***Committee Comment:***

The purpose of Element 5 Residential Amenity sets out the objectives relating to this standard:

- To protect the amenity of new and existing dwellings.
- To ensure reasonable visual privacy.
- To protect and enhance the amenity of new and existing dwellings by responding to the site analysis and design response.

The Committee acknowledges that the use of the word 'protect' may imply that the existing amenity levels will be maintained, when it is clearly difficult to ensure that the new development will not affect the amenity of existing dwellings in some way. Quite clearly, change by definition alters the immediate environment of existing dwellings. It is the management of change to minimise any detriment, which is the challenge that the responsible authority faces.

The Committee disagrees with the submission that single houses should be exempt from controls on overlooking. It does acknowledge, however, that on greenfield sites home owners accept a degree of overlooking, unacceptable by those home owners in the middle ring suburbs when faced with an infill development.

Where overlooking is concerned reasonable expectation of a level of privacy for one person can be seen as either excessive or totally inadequate by another and indeed many Councils. As the SAC observed in its Issues and Options Paper (page122): *"Except in the inner suburbs, Melbourne has not traditionally had many two-storey dwellings. However, housing styles change. Together with the increase in average size of dwellings, there is a current trend in favour of two-storey houses. These are particularly popular in established areas on infill sites where large new single dwellings are replacing more modest single-storey houses. For the first time, many existing residents are finding themselves overlooked and are objecting to it, even though a similar degree of overlooking would be considered unexceptional if the house was older and in a different location. Overlooking is one of the most obvious aspects of change which they dislike."*

In greenfields subdivisions where adjoining development may not yet have occurred, it is obvious that contextual assessment standards cannot be applied. Nevertheless, the committee is of the view that the issues of overlooking can be, and gradually are being addressed at subdivision stage, with increased understanding by developers of the advantages of correct solar orientation of lots and the application of building envelopes.

The SAC (Issues and Options Paper Review of VicCode 1 & GDG) also considered the matter of 'perceived' overlooking (pages 122, 123). The Committee is in complete agreement that a balance should be sought in terms of what is reasonable in the particular neighbourhood context. Standards 40 and 41 "are not about protecting the absolute privacy of existing residents".

The Committee also has a concern about the effect of overlooking and screening controls on the internal amenity of the new development and the ongoing effect of this on future residents.

***Recommendation:***

- This standard addresses a mechanism for limiting overlooking and should form part of the overlooking standard.
- The 9 metre arc as the area in which direct viewing is to be restricted should be retained.
- The use of screening techniques which are designed as part of the building should be encouraged, rather than as later additions.

## **ACOUSTIC PRIVACY STANDARDS**

### **Standard 43: External Noise**

*Development layouts, building design and construction must limit exposure to adverse off-site noise and minimise transmission of noise between dwellings.*

*Habitable rooms of dwellings close to high levels of external noise such as busy roads, railway lines, airport flight-paths or industry should be designed to limit noise levels inside the dwelling to a maximum of 45dB(a) in accordance with relevant Australian Standards for acoustic control (including AS3671 – Road Traffic and AS2021 – Aircraft Noise).*

*Noise-sensitive rooms and secluded private open spaces must be located away from noise sources. If this is not possible appropriate noise-shielding techniques should be used including:*

- *Double-glazing or thick glass.*
- *Sealing of gaps.*
- *Solid-core doors.*
- *Acoustic insulation and reflection surfaces in dwelling construction*

***Proposed Status:***

- **Mandatory.**
- **Non-variable.**

- Use of the term *should* in the second paragraph and *where this is not possible* in the third paragraph suggest that discretion is available.

***Origin:***

GDG E3.C4, E4.C3, E7.C2, E7.C4, E7.C4 design suggestion, E7.T7

***Issues Raised by Submitters:***

- 'Noise sensitive' rooms needs to be defined.

***Committee Comment:***

See discussion Part A Standard Internal Noise.

Noise attenuation is a relevant consideration but the translation of GDG objectives, criteria and design suggestions to a mandatory standard could result in significantly increased costs. It may also be difficult to provide comparable noise shielding of outdoor areas. Discretion must be available. It would be inequitable for these mandatory requirements to apply only to developments requiring a permit.

***Recommendations:***

- That existing GDG external noise performance requirement be maintained.
- Good practice for noise attenuation be addressed in a user guide.

## **Standard 44: Internal Noise**

See 2.16 Noise Part A Standard

## **Standard 45: Shared Accessways**

Shared accessways or car parks of other dwellings should be setback a minimum of 1.5 metres from facing habitable room windows. This setback may be reduced to 1 metre if there is an intervening fence of at least 1.5 metres, or if the window sill is at least 1.4 metres above the accessway.

***Proposed Status:***

- Discretionary



**Origin:**

GDG E8.T14 — translated.

**Issues Raised by Submitters:**

- This standard should be relocated or at least cross-referenced to the car-parking and access standards.
- Habitable room windows should be a minimum of 3 metres from the accessway or car parks of other dwellings with possible reduction to 2 metres if there is an intervening fence of at least 1.5 metres.

**Committee Comment:**

This existing standard that was not contentious. The Committee noted that such standards are ineffective in addressing acoustic privacy or separation and provides no protection of visual privacy unless other measures such as landscaping are employed.

**Recommendation:**

- Retain existing Good Design Guide requirement for separation of habitable room windows from accessways.

## **PRIVATE OPEN SPACE STANDARDS**

### **Standard 46: Minimum Private Open Space Provision**

*Dwellings with ground-level living area must have private open space consisting of an area at ground level totalling 40 square metres, with one part at the side or rear with an area of 25 square metres and a minimum width of 4 metres which has convenient access from a living room.*

*Dwellings with no ground-level living area must have private open space consisting of at least:*

- *A balcony with an area of 8 square metres and a minimum width of 1.6 metres which has convenient access from a living room.*
- *A roof-top space with an area of 10 square metres and a minimum width of 2 metres which has convenient access to a living room.*

*For dwellings with ground- and upper-floor living areas, at least 75 per cent of private open space must be provided at ground level.*

*The area between the front of the dwelling and the street at ground level must not be included in the calculation of private open space.*

**Proposed Status:**

- Mandatory
- Locally variable

***Origin:***

- GDG E9.T1 - Technique requirements translated with a new distinction between dwellings with ground-level living rooms requiring open space at ground level. The front setback is excluded from the private open space calculation.

***Issues Raised by Submitters:***

- See discussion of 2.14 Part A Private Open Space Standard issues raised by submitters.
- Submissions indicated both support and opposition to the exclusion of the front setback from the open space calculation.
- There was general support for the option of local variations.
- Flexibility should be available to vary the proportions of private/communal open space, eg. to protect significant trees.
- Open space requirements for dwellings not meeting Part A requirements would be at least halved.
- No discretion is allowed for diversity of housing needs such as elderly persons where minimal private open space may be provided in favour of a communal, shared open space which can be more easily maintained by the provider of the accommodation.
- There is no relationship between dwelling size/number of bedrooms and private open space requirements. The increasing size of many dwellings emphasises the importance of this relationship.
- The standard requires refinement to deal with small-lot, inner-city, multi-unit developments. For example, provision of all of the open space above ground level could have better outcomes to optimise solar access and privacy.
- The approach to open space provision should be consistent across the State.
- A roof-top area is not a suitable alternative in outer suburban context.
- Location of private open space with regard to surveillance should be addressed.
- The Department's submission to the Committee suggested that relevant parts of the front setback be included in the private open space calculation to provide greater clarity and flexibility.

***Committee Comment:***

See discussion in 2.14 Part A Private Open Space Standard.

The alternative system recommended for dispensations to Part A Standards removes the distinction in private open space requirements regardless of whether a planning permit is required. With regard to the relationship between dwelling size and private open space, the Committee accepts that some people prefer larger internal space with compact outdoor areas. The site cover standard provides a limit on the built area for large sites.

The increase in the dimension of the consolidated component of Private open space is not considered necessary/appropriate. The increased width would impose a significant constraint on multi-unit development.

The requirement for ground level provision of open space would preclude some forms of development such as flats and is not supported. Site coverage provisions tend to direct a significant proportion of private open space to ground level.

Discretion should also accommodate alternative forms of housing where communal provision of open space is preferred, eg. social housing projects for particular client groups, very urban developments emphasising access to services or areas external to the site.

***Recommendations:***

- **The Private Open Space provision requirements of the Good Design Guide be maintained.**
- **The front setback should be included in the private open space calculation but secluded private open space should normally be located to the side or rear.**

## **Standard 47: Integration of Private Open Space**

*Private open space should be well integrated with main living areas and be capable of serving a range of functions by ensuring that:*

- *Private open spaces are adequate in area, dimension and slope for the likely residents.*
- *There is direct access from a main living room to the private open space.*
- *Part of the private open space is capable of enabling an extension of the function of the dwelling for relaxation, dining, entertainment, recreation and children's play.*
- *Private open space provides for some service functions such as outdoor clothes drying.*

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E9.C1 - Requirements translated with minor revision, eg. direct rather than convenient access from a main living room, extension of the function of the dwelling added.
- VC1 E3 PC1, PC2 - Provides resident needs and service functions, extension of the function of the dwelling for relaxation, dining etc.

***Issues Raised by Submitters:***

- The relationship between private and public open space and the implications of dwellings addressing public open space should be addressed in this standard.
- Reference to suitable slope should be replaced with '*suitable gradient*'. A Practice Note could illustrate ways of dealing with sloping sites.
- This standard should allow consideration of the utility of open space when it includes trees with spreading canopies (leaves, roots, lack of ground cover, clothes drying, play areas).
- The criteria of VicCode1 Element 3. PC3, which encourage private open space to be located to take account of views, natural features, privacy and overshadowing of adjoining buildings, surveillance and the relationship to public open space, should be included in this standard.
- This standard should be mandatory.

***Committee Comment:***

The standard was not contentious but the Committee agrees that matters addressed in VC E3 PC3, which extends the matters addressed in the evaluation of private open space provision, would make a useful addition to the standard.

***Recommendation:***

- Matters addressed in VC1 E3 C3 be added to the integration and function of private open space standard (decision guidelines).

## **SITE FACILITIES STANDARDS**

### **Standard 48: Garages and Carports**

*Garages and carports should be located and designed to:*

- *Complement dwelling design and allow surveillance of the street from within dwellings.*
- *Provide a minimum of 1.5 metres setback from facing habitable room windows of any adjacent or proposed dwelling, or where there is an intervening fence 1.5 metres high or greater, or the window sill is a minimum of 1.4 metres above the accessway, the minimum setback is reduced to 1 metre.*

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E8.T14 — second dot point translates this requirement.
- VC1 E4 PC3 — garages and carports to be designed and located to maintain streetscape amenity, complement dwelling design and allow surveillance. (Not included in building regulations, therefore not applied as a requirement for as-of-right dwellings.)

The SAC emphasised the potential impact of garages and carports on streetscape - see earlier comment relating to front setback standards).

***Issues Raised by Submitters:***

- The Standard should be cross-referenced or transferred to Element 6 – Residential Infrastructure.
- The extent of garage doors facing the street should be limited to 3m or 10% frontage, whichever is the greater.

***Committee Comment:***

The discrete location of garages and carports is also addressed in Standard 3 and cross-referencing with Elements 3 and 6 would be appropriate if the exhibited format were retained.

The rationale for increased setback for garages and carports from habitable room windows of other dwellings than other new walls is not clear.

***Recommendation:***

- *Garage and carport setbacks from existing windows be the same as for other walls.*

## **Standard 49: Storage**

**A new dwelling must provide at least 6 cubic metres of externally accessible, secure storage space.**

See discussion with 2.19 Storage Part A Standard.

## **Standard 50: Services**

*Garbage and recycling bin enclosures, letterboxes and other site facilities, such as meter boxes and television antennae, should be:*

- *Adequate in size, durable, waterproof, blend in with the development and be located to avoid visual clutter.*
- *Located for convenient access by residents and collection vehicles and deliveries or servicing.*
- **Letterboxes should be sited and designed to enable easy access for residents and provide for:**
- *The safe and convenient delivery of mail, in accordance with the requirements of Australia Post.*
- *Body corporate correspondence where applicable.*

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E10.C1 including Design Suggestion, C2, C3.
- VC1 E11 PC5 reference cited.

***Issues Raised by Submitters:***

Not contentious

***Committee Comment:***

No comment.

***Recommendation:***

- **Retain standard.**

## **DWELLING ENTRY & SECURITY STANDARDS**

### **Standard 51: Design For Security**

*Dwelling design should provide for personal and property security by:*

- *Enabling general observation of the site and approaches to entries from inside dwellings.*
- *Using window types that provide security while allowing for good ventilation.*
- *Enabling visitors to be seen from inside the dwelling without opening the door.*
- *Limiting the number of dwellings sharing a common entrance to no more than eight.*
- *Locating and designing garages and carports to allow surveillance of the street from within dwellings.*
- *Dwelling entries should:*
  - *Be visible and easily identifiable from streets and other public areas.*
  - *Provide shelter, a sense of personal address and a transitional space around the entry.*
  - *Be accessible at ground-floor level to people with limited mobility or able to be easily converted.*

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E11 C1, C2 (including Design Suggestion) — requirements and suggestions directly translated
- VC1 E3 PC3 — insofar as it relates to surveillance of the street from the dwelling.

***Issues Raised by Submitters:***

- This standard should be cross-referenced to Standard 37.
- Some of the principles of crime prevention through environmental design should be assessed for inclusion in the standard.
- The needs of the growing proportion of people with disabilities should be addressed explicitly through performance requirements, eg. at least 50% of dwellings incorporate access responsive design including the provision of an accessible path of travel from the street frontage, car-parking area or drop-off point to housing units, and wheelchair accessible floor plan. (See AS 4299 – Adaptable Housing)

***Committee Comment:***

The Committee agrees that the needs of people with disabilities and designs capable of adapting dwellings should be an explicit consideration in the development of new housing. It is clearly cost effective to incorporate the capacity for adaptation at the design stage rather than retrofitting dwellings where there has not been any consideration of the issue during the original planning.

The inclusion of a requirement that ground floor dwellings which provide an accessible path of travel and incorporate access-responsive design in new development would increase the housing options for people with disabilities, reduce the need for households to relocate when the onset of disability creates new housing needs, and extend the opportunities for people with disabilities to visit friends and relatives. Decision guidelines would provide discretion to take account of circumstances where the standard cannot be met.

The requirement for access to ground-floor areas for people with limited mobility would be more appropriately located in Element 4 Diversity, Choice and Liveability.

***Recommendation:***

- That ground floor dwellings should be accessible to people with limited mobility or able to be easily converted to be accessible.

**MOVEMENT NETWORK STANDARDS**

Part B Purpose      Element 6

- *To ensure that appropriate infrastructure is provided for new residential development and subdivision and that the impacts of development on existing infrastructure are properly considered through:*
- *The provision of and maintenance of a movement network.*
- *The provision of access to appropriate parking for dwellings.*
- *The provision of necessary utilities and reticulated services to dwellings.*
- *The provision of effective drainage and stormwater management systems.*

*To ensure the cost effective construction and management of new and upgraded infrastructure by maximising its design life and minimise maintenance requirements.*

*To ensure that infrastructure design and construction are derived from the site analysis and design response.*

***Origin:***

With regard to cost-effective construction and management, there is a shift from minimising total cost to the community (eg. VC1 E9 O8, PC1) to minimising maintenance costs without addressing up-front costs.

***Issues Raised by Submitters:***

- 
- Maximising infrastructure design life and minimising maintenance requirements does not necessarily achieve Ecologically Sustainable Development principles and the best practice of environmental management of stormwater, eg. a swale system would require more maintenance than a 'traditional' kerb and channel; and a natural, open waterway would require more maintenance than a waterway that has been undergrounded.
  - The terminology used throughout this Element needs to be consistent — for example, the term 'road' is used yet in Table 1 this term is not used at any level of the hierarchy.

***Committee Comment:***

As with Standard 25, the emphasis on maintenance costs in this standard represents a significant shift from VicCode 1 which sought to minimise the costs to the community. For example, before VicCode very high up-front road construction costs were imposed to minimise Council maintenance obligations in the long term. VicCode rejected this approach in favour of consideration of the total costs to the community, not just Councils. (See VicCode 1 E10 PC1.) Reasons for the ResCode policy shift were not given and the Committee believes that the VicCode approach has a sound basis.

***Recommendation:***

- **The provisions of VicCode should apply.**



## Standard 52: Providing Appropriate Street Types

*New roads or streets should be designed to:*

- Perform their designated function within the street network.
- Enable the appropriate management of traffic.
- Provide a safe environment for all users.

*Where a new road or street is intended for use by motor vehicles, a maximum traffic volume must be predicted for it (the 'predicted traffic volume').*

*Predicting the traffic volume will enable a new road or street to be classified according to a street type in **Table 1** to this standard. The new road or street should then be constructed to meet the other appropriate Movement network standards of this Element, regardless of whether it is a public or private road or street.*

*The predicted traffic volume is the predicted maximum volume for a 24-hour period in vehicles per day. Predicted traffic volumes are dependent on location. Generation rates may vary between existing and newly developing areas and can be significantly influenced by the availability and usage of public transport.*

*For single dwelling lots, a traffic generation rate of 10 vehicles per day per lot (equivalent to approximately 1 vehicle per day in the peak hour) should be used unless a lower rate can be demonstrated.*

*Lower rates may be applied to multi-unit dwellings based on locally derived rates.*

*A local variation may reduce, waive or add to the standards set out in **Table 1** to this standard and in the other Movement network standards of this Element.*

### **Proposed Status:**

- Mandatory, Table 1 requirements may be varied locally.

### **Origin:**

VC1 E6 — summarised Movement Network basis and standards.

### **Issues Raised by Submitters:**

- Standards and tables should be cross-referenced.
- The Basis relating to movement network could be more concise and with less use of jargon.
- There is no guidance on how 'locally derived rates' are established or justified.
- Inconsistencies and concerns with **Table 1** include:
  - the predicted traffic volume for a driveway is 12, yet Standard 52 indicates that a single dwelling generates 10 vehicles;

- predicted traffic volume for a shared driveway is 100 yet it must not serve more than 5 dwellings. Based on a rate of 10 movements per dwelling its predicted volume should be 50;
  - local variations should allow the design speed to be reduced to 50 km/h if desired for ‘truck collector’ roads in line with the proposed 50 km/h limit for local street;
  - the function of an ‘Access place’ is not described.
  - the statement ‘Traffic is subservient to residential environment’ is more of an objective rather than a description.
  - The Victorian Planning Provisions Road Categories should be used were relevant.
- Table 1 indicates that as a condition of a Truck Collector Street, the setback and dwelling design should provide acceptable residential amenity. This condition is subjective and would be difficult to assess for applications for subdivision only.
  - The standard should not be mandatory as there are no quantifiable standard to establish compliance.

***Committee Comment:***

The Committee agrees with both written and verbal submissions that all calculations in respect of traffic movements should relate to 10 vehicle movements per day. The Committee acknowledges that the calculations in table1 of ResCode will therefore require amendment.

Inconsistencies in Table 1 were also acknowledged.

The Committee agrees that the provisions under the amended table should be **mandatory** and not be subject to local variations. Such a provision would introduce certainty and therefore comply with a fundamental objective of ResCode.

The Committee did accept the submissions that made reference to the provision of footpaths in Access places. Community expectation of at least one footpath in all streets is appropriate. However, the definition of Access Lane in ResCode has changed to relate to streets that have another frontage and the Committee does not support the requirement of a footpath on these streets when a clear alternative exists. The Committee also believes that a requirement for footpaths would also be unduly onerous for roads serving 5 dwellings or less.

***Recommendations:***

- The provisions of Table E9.1 of VicCode should apply pending a comprehensive review except that 1 footpath in both access lanes (as defined in VicCode) and access places serving more than 5 dwellings.
- The provisions should be mandatory and not subject to local variations.

### **Standard 53: Ease Of Navigation**

*There should be no more than three turns at street intersections or junctions when travelling from any dwelling to the most convenient collector street or higher order road.*

*The maximum driving distance from any dwelling to the nearest collector street or higher order road should be 700m.*

#### ***Proposed Status:***

- Discretionary

#### ***Origin:***

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VC1 E6 PM 7 & 14

#### ***Issues Raised by Submitters:***

Not contentious

### **Standard 54: Limiting Exposure To Traffic**

The movement network should be designed so that roads and streets carry 3000 motor vehicles or less per day. Most dwellings should have frontages to streets with significantly lower volumes.

#### ***Proposed Status:***

- Discretionary

#### ***Origin:***

VC1 E6 PC15

#### ***Issues Raised by Submitters:***

- 
- The standard objective and terms used should be clarified.

#### ***Committee Comment:***

Not contentious.

***Recommendation:***

- **The provisions of Table E9.1 of VicCode should apply pending a comprehensive review.**

## **Standard 55: Street Construction**

*Streets should normally be constructed to the standards appropriate to their type shown in Table 2 unless a local variation specifies otherwise.*

Where carriageway pavement widths are shown in ranges, the chosen width in the range should meet the anticipated use of the road. Greater than minimum widths should be provided where on street parking is to be allowed, where upright kerbs are used or where the road is proposed as a bus route.

***Proposed Status:***

Discretionary

***Origin:***

VC1 E 9.1 with some adjustments.

***Issues Raised by Submitters:***

- Table 2 should include a condition to ensure that landscaping opportunities are provided along shared driveways to minimise the visual impact of driveways and to improve the amenity of the proposed development.
- The opportunity for local variation to this standard was strongly supported in some submissions.
- This standard increases Table E9.1 of VicCode<sup>1</sup> minimum width requirements for access lanes and access places (for example, Street 1 should be 5.5 to 6 metres in width instead of the 5 to 5.5 metres width as referred to in Table 2). The Access Streets category 2 minimum width has also been increased. Some developers considered that these increased widths are generally not warranted and will add to the development costs. The current standards work without detrimental impacts.

***Committee Comment:***

The Advisory Committee accepts that the width of carriageways in both access lanes and access places is cause for community concern. The Committee, however, cannot accept the proposed street design and treatments as identified on Table 2 without complete justification as to their origin. It was also put to the Committee that the width options provided in VicCode have a technical basis and carriageway widths between these options could promote less safe drive behaviour. The Committee believes that a comprehensive review of VicCode, with specific traffic engineering

advice, should be undertaken. The issue of access lane and access place widths should be addressed in that review taking into account both street parking and municipal use.

***Recommendation:***

- **Street construction shall be in accordance with Table E9.1 of VicCode pending a full and comprehensive review .**

## **Standard 56: Verges**

Verge widths should be carefully considered. Verges may need to accommodate appropriate parking, pedestrian or cycleway provision. Reticulated services may need to be accommodated. Sufficient space should be provided for appropriate landscaping and flexibility necessary to incorporate anticipated changes in the configuration of the road.

***Proposed Status:***

- Discretionary

***Issues Raised by Submitters:***

- Not contentious

***Recommendation:***

- **Verge treatment in accordance with Table E9.1 of VicCode should be maintained pending a full and comprehensive review.**

## **Standard 57: Kerbs**

*The pavement edge and drainage method on local streets should be designed to facilitate infiltration of stormwater run-off where soils and topography allow.*

Layback kerbs are normally preferred for safety reasons. Upright kerbs should be considered for drainage purposes or in locations where on-street parking will be clearly defined and parking within the verge is not desirable.

***Proposed Status:***

- Discretionary

***Origin:***

VC1 E12

**Issues Raised by Submitters:**

- This standard was generally seen as appropriate, although it was noted that 'layback' kerbs are preferable from a safety perspective.
- Additional clarification was suggested by Melbourne Water regarding kerb designs adjacent to swale systems.

**Committee Comment:**

Not contentious.

**Recommendation:**

- Provisions of VicCode should apply.

## **Standard 58: Design For Appropriate Traffic Speeds**

*Design speeds on streets and roads must not exceed the appropriate legal speed limit.*

*Streets and roads should be designed to ensure that the target speed set out in **Table 1** is normally achieved.*

*Speed reduction measures may be taken to ensure that target speeds are met. These measures may include use of:*

- Roundabouts, junctions and changes of right of way.
- Bends to slow traffic to a given design speed.
- Leg lengths between bends to maintain traffic at a given design speed.
- Slow points, carriageway narrowings or gate treatments.
- Surface texture treatments.
- All speed reduction measures must be designed to:
  - Maintain a safe environment for pedestrians and cyclists.
  - Enable safe emergency vehicle access within times specified by relevant emergency agencies.

**Proposed Status:**

- Design speeds less than speed limit mandatory.
- Other parts of standard mandatory but discretion/judgement anticipated in other aspects.

**Origin:**

VC1 E9 Table 9.1

**Issues Raised by Submitters:**

It was generally believed that this standard is appropriate.

**Committee Comment:**

The Committee believes that the mandatory standards as identified in ResCode are consistent with Table E9.1 of VicCode. However, the Committee accepts that the ResCode format is clearer.

**Recommendation:**

- **The provisions of Table 1 of ResCode as it relates to this standard should be adopted.**

## **Standard 59: Junctions And Stopping Point Design**

*Junctions must be designed in response to predicted traffic volumes and desired operating speeds to operate safely and efficiently for drivers, pedestrians and cyclists, allowing desired movements to occur without undue delay.*

*Pedestrian and cycle crossing points must be provided with the minimum possible crossing distance.*

*In order to limit vehicle turning speeds at junctions, kerb radii should be set at the minimum value necessary to satisfy required vehicle turning templates.*

*'T' junctions, staggered junctions and roundabouts should be used to slow and control the movement of traffic through junctions. Cross road junctions should be avoided. Staggered junctions should meet the standards set out in Table 3.*

*Turns at junctions should be made as single forward movements between a trunk collector and any street including an access street or above in the movement hierarchy, by the 'design articulated vehicle' with a turning path radius of at least 11 metres using any part of the pavement (Fig B5 in AS 2890.2, 1989). Turns at junctions should be made as single forward movements between a collector street and any other collector street, access street or access place, by the 'design heavy rigid vehicle' with a turning path radius of at least 11 metres using any part of the pavement (Fig B4 in AS 2890.2, 1989). Turns at junctions should be made as single forward movements between an access street and any other access street or access place, the B99 'design car' with a turning path radius of at least 7.5 metres using the correct side of the pavement only (Fig B1 in AS2890.1, 1986).*

Junctions and any other stopping points should be designed to provide drivers with at least the minimum sight distance to the stopping point set out in **Table 4**.

**Proposed Status:**

- A mandatory standard but the combined use of 'must' and 'should' means the extent of discretion is unclear.

**Origin:**

## VC1 E6 Table E6-2

### ***Issues Raised by Submitters:***

- It is unclear in **Table 3** how to measure the “*Minimum spacing of staggered junction (metres)*”. Is the distance between the centre lines, the closest points between two streets or the farthest point?
- This standard may be combined with Standard 63 Pedestrian and Cyclist Safety.

### ***Committee Comment:***

The Committee accepts that the “*minimum spacing of staggered junction (metres)*” is confusing, as identified under Table 3 of ResCode. The Committee is not aware of the rationale behind the quantum identified in Table 3. The Committee further recognises that the issue of junction and stopping point design will be subject to a far more detailed technical review.

### ***Recommendation:***

- **The provision of Table E9.2 of VicCode should be adopted pending a comprehensive review.**

## **Standard 60: Turning Space Design**

*Any non-through street must contain a sufficient area for vehicles to turn. The area must accommodate the anticipated needs of service and emergency vehicles.*

*The turning area must accommodate a ‘design small rigid vehicle’ making a three-point turn. Where driveway entrances contribute to the turning area, the chosen surface must be able to withstand relevant loads (Fig B3 in AS 2890.2, 1989).*

*Any non-through shared drive or accessway must incorporate turning areas to enable cars to enter and exit a road in a forward direction where it:*

- *serves 5 or more car spaces;*
- *serves three or more dwellings;*
- *connects to a Road Zone Category 1; or*
- *in the opinion of the responsible authority, is in the interests of road safety for this standard to be met.*

### ***Proposed Status:***

- **Mandatory** — provides for Responsible Authority discretion to impose requirement on other than main roads.

### ***Origin:***



- GDG E8. T5
- SAC Final Report Pages 174-175, 181 — Considered the land consumed/hard-surfaced area created by a requirement to exit a site in a forward movement needed to be taken into account. Recommended that a schedule provide a mechanism for identifying roads other than RDZ1 where safety is an issue.

***Issues Raised by Submitters:***

- Turning circles for two dwellings on a site should be required where possible.
- The turning area at the end of streets is not sufficient. The design standard is 'small rigid vehicle' which is 6.385 metres in length. Council garbage trucks are 9.8 metres long and the design standards will not allow for a three-point turn. The design standard should be for a 'heavy rigid vehicle which is 10.7 metres'.
- This standard will impact on subdivision design and have unnecessary cost implications. Turnaround areas are generally provided in streets serving four or more dwellings. Short streets serving a maximum of three dwellings are typically not provided with a turnaround area but operate successfully.

***Committee Comment:***

The Committee acknowledges concern that municipal and heavy vehicles are generally not accommodated under the provisions of VicCode. The provision of a three-point turn is a system which has been generally adopted at the end of cul-de-sacs. Local Government has supported a three-point turn in lieu of conventional circular cul-de-sac heads to facilitate municipal vehicles. The comprehensive review of VicCode should consider these issues.

Councils are in a position to consider the need for forward egress from a site through the permit process. The last dot point in the standard may unreasonably extend the requirements of this standard to small scale development on a wider basis.

***Recommendation:***

**The provisions of the GDG should continue to apply.**

## **Standard 61: Planning for Bus Routes**

*Proposed bus routes should be designed to:*

- *Efficiently connect with existing or likely future bus routes, to provide for ease of movement of buses between developments, and link major activity centres within and external to the development.*
- *Enable buses to safely access the developments without complicated turning manoeuvres.*
- *Ensure streets suitable for bus routes through the development are no more than 30 per cent longer than those available on the adjacent traffic route network.*

- *Comply with the requirements of the Office of Public Transport and its franchised public transport providers, and have the maximum carriageway widths designated for that street type.*
- Have sufficient carriageway widths to allow for movement of buses unimpeded by parked cars and to safely accommodate cyclists.

***Proposed Status:***

- Discretionary

***Origin:***

- VC1 E6 PC11, PM4
- VC1 E9 PC13 – new requirement to comply with OPT requirements.

***Issues Raised by Submitters:***

- Most submissions considered this standard was generally appropriate.
- Noted that the location of bus stops is not addressed — VicCode1 refers to a distance of 400 metres.
- Standards relating to bus routes are also addressed under the Environmental Sustainability Element and should be consolidated or cross-referenced.
- There is no requirement for any form of shelter or lighting at stops which could be addressed in Standard 18 which deals with encouraging public transport patronage.

***Committee Comment:***

The Committee accepted that the majority of submissions considered the provisions of this standard appropriate.

***Recommendation:***

- **The provisions of Standard 61 be adopted.**

## **Standard 62: Construction Standards**

Footpaths and cycleways alongside roads and streets should be provided as required by **Table 5**.

***Proposed Status:***

- Discretionary

***Origin:***

VC1 E9 Table 9-1

***Issues Raised by Submitters:***

- This standard should be mandatory.
- VicCode1 did not require the provision of footpaths within Access Lanes and Access Places. Standard 62 requires footpaths and cycleways to be provided as required in Table 5.
- The following comments have been made in relation to Table 5:
  - Footpaths should be 1.4 metre minimum width instead of the 1.2 metre width referred to.
  - No commentary or rationale is provided for the requirement for footpaths on one side of both an Access Place and Lane.
  - The provision of footpaths within Access Lanes and Places, which are designed to cater for daily traffic volumes of 300 vehicles per day, is unnecessary and will increase the cost of developing the land thereby reducing housing affordability.

***Committee Comment:***

As discussed under Standard 52, the Committee acknowledges the submissions in respect of the provisions of footpaths within Access Lanes and Access Places. The Committee agrees with the 1996 Advisory Committee recommendation that a footpath on one side should be incorporated within Access Lanes and Access Places generally in accordance with the provision of Table 5 of ResCode. The Committee does, however, believe that the width of a footpath to accommodate shared cycle use should be addressed in the comprehensive review of VicCode.

***Recommendation:***

- **The provisions of Table E9.1 of VicCode should apply pending a comprehensive review except that 1 footpath should be provided in both access lanes (as defined in VicCode) and access places serving more than 5 dwellings.**

## **Standard 63: Pedestrian and Cyclist Safety**

*Street and road verges should ensure appropriate visibility of pedestrians and cyclists by drivers and of motor vehicles by pedestrians and cyclists, taking into account expected vehicle speeds and pedestrian and cyclist movements.*

Appropriately designed crossing opportunities for pedestrians and cyclists should be provided, including measures to slow the speed of traffic at such points.

***Proposed Status:***

- Discretionary

**Origin:**

VC1 E9 PC5

**Issues Raised by Submitters:**

- Not contentious
- Combine with Standard 56.

**Committee Comment:**

Whilst the submitters did not consider this issue to be contentious, the Committee notes that the provision of Standard 62 (as amended) should apply.

**Recommendation:**

- **That standard 63 be incorporated within Standard 62.**

## **Standard 64: Footpath Provision**

*Footpaths should be designed and located taking into account pedestrian amenity, sun and shade, postal deliveries and likely use patterns.*

*A requirement for footpaths on both sides of a street may be reduced to only one side where:*

- *There is no development fronting that part or side of the street.*
- *Topography or vegetation precludes provision.*
- *Vehicle volumes and speeds are low and use of the street pavement is considered safe and comfortable for some pedestrian use.*
- *Postal delivery will not be significantly inconvenienced*
- *Pedestrian use will not be deterred by the lack of a footpath.*

*Footpaths should be located to provide a separation from the street pavement unless vehicle volumes are low and site constraints exist which require footpaths to abut kerbs.*

Off-street footpaths along pedestrian desire lines, following landscape features, accessing and crossing public open space should be considered.

**Proposed Status:**

- Discretionary

**Origin:**

- VC1 E6 PC9, PM5
- VC1 E7 PC3

**Issues Raised by Submitters:**

The requirement for 1.2 metre-wide footpaths on both sides of the street is onerous for Access Street 1 (target speed 30 km/h, serves up to 150 dwellings) and Access Street 2 (target speed 40 km/h, serves no more than 300 dwellings). It is unnecessary to provide footpaths to both sides of these streets. A requirement to do so will further increase costs for the developer.

***Committee Comment:***

As discussed under Standard 62, the Committee acknowledges the requirement for provision of one footpath within an Access Lane and an Access Place.

***Recommendation:***

- **That this Standard be incorporated under Standard 62 (as amended).**

## **Standard 65: Cycleway Provision**

*The residential street network should provide a permeable network of low volume, low speed routes for cyclists, to promote the use of such streets for on-pavement cycling to daily activities.*

*Abutting cul-de-sac heads should have a cycle path connection.*

*The maximum longitudinal gradient of cycle paths should be no greater than any adjacent street pavement and provide for safe sight distances at crossings.*

Off-street cycleways along pedestrian desire lines, following landscape features, accessing and crossing public open space should be considered.

***Proposed Status:***

- Discretionary

***Origin:***

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VC1 E7 PC4, PC6

***Issues Raised by Submitters:***

- Standard is seen generally as appropriate.
- Linkage to the requirements under Element 3 could be strengthened.
- The requirement for abutting cul-de-sacs to provide for a cycle path connection is onerous given that many new estates are dominated by cul-de-sac design.

***Committee Comment:***

The Committee accepts the provisions of ResCode in acknowledging that the street network should provide a permeable network for cyclists. The Committee also acknowledged that the majority of submitters deemed the provision appropriate.

**Recommendation:**

- **Cycleway provision as defined under Standard 65 should be adopted.**

## **Standard 66: Shared Surfaces**

*The design of pavements should facilitate use by cyclists, especially in places where dedicated cycle ways are not provided.*

*Shared pedestrian/cycle paths providing major access to a primary school should be a minimum 2m wide and be designated as a shared pedestrian/cycle route in accordance with the guidelines published by the State Bicycle Committee (1987).*

*The safety of pedestrians and cyclists, where it is intended they use the carriageway, should be assured by providing sufficient width in the carriageway.*

**Proposed Status:**

- Discretionary

**Origin:**

VC1 E7 PC2 (deleted), PC7, PM2, PM7

**Issues Raised by Submitters:**

- Not contentious
- The term 'sufficient width' should be defined.

**Committee Comment:**

The Committee accepts that shared surfaces cannot be treated in isolation and should form part of an overall review of VicCode. The issue of whether the shared surfaces for cyclists remain in pavement areas or within the footpath design has not been clearly established.

**Recommendation:**

- **The provisions of VicCode should apply, subject to a comprehensive review.**

## **Standard 67: Construction for Varied Requirements**

Footpaths or shared paths should be constructed with a durable, non-skid surface, and be of sufficient width and strength to cater for projected user types and volumes, and to facilitate ease of use by the disabled, aged and the very young.

***Proposed Status:***

- Discretionary

***Origin:***

VC1 E7 PC5

***Issues Raised by Submitters:***

Not contentious

***Recommendation:***

- **The provisions of Standard 67 of ResCode should apply.**

## **Standard 68: Easy Access to all Dwellings**

*Emergency and service vehicles must have easy access to all dwellings within a residential area.*

Where any dwelling is remote from a public street, access for service, emergency or delivery vehicles must be provided.

***Proposed Status:***

- Mandatory

***Origin:***

- VC1 E9 O2
- GDG E8.C7

***Issues Raised by Submitters:***

- This standard should not be mandatory as there are no quantifiable standards to establish compliance, eg. *“Easy access to all dwellings”* is not quantified.
- The standard suggests that all multi-unit development must provide access to service and emergency vehicles. As the standard is mandatory, a first-floor apartment with access via a lift or stair would not meet the provision of this clause.
- Discretion, deemed to comply with provisions and exclusions, should be provided.
- A minimum turning area required for garbage disposal vehicles should be specified.

***Committee Comment:***

The Committee accepts that all emergency and service vehicles must have appropriate access to all dwellings within a residential area. The Committee does, however, believe that this should not be mandatory where a dwelling is remote from a public street. The Committee believes that the discretion of the responsible authority in such circumstances is appropriate.

***Recommendation:***

**The provisions of Standard 68 of ResCode are appropriate with the exception that remote dwellings should be subject to the discretion of the responsible authority.**

## **Standard 69: Fire Vehicle Access**

*Layouts for residential development abutting bushfire prone areas should ensure that:*

- *Streets are designed, located and connected to allow safe and efficient movement of fire emergency vehicles.*
- *Lots are configured to facilitate siting and design of houses incorporating wildfire protection measures.*
- *Street carriageways are designed to the requirements of the Country Fire Authority to provide adequate access to fire vehicles under conditions of poor visibility.*

***Proposed Status:***

- Discretionary

***Origin:***

- VC1 E0 PC15
- VC1 E9 PC17

***Issues Raised by Submitters:***

- Not contentious
- Should be mandatory

***Committee Comment:***

The Committee, whilst accepting that this standard is not contentious, agrees that it should be mandatory.

***Recommendation:***

- **That the provisions of Standard 69 be adopted and be given mandatory status.**

## **RESIDENTIAL PARKING STANDARDS**



## **Standard 70: Number of Car Spaces per Dwelling**

See 2.12 Car Parking Part A Standard.

## **Standard 71: Visitor and Service Car Spaces**

*Visitor and service car spaces must be provided in accordance with the requirements of the local variation. If a requirement is not specified in the schedule, visitor and service car spaces must be provided for all dwellings at a rate of 1 space per five dwellings (to the nearest whole number). This may be provided on-street.*

*For all developments that provide visitor and service car spaces on site, the car spaces must:*

- *Be clearly marked or signed as visitor and service car spaces.*
- *Be located in open access areas.*
- *Not be provided within residents' garages or in tandem with any other car spaces.*

Where parking restrictions are in force, conveniently designed and located car spaces should be provided on site.

### ***Proposed Status:***

- Mandatory.
- May be locally varied.

### ***Origin:***

- GDG E8.T2 1 car space/5 dwellings, may be on street where there are no parking restrictions and there is no body corporate.

### ***Issues Raised by Submitters:***

- Concerns that visitor car parking is not required to be on-site and may be provided on the street. On-street visitor parking should only be accepted where there is no reasonable alternative, there is sufficient supply of on-street car spaces and the street is capable of accommodating parked cars without compromising safety, convenience of other residents, or neighbourhood character.
- The decision of where visitor car parking should be located should be made by the responsible authority and the applicant.
- The requirement that visitor spaces not be located in tandem with any other car space is an unreasonable provision. Almost all single housing provides visitor parking in tandem behind residents' cars. This approach only inconveniences occupants of the dwelling being visited.
- Tandem visitor parking spaces should be permitted in situations where the visitor spaces can be allocated to a dwelling.

- A Practice Note should address the means by which visitor parking may be provided.

***Committee Comment:***

The draft ResCode effectively allows the routine provision of visitor parking on streets without parking restrictions. The Committee believes that on-street visitor parking will be acceptable in some areas but should not be an automatic expectation. The current GDG additional qualification relating to on-street parking where body corporate space is not provided is appropriate. The traffic and parking demands on the street need to be subject to evaluation. The Committee does not agree with submissions suggesting that visitor car spaces should be allocated to individual dwellings or in tandem. In larger developments it is the pool of visitor parking that allows multiple visitors to individual dwellings to be accommodated.

***Recommendations:***

- The Good Design Guide E8.T2 rate of visitor parking be retained.
- On-site visitor parking should not be provided in tandem and should not be allocated to individual dwellings.

## **Standard 72: On-Street Parking**

*On-street parking must be designed to ensure that it does not restrict the safe passage of moving vehicles and the manoeuvring of vehicles to and from driveways.*

*Where new roads are created, provision should be normally made for one on-street car space for each two dwellings.*

*A new dwelling should normally be located:*

- *No more than 25 metres from an on-street car space.*
- *No more than 40 metres from a short-term service vehicle car space.*

***Proposed Status:***

- Mandatory.
- Rate of provision and location discretionary (Should).

***Origin:***

VC1 E4 PC2, PM11 1 on-street space/2 houses (Access Place only), PM12 short-term service vehicle space on carriageway and verge space. (Access Place only)

***Issues Raised by Submitters:***

- On-street parking must not adversely increase traffic congestion in streets, especially where community facilities are located nearby.
- The Department of Infrastructure recommends that *'this Standard should be discretionary to allow Council to determine the optimum provision of resident parking in new subdivisions.'*

***Committee Comment:***

The VicCode standard was directed at single lane carriageways in Access Places in new subdivisions but that qualification was not translated to the draft ResCode standard. The separation of subdivision and dwelling development provisions should clarify the requirement.

***Recommendations:***

- VicCode 1 on-street parking provision be maintained in subdivision provisions of the new code.
- On-street parking in new streets be addressed as part of the comprehensive review of VicCode 1.

## **Standard 73: Car Space Dimensions**

*Car spaces should have minimum dimensions of:*

- 4.9 metres length by 2.6 metres width.
- 6.7 metres length by 2.3 metres width if access is from the side.
- 5 metres length x 3 metres width, if capable of being covered by a carport.
- 6 metres length by 3 metres width for a single space or 6 metres length by 6 metres width for a double space (measured internally) within garages or where contained by walls.

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E8 T8 — car space dimensions translated.
- VC1 E4PM2 — dimensions if car space capable of being covered.
- VC1 E4 PM10 — deleted — reference to Australian Standard or planning scheme.
- SAC recommended that the size of double garages be increased and clarification that dimensions are internal.

***Issues Raised by Submitters:***

- This Standard does not provide details of accessway (or aisle) widths which are included in the planning scheme and the GDG. A standard 6.4 metre reversing area should be adopted, although this area may need to be increased outside enclosed garages.

- The requirement for car spaces in a garage to have an internal length of 6 metres is not justified when an open car space is 4.9 metres long and a space in a carport is 5 metres long. A more reasonable internal length is 5 metres.
- The requirement for a 3-metre internal width for a single garage is fully supported, but the Standard should also specify the width for a double garage at 5.6 not 6 metres.
- An increase in the width of car spaces is needed where constrained by buildings or wall, by 0.5 metres to ensure greater workability.
- The current car space and access requirements in the GDG do not take account of actual driver behaviour and are based on templates that do not reflect typical vehicles. Computer packages are available to provide more realistic assessment of car park design and function.

***Committee Comment:***

The Committee was not satisfied that an increase in double garage width is necessary as two cars can be accommodated more efficiently than one.

The GDG E8 provides alternative carspace dimensions relating to accessway widths which should be maintained.

The Committee is not in a position to undertake a comprehensive revision of the car-parking layout requirements or to adopt alternative standard vehicle templates but notes the issue for further review.

***Recommendations:***

- The existing internal width of double garages in the GDG and VicCode be maintained at 5.5 metres and other Good Design Guide car space dimensions be maintained.
- **The practical function of car park layout be the subject of a future review.**

## **Standard 74: General Crossover Provisions**

*Vehicle crossovers should be designed to allow efficient access to and from driveways, taking into consideration the width of the street, be paired where practical, and located to ensure efficient provision of on-street parking. Crossovers should be designed to ensure that motorists are able to enter or reverse from a lot in a single movement.*

*Shared driveways and access places should be at least 3m wide at the entrance, flared 60 degrees to the property line, and have 3-metre radius turn-outs at the kerb.*

*Where more than 10 car spaces are served by a shared driveways or access place connecting to a Road Zone*

*Category 1, they must have an entrance at least 5 metres wide for a distance of 7 metres so vehicles may pass.*

***Proposed Status:***

- Mandatory but standard uses the term should which suggests discretionary status.
- Non-variable.

***Origin:***

- VC1 E4 PC4 (1st paragraph is a direct translation), E9 PC4 (single manoeuvre to enter or exit).
- GDG E8 T5, T6 (2<sup>nd</sup> and 3<sup>rd</sup> paragraphs direct translation)

***Issues Raised by Submitters:***

- For multi-unit development, paired crossovers should only be used where it is demonstrated that more than one crossover is necessary.
- An intention to limit crossovers should be made explicit.

***Committee Comment:***

The issues raised suggest refinements to the provisions that currently apply.

***Recommendation:***

- **Crossovers be limited and paired crossovers only be used where it is demonstrated that more than one crossover is necessary.**

## **Standard 75: Crossover Provisions for Subdivision**

*Driveways and direct vehicle access to trunk collector streets should be designed to allow forward direction entry and exit from properties.*

*Vehicle kerb crossovers should be designed as follows:*

- *On streets of 5.5 metres wide or less, single vehicle crossover widths should be 4.5 metres. Paired crossover widths should be 8.1 metres.*
- *On streets more than 5.5m wide, single vehicle crossover widths should be 3.8 metres. Paired crossover widths should be 7.6 metres.*
- *Double vehicle crossovers should be limited to lots with minimum frontages of 16.5 metres.*

***Proposed Status:***

- Discretionary

***Origin:***

- VC1 E4 PM 5 – translates forward entry/ exit requirement.
- VC1 E4 PM5 – crossover widths translated.

***Issues Raised by Submitters:***

- Paired crossovers should be encouraged in new subdivision.
- The terms 'paired' and 'double' are used — a consistent use of terms should be adopted.

***Committee Comment:***

The distinction between paired crossovers, which serve more than one property, and double crossovers for a single property supports the use of different terms. The Committee believes that only a single crossover should normally be required unless it is demonstrated that particular circumstance warrant a double crossover and the double crossover will not have adverse impacts. To avoid damage during the development phase, construction of the crossover should not be required until just prior to occupation of the dwelling.

***Recommendation:***

- Standards relate to a single crossover per property with discretion.
- **Construction of crossovers be required prior to the issue of a certificate of occupancy.**

## **Standard 76: Stormwater Infiltration**

*Parking areas should be designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site. Hard surfaces should be minimised.*

*The dimensions of parking bays may be reduced to reduce the amount of hard surface. The amount of paved length of 90-degree car spaces may be reduced from 4.9 metres to 4.6 metres where the additional 0.3 metre is provided as lawn or garden bed suitable for the overhang of vehicles.*

***Proposed Status:***

- Discretionary

***Origin:***

- GDG E8 C6 (translated in 1st paragraph).
- GDG E8 T11 — translates reduced car space dimension but omits the opportunity to reduce the access way width.

***Issues Raised by Submitters:***

- Reduced hard surfaced area is welcomed but the wording could be strengthened.
- Run-off from parking areas should not be concentrated.

- The benefits of curvilinear driveways should be addressed. Reduced hard surfaced areas are likely to have little impact because garden areas generally become compacted.

***Committee Comment:***

The reasons for deleting the potential to reduce the hard surface area of accessways adjoining car spaces was not presented to the Committee.

***Recommendation:***

That the opportunity to reduce the hard surfaced area of accessways adjoining 90-degree parking be retained.

**Standard 77: Underground Parking**

*Underground car parking on land included in the Special Building Overlay must have appropriate pumping mechanisms or bunding to prevent flooding, to the satisfaction of the responsible authority.*

***Proposed Status:***

- Mandatory

***Origin:***

New

***Issues Raised by Submitters:***

Not contentious

***Committee Comment:***

Not contentious. The standard may also be relevant to proposals in the Land Subject to Inundation Overlay. It is noted that building regulations also address this issue but consideration at the earliest stage should ensure that the matter is not neglected. It may be more appropriate to address the issue through the schedule to the overlay referred to in the standard.

***Recommendations:***

- **Delete standard 77 Underground Parking.**
- **Flooding issues associated with underground parking be addressed through the Special Building or Land Subject to Inundation Overlays.**

**UTILITIES PROVISION STANDARDS**

**Standard 78: Provision of Public Utilities and Infrastructure**

*New residential lots and dwellings must be provided with appropriate public utility services and infrastructure (including water supply, sewerage, electricity, telecommunications and gas services, and the delivery of postal and other services).*

*Appropriate infrastructure and services must be available before new dwellings are occupied.*

**Proposed Status:**

- Mandatory - judgement required to determine appropriate form of provision.

**Origin:**

- VC E11 O1 - timely, efficient, cost-effective provision of utilities, O5 - water supply, E6 O8 - movement network to cater for efficient provision of utilities.
- GDG E2 O3 - appropriate and efficient on-site services.

**Issues Raised by Submitters:**

- Subjective assessment of services required therefore should not be mandatory.
- Should be performance-based requirements.
- Street lighting in new subdivision should be addressed.

**Committee Comment:**

The standard was not contentious. The Committee accepts that a standard may be a mandatory consideration although prescriptive standards are not specified. It would be desirable to work towards establishing performance expectations for key utilities and services. A user guide could fulfil the function of documenting or referring to infrastructure requirements which are often determined by servicing agencies.

**Recommendation:**

- Practice Notes or a user guide be developed as a companion document to the new Code to indicate infrastructure and service requirements.

## **Standard 79: Design of Infrastructure**

*New infrastructure must be designed to the satisfaction of the responsible authority or relevant servicing authority and must comply with the appropriate Australian Standard.*

New infrastructure should be designed to:

- Minimise the capital cost of new or adapted infrastructure, without compromising existing or proposed streetscape or landscape qualities.
- Provide a standard or capacity that meets the needs of the proposed development and any anticipated further development.



- *Not overload the capacity of existing infrastructure, including reticulated services, streets, open space, and social and community services.*
  - *Be installed and maintained in an easy, efficient and cost-effective manner.*
- Water supply design must provide for the distribution fire hydrants at intervals and at locations satisfactory to the relevant fire authority.*

***Proposed Status:***

- Mandatory although the term 'should' is used.
- Judgment is necessary to determine compliance with the standard.

***Origin:***

- GDG E2 C3 - connection to reticulated sewerage.
- VC1 E6 O9 - cost-effective design and construction of streets; E9 O8 - minimise cost of street construction and maintenance; E10 O2, PC1 - street construction of appropriate strength and to minimise cost to community over a 20 year period; E11 O2 - maximise opportunities for common trenching and reduce constraints on landscaping; O3, PC3 - environmentally appropriate disposal of effluent to the satisfaction of responsible or servicing authority; PM1, PM2, PM3, PM4, PM5, PM 7, PM 8, PM9, PM11 - require design of utilities by qualified person and refer to Australian Standard for street lighting and street works code of practice.

***Issues Raised by Submitters:***

- Standard generally supported.
- Should address whether the existing infrastructure is overloaded.

***Committee Comment:***

The Committee agrees that consideration of whether the existing systems are overloaded is appropriate but the proposed development should not bear the cost of resolving existing problems for which they are not responsible.

VicCode provided more detailed guidance regarding the standard and provision of infrastructure, eg. reference to the 20-year timeframe for establishing road construction standards, promotion of common trenching, reference to the Streetworks Code of Practice. The 20-year timeframe is an important indicator of the design expectations for roads and should be retained to avoid requirements for roads with high up-front costs to minimise maintenance costs to Councils. It is also useful to clearly document the guideline documents to be used in the design and assessment process. These issues could be addressed by a companion document to the new Code in the form of a user guide or Practice Notes but the VicCode1

provisions should not be deleted until such a document has been developed.

***Recommendation:***

- Detailed provisions of VicCode 1 relating to infrastructure and utilities be retained until a companion document or user Guide to the new Code is developed.

## **DRAINAGE STANDARDS**

### **Standard 80: Drainage Design**

*The stormwater drainage system should be designed by a qualified person using recognised hydrologic, hydraulic, environmental and residential parameters and design methodology in accordance with the requirements of the responsible drainage authority.*

*Design of the drainage system should be based on Australian Rainfall and Run-off (I.E.Aust, 1987), Melbourne Water — Land Development Manual, Technical Guidelines and Requirements and Urban Stormwater — Best Practice Environmental Management Guidelines, (CSIRO, 1999).*

*The drainage system, including drainage infrastructure within private lots, should be readily accessible and designed for easy maintenance. The materials used in the drainage system should be durable, maintainable and cost-effective for the community.*

*The design of the drainage system should ensure that the floor of any dwelling would not be inundated during a flood of 1 per cent AEP. Habitable rooms should have floor levels 300mm above the estimated flood level resulting from a flood of 1 per cent AEP.*

***Proposed Status:***

- Discretionary

***Origin:***

- VC1 E 12
- Updated to include Melbourne Water Manual cited.

***Issues Raised by Submitters:***

- Not contentious
- All services should be underground unless otherwise approved by the responsible authority.
- The definition of AEP should be in this Standard instead of Standard 81.

***Committee Comment:***

The Committee accepts that all underground drainage should be designed to the satisfaction of the responsible authority. The Committee further accepts that, without the prior approval of the responsible authority, all drainage should be underground.

**Recommendation:**

- **The provisions of Standard 80 be adopted.**

## **Standard 81: Minor Drainage System**

*The minor drainage system is normally an underground piped system. It must be designed so that any overflow will be directed to the major drainage system without causing damage to property or affecting the safety of people.*

*In the design of the Minor Drainage System, the rainfall intensity derived from Australian Rainfall and Run-off for the particular development area must be based on an Annual Exceedance Probability (AEP) of not greater than 20 per cent for suburban residential areas.*

*The minor drainage system must have the capacity to control stormwater flows under normal operating conditions for an AEP of 20 per cent. This does not apply where an overland flow resulting from intensities between the 20 per cent and 1 per cent AEP exceeds allowable floodway safety limits as set out in Appendix G of Melbourne Water — Land Development Manual, Technical Guidelines and Requirements. In such cases, additional capacity should be provided in the underground drain to reduce the overland flow to within safety limits.*

Access pits for underground drains must be spaced at intervals of no greater than 80 times the diameter of the drain, to facilitate effective maintenance.

*The minimum depth of drains below the top of kerb to top of pipe, and the minimum depth to top of pipe in lots below the finished surface must comply with the requirements of the responsible drainage authority.*

*Storm drainage must be prevented from entering the sewerage system by:*

- *Grading all paved areas so that they do not drain towards sewerage fittings.*
- *In any area intended to be flooded, fitting all sewer access chambers with watertight covers and extending other sewage fittings to a level of 150 millimetres above the 1 per cent flood level.*

*These are **mandatory standards** that must be met.*

*Where soil permeability is adequate for the on site infiltration of storm water, soak pits should be provided.*

*Culverts and piped drains should be designed to:*

- *Operate at flow velocities of between 0.6m/sec and 6.0m/sec under normal conditions providing that it can be demonstrated that the culvert or drain will remain serviceable at high velocities.*
- *Not operate under head during a designed flow, unless a hydraulic grade line analysis demonstrates that no section of the drainage network is surcharged to an extent where undesigned overland flows could result.*
- *Comply with the appropriate Australian Standard for their manufacture and installation.*

***Proposed Status:***

- Mandatory
- On-site infiltration requirements — discretionary

***Origin:***

- VC1 E 12
- Updated to refer to Melbourne Water guidelines.

***Issues Raised by Submitters:***

- Increased run-off from existing multi-dwelling development is dramatically increasing stormwater into the bay, and degrading the aquatic environment. There should be greater assurance in the standard that the minor drainage system is adequate.
- The Standard significantly increases the maximum spacing of access pits and specifies flow velocities of between 0.6m/sec and 6.0m/sec, which is not warranted and will add to the development costs.
- Melbourne Water have suggested that the paragraph relating to spacing of access pits is inappropriate as it is addressed in the Design Guide with the Melbourne Water Land Development Manual.
- The ability to vary these requirements locally to be inserted into the mandatory standard to ensure that any areas where there are specific design requirements are clearly identified.

***Committee Comment:***

The Committee acknowledges that Minor Drainage Systems are subject to variations depending upon the type of development and topography. The Committee accepted that stormwater must be prevented from entering the sewerage system, either by grading all paved areas or ensuring that all sewerage manholes are secured with a watertight cover and extended to 150mm above the one per cent flood level. The Committee accepts that the provisions of VicCode are still appropriate with the previous objectives being addressed.

***Recommendation:***

- **That the provisions of VicCode be adopted, subject to a comprehensive review, save and except for all sewer manholes which must be fitted with watertight covers are extended to a level of 150mm above the one per cent flood level.**

## **Standard 82: Major Drainage System**

*The major drainage system must be designed to have the capacity to control stormwater flows under normal and minor system blockage conditions for an AEP of 1 per cent.*

*Floodways must be located in areas where they will not cause damage to property, and can discharge all design flows.*

*Roadways may be used as floodways provided:*

- *The flow depths and velocities do not exceed recommended safety limits, creating hazards for motorists and pedestrians.*
  - *The street system continues to be available for access to lots.*
- The total flow should be contained in the street reserve.*

***Proposed Status:***

- Mandatory

***Origin:***

VC1 E12A,12B

***Issues Raised by Submitters:***

- Not contentious.
- Melbourne Water has suggested that the addition of words to emphasise the desirability of ensuring inclusion of an overland flow path component the major drainage system.

***Committee Comment:***

The Committee accepts that all main drainage schemes must be designed and constructed to the satisfaction of the responsible authority and that all floodways must be located in an area that will not cause damage to adjacent property.

***Recommendation:***

- **The provisions of Standard 82 be adopted.**

## **Standard 83: Road and Hard Surface Drainage**

*The drainage function of the carriageway and or street must be satisfied by the cross-section profile of the total street reserve. Cross-falls on street pavements should be between 0.025 and 0.040m of fall per metre of width.*

The drainage system should enable the safe passage of vehicles at reduced operating speeds on streets that have been affected by run-off from a storm event with an AEP of less than 20 per cent.

*A run-off coefficient of 0.9 should be adopted for impervious areas.*

*A run-off coefficient for permeable areas should be derived from Australian Rainfall and Run-off or from locally based research.*

***Proposed Status:***

- Mandatory

**Origin:**

VC1 E9 PC16, PM 9

**Issues Raised by Submitters:**

- Not contentious

**Committee Comment:**

Whilst the Committee accepts that this issue is not contentious, Standard 83 should be incorporated within Standard 81.

**Recommendation:**

- That Standard 83 provisions be adopted and incorporated into Standard 81.

## **Standard 84: Stormwater Run-off Mitigation and Quality Management**

*Building locations should take into account overland flow paths and ensure that buildings do not divert flows, causing increase flooding on adjacent properties.*

*On-site infiltration should be maximised by:*

- *Wherever possible, using unpaved landscape areas or porous paving.*
  - *Where appropriate, constructing on-site stormwater detention with delayed release into the stormwater drainage system.*
  - *Designing to limit the impervious area.*
  - *Incorporating on-site water re-cycling systems for storm water run-off.*
  - *Directing stormwater run-off into garden areas to reduce watering and demand on drainage infrastructure.*
- The design of an on-site stormwater detention system should consider the effect of the delayed release of stormwater in conjunction with the time of concentration of flows from the whole catchment at the point of discharge from the property.*

*Drainage systems should be designed to minimise potential for transportation of silt and debris, and provide for their collection and removal at accessible locations.*

*The quality of stormwater run-off should be maximised through the appropriate use of:*

- *Swale drains.*
- *Litter and sediment traps.*
- *Wetlands.*

*The drainage system should be designed to ensure that the landform of waterways is stable and that erosion is minimised.*

*Stormwater management should be based on Water Sensitive Design Principles as set out in Chapter 5 of Urban Stormwater — Best Practice Environmental Management Guidelines, (CSIRO ) to:*

- *Protect and enhance natural waterway systems within urban developments.*
- *Use stormwater in the landscape by incorporating multiple use corridors that maximise visual and recreational amenity.*
- *Protect the quality of drainage water.*
- *Reduce peak flows by local detention and minimise impervious areas.*

- *Minimise drainage infrastructure costs.*

***Proposed Status:***

- Discretionary

***Origin:***

VC1 E12 Drainage Network

Updating recommended by ResCode 2000 Utilities Reference Group and Melbourne Water (via Coombes Consulting)

***Issues Raised by Submitters:***

- The basis statement of downstream flows must be restricted to peak flow rates that do not exceed pre-development levels to protect the bay and other waterways from degradation of environmental quality. Drainage systems should collect and reuse stormwater and run-off for gardens, pools and other home use. Water tanks should be encouraged.
- The word 'should' in the seventh paragraph be replaced with the word 'must' to ensure that stormwater management is based on Water Sensitive Design Principles.
- The drainage system in many existing areas does not provide for minimisation of erosion and stability of landform. New infill development must ensure adverse impact is not created in these areas.
- The length of time, how and where on-site stormwater is detained is unclear.
- The Standard should also require the use of litter traps, which Melbourne Water currently states are not required in residential areas.
- Melbourne Water suggested that additional material be included in the Commentary document to highlight new drainage and waterway requirements, in particular the application of Water Sensitive Urban Design (WSUD).

***Committee Comment:***

The Committee accepts that downstream flows must be retarded to ensure that peak flow rates do not exceed pre-development levels. The Committee also accepts that the philosophies and principles of WSUD should be incorporated whenever practical.

***Recommendation:***

- **The principles expressed in Standard 84 of ResCode be adopted including the application of Water Sensitive Urban Design.**

*DRAFT RESIDENTIAL CODE FOR CONSULTATION*

**RESCODE 2000: PART 3 REPORT**

**RECOMMENDATIONS AND IMPLEMENTATION**

**Report of the Advisory Committee  
Pursuant to Section 151 of the Act**

**Advisory Committee:**

**Christopher Wren, Chair**

**Helen Gibson**

**John Glossop**

**Ann Keddie**

**Cathie McRobert**

**Kathryn Mitchell**

**Raymond Peck**

**Lester Townsend**

**David Whitney**

**20 December 2000**





**RESCODE 2000**  
**PART 1 REPORT**  
**RESPONSE TO THE TERMS OF REFERENCE**  
**Report of the Advisory Committee**



.....  
**Christopher Wren, Chair**



.....  
**Helen Gibson**



.....  
**John Glossop**



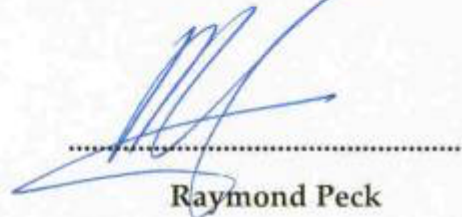
.....  
**Ann Keddie**



.....  
**Cathie McRobert**



.....  
**Kathryn Mitchell**



.....  
**Raymond Peck**



.....  
**Lester Townsend**



.....  
**David Whitney**

**20 December 2000**

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## 1. INTRODUCTION

An Advisory Committee (the Committee) was appointed under Section 151 of the *Planning and Environment Act 1987* by the Minister for Planning, the Hon. John Thwaites, (the Minister) to consider a proposed replacement for the Good Design Guide for Medium Density Housing (July 1995 and revisions) (the Good Design Guide) and the Victorian Code for Residential Development – Subdivision and Single Dwellings (April 1992) (VicCode 1) on 12 June 2000.

The Committee comprised Chris Wren (Chair), Helen Gibson, John Glossop, Ann Keddie, Cathie McRobert, Ray Peck, Lester Townsend and David Whitney. Kathryn Mitchell was appointed on 1 August 2000.

The proposed replacement of the Good Design Guide and VicCode 1 was the consultation Draft Residential Code for Victoria (ResCode) which had been released for public consultation by the Minister on 7 June 2000.

The Committee has prepared three reports. The Part 1 report contains the response of the Committee to its Terms of Reference and its recommendations. The Part 2 report contains the Committee's evaluation of the standards contained within the draft ResCode report for consultation. This Part 3 report contains the detailed proposals on how the Committee's recommendations might be put into practice, which, in particular have resulted in the preparation of new planning scheme provisions for residential development and subdivision in Victoria.

While the Committee is confident that these proposals are workable, the implementation of a new residential code is complex and a number of technical drafting issues need to be considered. The Committee has not been able to consult on these proposals.

For this reason it is envisaged that the proposals presented in this report would be subject to extensive consultation with key stakeholders. This testing is necessary to check the practicality of the proposals. The objectives and standards proposed have been considered in detail by the Committee. However, some of these standards may need to be reviewed.

### 1.1 Principles

Part 1 of the Committee's report deals in detail on the response of the Committee to its Terms of Reference and the submissions and principles to guide development of a new code. This report recommends a set of planning scheme provisions based on those principles that would serve as a residential and subdivision code.

In preparing the revised provisions and the changes to the Victorian Planning Provisions and Building Regulations that support it, the Committee has sought to achieve the aims set out by the Government for the new code:

- Ensure neighbourhood character is the mandatory starting point for the assessment of development applications.
- Reduce the complexity of factors to be taken into account in the assessment process of new housing development.
- Use language and processes that residents can better understand and apply.
- Ensure development is sustainable and responsive to social and environmental needs.

To realise these aims the Committee has developed a number of principles to guide the drafting of the revised provisions. These principles cover process, certainty, neighbourhood character, control of single dwellings and subdivision.

**(i) Process**

- Most single houses should not require a planning permit, but Councils should have the ability to determine when a planning permit is needed for single houses. Any planning permit requirement should be clear, transparent and accessible. This is not the case with current schemes.
- Where a single dwelling does not require a planning permit but does not fully meet the specified standards, a dispensation under the provisions of the building regulations should be the approval mechanism.
- The approval and siting dispensation processes for single dwellings should generally remain in the building system.
- The controls over whether a planning permit is required for a single dwelling should be part of the zone controls. This will provide clarity and flexibility.
- Planning controls should follow the assessment process for the development. Broader issues should be considered before matters of detail.
- The proposed provisions should provide a decision making framework that seeks to implement state and local planning policies.
- Duplication of the approvals process should be avoided. The current situation requires that some development obtain permission from council twice. This occurs when a planning permit under an overlay and a dispensation under the siting provisions of the Building Regulations are required for the same development. This duplication can be avoided by explicitly requiring a planning permit for the matter related to the need for a variation. Section 11 of the Building Act 1993 provides that where a planning scheme regulates the siting of buildings these requirements take the place of the relevant siting regulation under the building regulations.
- Where a permit under an overlay and a siting dispensation are required for the same development consideration of the amenity issues arising from the siting

dispensations should be constrained to only the standard that the proposal does not meet.

- The objectives for all residential development should be broadly similar, although different standards will need to apply to different forms of development.
- Where building envelope plans are created under a permit for a subdivision, they should be given statutory weight. At the moment there is some doubt about the ability of building envelopes to override as-of-right provisions.

**(ii) Certainty**

- Certainty should be increased by structuring the elements of the provisions in such a way that the objectives of each element must be met. The ability under the Good Design Guide to balance one element against another is a source of uncertainty.
- Mandatory requirements must be met. Discretionary requirements should be met unless a permit clearly specifies an alternative approach. Discretion to depart from a requirement must be explicit.
- Where standards specify a numerical value there should be discretion to depart from that standard, as appropriate. To ensure clarity in decision making, decision guidelines should be attached to standards. Not all standards will require such guidelines.
- If greater certainty is needed over a particular standard in a particular area, then this can be achieved the introduction of an overlay or through local policy.
- Where a standard does not specify a numerical value decision guidelines should provide the basis for judging whether that standard has been met.

**(iii) Neighbourhood character**

- An overlay should be introduced into the VPPs as a way to include specific controls where justified in relation to neighbourhood character and to vary standards.
- Where such an overlay provides a different standard it must be directed at character issues and must be formulated on a standard-by-standard basis. The overlay should not be used to substitute a different set of residential provisions.

**(iv) Single dwellings**

- Basic amenity standards of protection from overlooking and overshadowing should apply to all new dwellings.

**(v) Subdivision**

- The provisions of VicCode 1 form an adequate basis for setting standards over subdivision but require a comprehensive review.
- Site analysis and design response requirements should be introduced for subdivisions.

## **1.2 New Tools and Controls**

The Committee recommends that a number of new tools be implemented in accordance with the above principles to better manage residential development.

New tools are needed so that Councils can better implement their neighbourhood strategies. Application of these tools will need to be co-ordinated at a local level.

Where Councils believe that current controls are adequate no additional strategic or administrative work should be required.

The proposed new tools are:

- 1 A schedule to residential zones
- 2 A Neighbourhood Character Overlay
- 3 Residential provisions in the planning scheme
- 4 Improved provisions for building envelope plans.

### **(i) Schedule to residential zones**

A schedule should be introduced into residential zones to allow for a planning permit to be required depending on the size of a lot. At present some schemes require a permit for single dwellings on a lot less than 500 square metres, in other schemes permits are required only for lots less than 300 square metres.

Rather than set an arbitrary figure for all areas, a schedule in the zone provisions will provide a straight forward and transparent way to address these differences.

It is understood that the current option of a 500 square metres trigger was introduced on an interim basis to address the problem of as-of-right dual occupancy development. This issue is explicitly addressed by other means in the proposals, but the Committee is of the view that the ability of Councils to specify a lot size trigger for a planning permit application is an important tool that needs to be included in schemes. Indeed there are a number of existing overlays in schemes that achieve this effect already.

The Committee has recommended that a lot size trigger of 450 square metres is appropriate for single storey dwellings and 600 square metres is appropriate for two or more storey dwellings. However, the decision as to whether additional controls

are needed above the 300 square metres currently in the VPPs should be considered in detail for each area with 300 square metres remaining as the default size should Councils not want to alter their schemes. The principle of the schedule is fundamental to the management of residential development. The actual lot sizes chosen will vary from area to area. It is proposed that there be a limited number of choices that Councils can apply.

This proposal is not a proposal for 'density zoning'. It is simply a statutory means for specifying when a permit is required. If different densities are appropriate in different areas of the municipality this will need to be handled by way of local policy or an appropriate overlay.

#### **(ii) Neighbourhood Character Overlay**

A new overlay is proposed: the Neighbourhood Character Overlay. This overlay would provide additional controls where these are needed to achieve planning policy. The Neighbourhood Character Overlay would also provide a mechanism to vary standards where this is necessary to achieve a particular character objective.

The use of the Neighbourhood Character Overlay to trigger a planning permit for development on lots under a certain size was considered by the Committee. This is an approach that is not recommended. It would mean that an overlay would be required in many areas where a simple adjustment to a schedule could achieve the same result.

While the Neighbourhood Character Overlay has the ability to vary all standards in the proposed code it is not envisaged that the controls over basic amenity issues would be altered.

#### **(iii) Residential provisions in the planning scheme**

It is proposed that the new residential provisions be included as part of the planning scheme. This would provide flexibility in updating, and a better link between local policies and the new code. The proposal differs from ResCode in a number of important ways:

- Objectives have been included. It is not possible to exercise discretion in a fair or consistent way if the objectives are not spelt out.
- The elements follow a broad set of considerations from the general to the specific.



- Decision criteria have been included for many standards. These will provide greater clarity and certainty about how particular standards are interpreted and applied.
- Subdivision has been treated as a separate provision.

It is proposed that the Building Regulations would refer to the relevant part of the planning scheme for siting requirements over dwellings that do not require a planning permit. While it would be possible to include the relevant controls in the Building Regulations, the aim to create a single code suggests that the provisions should all be in the planning scheme.

#### **(iv) Building envelope plans**

In certain circumstances it is desirable to specify a building envelope on a plan of subdivision. At present there is some doubt that such envelopes can impose a more rigorous requirement than the as-of-right requirements for siting. This doubt should be removed by explicitly referring to building envelopes in the controls over subdivisions. The ability to impose building envelopes should be available to be used as needs be.

### **1.3 Closing loopholes**

There are a number of loopholes or deficiencies with current controls that need to be specifically addressed. These loopholes are only rarely a problem but generate great community disquiet when they are used by developers to circumvent planning controls.

#### **(i) Subdivision before development**

At present subdivision of infill sites can occur in the absence of a future development proposal. It is generally accepted that the form of development that will be created as a result of a subdivision ought to be considered as part of the subdivision process where appropriate. However, where the lots created are larger than the minimum set out for as-of-right development there is some doubt as to whether future development can be controlled at all.

The proposed provisions make it explicit that a Council can impose a building envelope or other development requirement as part of a subdivision requirement.

This approach would prevent developers submitting applications for subdivision without some recognition of future development. The provisions are drafted so that any building envelope requirement has to be met or a planning permit obtained.

## **(ii) Moonscaping**

Currently, there are no controls to prevent clearing of vegetation before a site analysis plan has been submitted. This is sometimes done to avoid restrictions on site layout or yield caused by the need to retain existing mature trees.

The proposed Neighbourhood Character Overlay will allow for vegetation removal controls to be placed over areas where vegetation is important.

It is not sensible to impose vegetation removal controls on each property in Victoria. In some areas, vegetation will not be an important part of character. In some cases, the Council may not wish to control neighbourhood character any more than is currently the case.

In areas without specific vegetation controls it is proposed that the site analysis requirement will specify that recently removed vegetation must be identified. Standards will encourage responsible authorities to ensure that no advantages flow from removing vegetation before a planning permit is applied for.

## **(iii) Dual occupancies by stealth**

Unfortunately, there are a limited number of cases where developers attempt to build dual occupancies through stealth. A dwelling is built at the side or rear of a site and then planning permission is sought to build a second one at a later date.

This can be addressed by amending the siting provisions to provide for a maximum front setback. Applicants would need a consent of Council to exceed this setback. The impacts of siting a dwelling to the side of a lot should be managed by standards over overlooking and overshadowing.

This approach prevents developers from pushing a dwelling towards the side or rear of a lot (without a planning permit) and then applying for a second dwelling.

## **(iv) Habitable outbuildings**

Habitable outbuildings may not require planning permits and there have been a few cases where a two storey outbuilding has been constructed for residential accommodation.

This problem can be addressed by ensuring that a planning permit is required for any detached subsequent two-storey building on a lot.

Outbuildings can be converted to full residential use by including a kitchen-laundry with a planning permit. Unfortunately, consideration of the development impacts of these buildings is mostly futile

because the buildings have already been built.

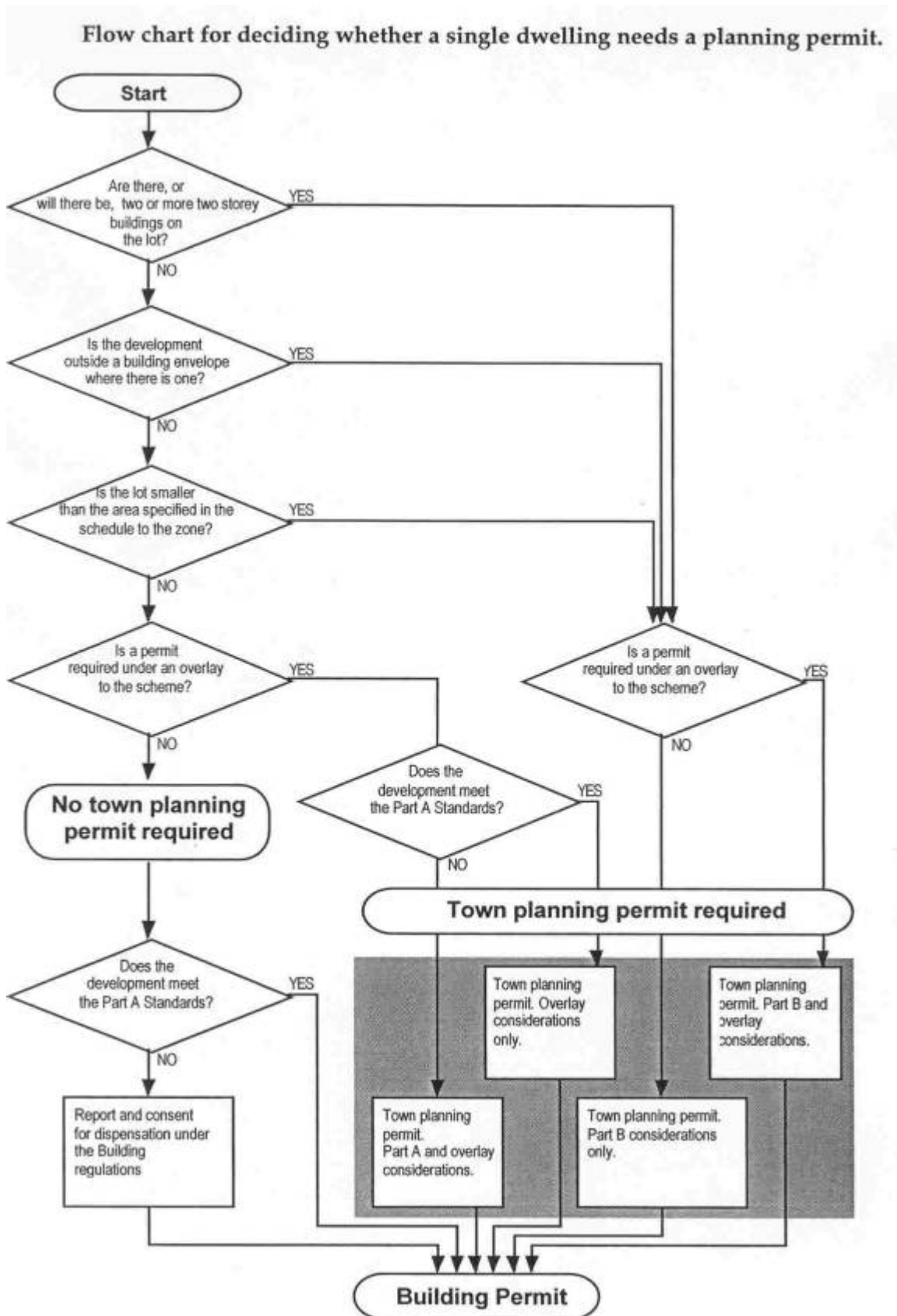
## **2. APPLICATION AND DECISION PROCESSES**

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The Committee believes that one of the keys to better decision making is to ensure that the statutory requirements over development mirror logical decision making processes. This also makes the statutory process easier for residents to understand and apply.

Working one's way through the scheme requirements should take one through a logical set of decisions. This means that requirements in zones provisions need to be carefully drafted. The code itself needs to be structured to assist in decision making, grouping standards in a way that assists decision making.

The following flow chart outlines the decision process for single dwellings under the zone controls as to whether a permit is required or not.



### 3. RECOMMENDED CHANGES TO PLANNING SCHEMES AND

## **BUILDING REGULATIONS**

A number of changes to Victoria Planning Provisions and Building Regulations are recommended. These are set out in the following pages.

### **Proposed amendment 1**

Introduce new clauses 32.01–2 and 32.01–3 to apply to the Residential 1 Zone and similar clauses to apply to the Residential 2 Zone, Mixed Use Zone and Township Zone.

### **Proposed amendment 2**

Add a schedule to the Residential 1 Zone to provide a variety of lot size triggers for a planning permit for single dwellings.

### **Proposed amendment 3**

Introduce a new Neighbourhood Character Overlay into the Victoria Planning Provisions for use where additional controls over development are required, or where alternative standards are required to implement neighbourhood character objectives.

### **Proposed amendment 4**

Add a new Clause 54 to set out standards for one dwelling on a lot above the size specified in the zone.

### **Proposed amendment 5**

Add a new Clause 55 to set out standards for dwellings requiring a planning permit under the zone provisions.

### **Proposed amendment 6**

Add a new Clause 56 to set out standards for subdivision.

### **Proposed amendment 7**

Add new definitions to the Victoria Planning Provisions to assist in interpretation.

### **Proposed amendment 8**

Amend the Building Regulations to make reference to the new residential provisions in the planning scheme.

It is noted that a number of consequential changes to the Victoria Planning Provisions will be required as a result of these proposals.

Proposed amendment **1** Introduce new clauses 32.01–2 and 32.01–3 to apply to the Residential 1 Zone and similar clauses for the Residential 2 Zone, Mixed Use Zone and Township Zone.

### **32.01-2 Subdivision permit requirement**

A permit is required to subdivide land.

Subdivision must meet the objectives of Clause 56. Subdivision must meet the mandatory standards and should meet the discretionary standards of Clause 56.

The relevant standard of Clause 56 does not have to be met if a Neighbourhood Character Overlay provides a less restrictive standard than Clause 56.

A permit may require that the future development of land meet siting requirements specified by way of a building envelope. Building envelopes may impose different siting requirements to those specified in Clause 54 or Clause 55.

#### **Exemption from notice and appeal**

An application to subdivide land into lots each containing an existing dwelling or car parking space is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

#### **Application requirements**

An application must be accompanied by a site analysis and a design response as described in Clause 56.02 and 56.03.

This does not apply to an application to subdivide land into lots each containing an existing dwelling or car parking space.

A responsible authority may waive the need for all or part of these requirements.

#### **Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies..
- The accuracy and appropriateness of the site analysis.
- The objectives, standards and decision guidelines of Clause 56.

### **32.01-3 Construction and extension of a dwelling or residential buildings**

#### **Permit requirement**

A permit is required to:

- Construct or extend a residential building.
- Construct or extend a dwelling if any of the following apply:

- . There exists, or development will create, two or more dwellings on the lot.
- . The development will create an outbuilding of two or more storeys.
- . The development does not meet the siting requirements of a building envelope specified as part of a permit under this scheme.
- . The area of the lot is less than that specified in the schedule to this zone.

This does not apply to the construction of one dependent person's unit on a lot.

A permit is required under the provisions of Clause 54 to construct or extend a single dwelling if the dwelling requires a permit under the provisions of an overlay to this scheme and does not meet the standards of Clause 54.03.

All development requiring a permit (other than development requiring a permit under Clause 54) must meet the objectives of Clause 55.

All development requiring a permit (other than development requiring a permit under Clause 54) must meet the mandatory standards and should meet the discretionary standards of Clause 55. This does not apply to development that is four or more storeys high, excluding a basement; in this case the standards should be applied as appropriate.

The relevant standard of Clause 55 does not have to be met, if a Neighbourhood Character Overlay or building envelope specified as part of a permit under this scheme provides an alternative standard to Clause 55.

#### **Exemption from notice and appeal**

Where the schedule to the zone specifies an application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

#### **Application requirements**

An application must be accompanied by a site analysis and a design response as described in Clause 55-02.

A responsible authority may waive the need for all or part of these requirements.

If the responsible authority decides that the site analysis is not satisfactory it may require more information from the applicant under Section 54 of the Act.

#### **Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The accuracy and appropriateness of the site analysis.
- The objectives, standards and decision guidelines of clause 55.

Proposed amendment **Add a schedule to the Residential 1 Zone.**

**2**

**SCHEDULE TO RESIDENTIAL 1 ZONE**

Land shown on the planning scheme zone map	Purpose of schedule controls
R1Z or R1Z-1	To ensure that dwellings on small lots are designed and assessed against a full range of amenity and neighbourhood character objectives.
R1Z-2	To ensure that dwellings in established areas that may have amenity or neighbourhood character impacts are designed and assessed against a full range of amenity and neighbourhood character objectives.

*The need for further options for lot size triggers should be determined by consultation. The applications, if any, that should be exempt from notice and appeal should also be determined by consultation.*

Land shown on the planning scheme zone map	Minimum lot size for single dwellings without a planning permit		
	Single storey dwellings	Dwellings of two or more storeys	Applications exempt from notice and appeal
R1Z or R1Z-1	300 square metres	300 square metres	none
R1Z-2	450 square metres	600 square metres	<i>To be determined by consultation</i>

*The need for further options for lot size triggers should be determined by consultation. The applications, if any, that should be exempt from notice and appeal should also be determined by consultation.*



Proposed amendment **3** **Introduce a new Neighbourhood Character Overlay into the VPP for use where additional controls over development are required or where alternative standards are required to implement neighbourhood character objectives.**

#### **43.05 NEIGHBOURHOOD CHARACTER OVERLAY**

Shown on the planning scheme map as NCO with a number.

##### **Purpose**

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To identify areas that are affected by specific requirements necessary for the protection or creation of areas of valued neighbourhood character.

To ensure that development is compatible with identified neighbourhood character.

##### **43.05-1 Neighbourhood character significance and objective**

A schedule to this overlay must contain:

- A statement of neighbourhood character significance and key characteristics.
- The neighbourhood character objectives to be achieved.
- Standards to be applied in assessing applications for permits.
- Decision guidelines for the exercise of discretion under each standard where appropriate.

##### **43.05-2 Permit requirement**

A permit is required to:

- Construct a building.
- Construct a fence.
- Externally alter a building by structural work, rendering, sandblasting or in any other way.
- Demolish or remove a building.
- Construct or carry out works.
- Construct or display a sign.
- Paint the outside of a building.
- Subdivide or consolidate land.

This does not apply:

- To development if a schedule to this overlay specifically states that a permit is not required.
- To repairs or routine maintenance that do not change the appearance of a building.

A permit is required to remove, destroy, prune or lop a tree.

This does not apply:

- To a tree that is less than 5 metres high or has a single trunk circumference of less than 0.5 metre measured one metre above ground level.

[Note: a range of other exemptions typical of vegetation controls also need to be included]

#### **43.05-3 Interpretation of standards**

All development must meet the objectives of the schedule.

All development must meet the mandatory standards and should meet the discretionary standards of the schedule.

Mandatory standards use the verb 'must'; discretionary standards use the verb 'should'. Discretionary standards are to be met unless a planning permit clearly provides for an alternative approach.

#### **43.05-4 Exemption from notice and appeal**

An application under this overlay for any of the following classes of development is exempt from the notice requirements of Section 52(1) (a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act:

- Demolition or removal of an outbuilding (including a carport, garage, pergola, shed or similar structure).
- Construction of a vehicle cross-over.
- Construction of a swimming pool.
- Construction of a tennis court.
- Construction or display of a sign.
- Pruning of a tree.
- Construction of seating, picnic tables, drinking taps, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards, telephone boxes and other public facilities.

#### **43.05-5 Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The statement of neighbourhood character significance and the neighbourhood character objectives contained in a schedule to this overlay.
- The decision guidelines specified for a particular standard.
- Any neighbourhood character strategy and any neighbourhood character policy specified in the schedule.

Proposed amendment

**4**

**Add a new Clause 54 to set out standards for one dwelling on a lot above the size specified in the zone. Dwellings that do not comply with these standards and do not otherwise need a permit under the scheme will require a report and consent under the Building Regulations. Dwellings that require a permit under an overlay to the scheme will be considered under this clause only in terms of the amenity issues arising in respect of the standards that they do not comply with.**

**54 RESIDENTIAL AND SUBDIVISION PROVISIONS  
PART A: SINGLE DWELLINGS**

**Purpose**

To promote well designed dwellings that respect the character of the neighbourhood and are located and designed to achieve broader state and local policies.

To encourage:

- Site-responsive designs that respect the character of the areas in which they are built.
- Dwellings that will meet the future needs of all Victorians.
- Dwellings that are energy efficient.
- Affordable housing.

To protect the amenity of existing dwellings and provide for the amenity of new dwellings.

To ensure that the amenity impacts of dwellings that require a permit under another part of this scheme are considered as part of one approvals process.

**54.01 Requirements**

The zone provisions specify which dwellings must meet these requirements.

A dwelling must meet the objectives of Clause 54.02.

A dwelling must meet the mandatory standards of Clause 54.03.

A dwelling should meet each of the discretionary standards of Clause 54.03 unless a particular standard is varied by:

- A dispensation granted under the provisions of the Building Regulations 1994.
- A permit, where a permit is already required under an overlay to this scheme.
- A building envelope approved as part of a permit under this scheme.

Standards must not be reduced unless the responsible authority is satisfied that the alternative approach will satisfy the objectives of this Clause as well as or better than the specified standard.

**Mandatory standards** use the verb 'must'.

**Discretionary standards** use the verb 'should'.

Where a standard is made up of a number of parts some parts of the standard may be discretionary and some mandatory.

### **Decision guidelines**

Where discretion can be exercised under a standard the matters that must be taken into account when exercising that discretion may be specified. Decision guidelines specify the matters that must be taken into account when deciding whether to increase or decrease a standard. Other matters may only be taken into account if they are relevant to how the particular standard to be varied helps achieve the objectives of the element.

### **Information required with a permit application**

Council may require documentation to ensure that the proposed dwelling meets the objectives.

#### **54.02 Objectives**

- OA1 To integrate the design of dwellings with the neighbourhood and take account of abutting use and development.
- OA2 To ensure that site coverage is acceptable in terms of neighbourhood character and the capacity of the stormwater system.
- OA3 To ensure that street frontage setbacks suit the character of the neighbourhood, the amenity of residents and the efficient use of the site.
- OA4 To provide attractive streetscapes that reinforce the functions of streets and enhance the amenity of dwellings.
- OA5 To provide a safe, distinct and pleasant street environment for residents and other users of the street.
- OA6 To ensure that the setbacks, height and length of walls and visual bulk of a dwelling are consistent with the neighbourhood and do not cause a significant loss of amenity to neighbouring residents.
- OA7 To allow adequate daylight into the habitable rooms of new and neighbouring dwellings.
- OA8 To ensure that dwellings do not unreasonably overshadow neighbouring secluded private open spaces.
- OA9 To limit views into neighbouring secluded private open spaces and habitable rooms.
- OA10 To achieve energy-efficient dwellings and ensure that the energy efficiency of adjacent dwellings is not unreasonably reduced.
- OA11 To ensure that secluded private open spaces are provided that receive adequate sunlight and are well-integrated with living areas.
- OA12 To ensure that the siting of dwellings makes adequate provision for car parking.

#### **54.03 Standards**

##### **SA1 Setback from streets**

Dwellings (including a garage and carport but not a fence) should be set back at least:

- The distance specified in a streetscape plan, if one is specified in a permit issued pursuant to this scheme.
- The distance specified in Table SA1 where there is no streetscape plan.

Dwellings should not be set back more than one third the depth of the allotment.

Eaves, porches and verandahs (less than 3.6 metres high and 2.5 meters deep), but not garages, carports or porte-cochere may encroach into this setback

**Table SA1—Setbacks from streets**

STREET TYPE	MINIMUM FRONT SETBACK	MINIMUM SIDE STREET SETBACK
Access Place	4m	2m
Access Street	4m	2m
Collector Street	4.5m	3m
Trunk Collector	6m	6m
Street created prior to [the date of the introduction of VicCode 1]	The average setback of front walls of the adjacent dwellings. Where there are no adjacent dwellings the dwelling should be set back at least 4.5 metres	none

**Decision guidelines**

In deciding whether to decrease the setbacks specified in this standard the responsible authority must consider:

- The setback of nearby dwellings.
- The character of the neighbourhood.
- The pattern of surrounding development.
- The need to retain or accommodate vegetation within the front setback.
- The role of the site or area in achieving heritage or housing objectives.
- The amenity impacts of an increased setback on adjacent properties.
- The need to setback more than one third the depth of the lot to respond to particular site conditions.
- The compatibility of the design of a carport within the setback with the design of the dwelling.

**SA2 Site coverage**

Buildings should occupy less than 60 per cent of the area of the lot, plus 1 per cent for every 10 square metres the site is less than 500 square metres, up to a maximum of 80 per cent.

**Decision guidelines**

In deciding whether to increase the site coverage specified in this standard the responsible authority must consider:

- The capacity in the drainage network.
- The desirability of reducing stormwater run-off.

- The need to maintain garden or bush character of areas where this is a feature of the neighbourhood.
- The site coverage typical of the character of the neighbourhood.
- Any constraints imposed by existing development.

### SA3 Building height

Building height should not exceed 9 metres.

#### Decision guidelines

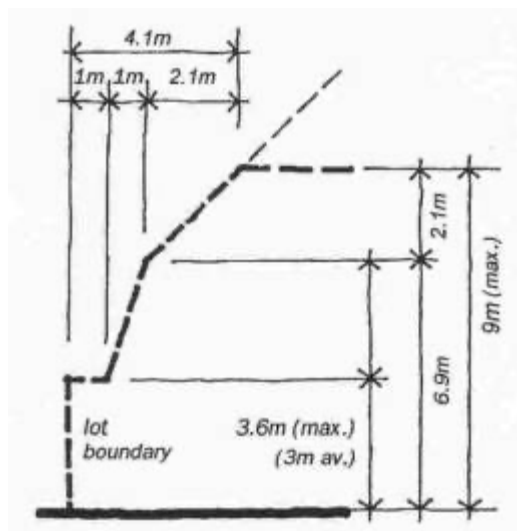
In deciding whether to increase the height specified in this standard the responsible authority must consider:

- The slope of the site.
- The height of existing buildings that help define the character of the neighbourhood.
- The preferred future character of the area, where it has been identified.
- The desirability of graduated changes in height.
- The visual impact of upper storeys from the street and from adjoining properties.
- The need to limit higher buildings where low rise buildings make a significant contribution to the neighbourhood character.

### SA4 Setbacks from side and rear boundaries

Walls not on a boundary should be set back from side or rear boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.

#### Diagram SA4 Setbacks from side and rear boundaries



Sunblinds, shade sails, verandahs, eaves, fascia and gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, heating or cooling equipment or other services may encroach into the side or rear setback by up to 0.5 metres.

Carports, roofed landings less than 2 square metres, unroofed steps, ramps and landings less than 1 metre high, and pergolas built at ground level may encroach into the side or rear setback.

### Decision guidelines

In deciding whether to decrease the setbacks specified in this standard the responsible authority must consider:

- The heritage implications if the site is within a Heritage Overlay.
- The impact of dwellings on an adjoining dwelling's principal private open space or living room window.
- Whether the wall abuts a side or rear lane.
- Whether the wall is opposite a higher or simultaneously constructed wall built to the boundary.
- Whether the character of the neighbourhood is landscape or built form dominated.

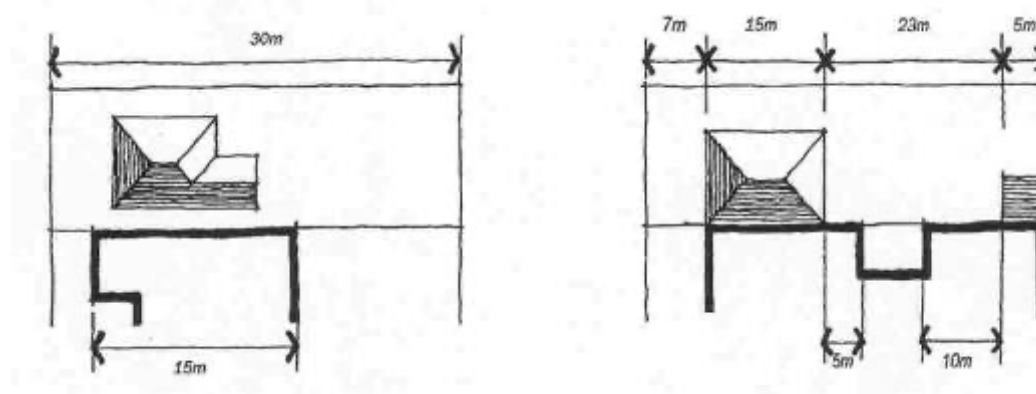
### SA5 Walls on boundaries

Walls or carports built along a side or rear boundary should not abut more than 50 per cent or 20 metres (whichever is the lesser) of the length of the boundary without existing buildings. Walls or carports may abut existing or simultaneously constructed walls on boundaries without restriction.

Walls built along a side or rear boundary should not exceed an average height of 3 metres and have no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.

Windows in walls built along side or rear boundaries must be fixed and use translucent glass unless the boundary is onto a road.

#### Diagram SA5 Walls of boundaries



*Where there are no abutting walls, new walls or carports built along a boundary should not abut more than 50 per cent or 20 metres (whichever is the lesser) of the boundary.*

*Where existing walls abut the boundary, new walls or carports should not abut more than 50 per cent or 20 metres (whichever is the lesser) of the length of boundary without walls.*

### Decision guidelines

In deciding whether to increase the length or height of walls specified in this standard the responsible authority must consider:

- The extent to which walls along boundaries are part of the character of the neighbourhood.

- The extent to which slope and retaining walls or fences reduce the effective height of the wall.
- The length and height of any wall abutting private open space.
- The existing impact of nearby walls.

#### SA6 Daylight for new windows

Windows in habitable rooms should face either:

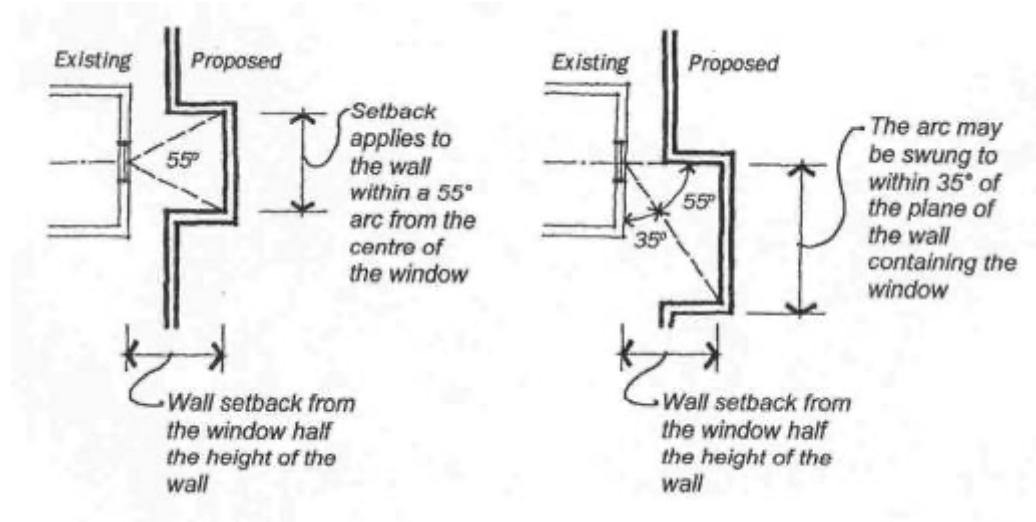
- An open verandah or open carport.
- Outdoor space open to the sky or a light court that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an adjacent lot.

#### SA7 Daylight to existing windows

Dwellings opposite existing windows in habitable rooms should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The area may include land on the adjacent lot.

Walls over 3 metres in height that are opposite existing windows in habitable rooms should setback from the window at least half the height of the wall. This restriction only applies to the wall within a 55° arc from the centre of the window—the arc may be swung to within 35° of the plane of the wall containing the existing window. Where the existing window is above ground floor level the height restriction is calculated from the floor level of the room containing the window.

Diagram SA7 Daylight to existing windows



#### SA8 Overshadowing

Where sunlight to the secluded private open space of an adjacent lot is reduced, at least 50 per cent (or 40 square metres with minimum dimension 3 metres, whichever is the lesser area) of the secluded private open space should receive a minimum of four hours of sunlight between 9 am and 3 pm on 22 September.



## Decision guidelines

In deciding whether to increase the amount of overshadowing specified in this standard the responsible authority must consider:

- The extent and form of development of adjacent lots.
- The extent of sunlight penetration to the adjacent dwelling.
- The time of day that sunlight is available.

## SA9 Overlooking

Windows in elevated living rooms, elevated terraces or patios should not provide direct views into an existing dwelling's secluded private open space within 9 metres of the window, terrace or patio. Views are measured within  $45^\circ$  angle from the plane of a window and from 1.6 metres above floor level.

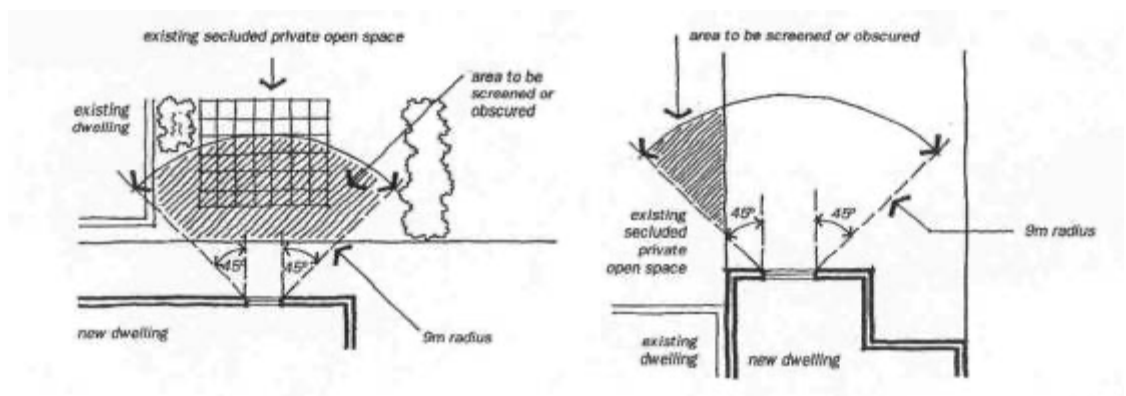
Windows in living rooms with a direct outlook to windows in the habitable rooms of another dwelling within 9 metres should either:

- Be offset a minimum of 1.5 metres from the edge of one window to the edge of the other.
- Have sill heights of 1.6 metres above floor level.
- Have fixed obscure glazing in any part of the window below 1.6 metre above floor level.
- Be screened.

Screens used to obscure a view should be:

- Perforated panels or trellis with a maximum of 25 per cent openings or solid translucent panels.
- Permanent and fixed.
- Durable.
- Designed and painted or coloured to blend in with the development.

## Diagram SA9 Overlooking



## Decision guidelines

In deciding whether to increase the amount of direct views specified in this standard the responsible authority must consider:

- The existing level of overlooking to and from adjacent sites.
- The level of overlooking typical in terms of the character of the neighbourhood.
- The internal amenity of the proposed dwelling.

- The extent and form of development on adjacent sites.
- The degree to which the adjacent development has reasonably anticipated the location of adjacent development in locating its secluded open space.

**SA10 Energy efficiency**

Dwellings that commence construction after 30 March 2002 should achieve at least a four star energy rating using Sustainable Energy Victoria's 'FirstRate' system or equivalent.

**Decision guidelines**

In deciding whether to decrease the energy efficiency specified in this standard the responsible authority must consider:

- The constraints on a building site of achieving a four star rating.

**SA11 Private open space**

Dwellings should have private open space of at least 40 square metres, including one part at the side or rear of the dwelling with an area of at least 25 square metres, a minimum width of 3 metres and convenient access from a living room.

**Decision guidelines**

In deciding whether to decrease the amount of private open space specified in this standard the responsible authority must consider:

- The adequacy of the area, dimension and slope of the secluded private open spaces for the likely residents.
- The access to some direct sunlight, at least during the warmer months of the year.
- The convenience of access from main living room.

**SA12 Car parking**

Two car parking spaces should be provided as follows:

- One space should be at least 6 metres long and 3.5 metres wide and covered or capable of being covered.
- The second space should be at least 5.4 metres long and 2.4 metres wide
- Spaces may be provided in tandem.
- A building may project into the space if it is at least 2.1 metres above the space.

Only one single-width cross-over should be provided.

Garage doors should be set back a minimum of 5 metres from a street.

**Decision guidelines**

In deciding whether to decrease the number or size of car spaces, increase the number or width of crossovers or decrease the setback of the garage specified in this standard the responsible authority must consider:

- The reduction of on-street car parking spaces.
- The flow of traffic in the street and the safety of motorists and pedestrians.
- The loss of significant vegetation in the front of the site.

- The visual impact of proposed driveways on the streetscape.
- The reduction of stormwater run-off.

Proposed amendment **Add a new Clause 55 to set out standards for dwellings and residential development**

**5**

**requiring a planning permit under the zone provisions.**

55

**RESIDENTIAL AND SUBDIVISION PROVISIONS  
PART B: MULTI-UNIT DEVELOPMENT, RESIDENTIAL BUILDINGS AND SINGLE  
DWELLINGS**

**Purpose**

To promote well designed residential development that respects the character of the neighbourhood and is located and designed to achieve broader state and local policies.

To encourage:

- Site-responsive designs that respect the character of the areas in which they are built.
- Dwellings that will meet the future needs of all Victorians.
- Development that is ecologically sustainable.

To promote consistency in the application of requirements over residential development and consistency in the way decisions are made, while encouraging decisions to implement local policies.

To ensure that the amenity impacts of developments that require a permit under another part of this scheme are considered as part of a single approvals process.

**Application**

The zone provisions specify the type of development that must meet the objectives, standards and site analysis requirements of this clause.

Clause 55.02 sets out the requirements for a site analysis and design response for residential development.

Clause 55.03 sets out the objectives standards that apply to the design or assessment of a residential development. The objectives and standards are divided into five elements:

- Element 1: Location, form and site constraints.
- Element 2: Site layout and building massing.
- Element 3: Amenity impacts.
- Element 4: Internal amenity.
- Element 5: Detailed design.

These elements provide a structured and logical way of assessing development beginning with broad issues of location and form and finishing with detailed design issues. All the elements contain objectives and standards. Some standards also have decision guidelines.

**Objectives** state the outcomes desired in the completed development.

**Standards** set out the requirements for development.

### **Neighbourhood character**

Neighbourhood character is an underpinning concept of these provisions. Where standards refer to neighbourhood character this means the existing character of the neighbourhood, unless the planning scheme makes it clear that there is a preferred future character. In this case development must help achieve the preferred future character.

Respecting the character of an area does not mean preventing change. In determining the existing character of areas it is important to identify the predominant themes and relationships. A development respects the character of an area when it reinforces or extends these themes or relationships. It is sometimes useful to identify existing development that is 'out of character'; these developments should not act as a precedent for new development.

These provisions make reference to two distinct types of neighbourhood character:

- Built form dominant areas; this character is typical of many areas of inner Melbourne.
- Landscape dominant areas; buildings are well hidden with extensive vegetation.

### **Decision guidelines**

Where discretion can be exercised under a standard the matters that must be taken into account when exercising that discretion may be specified. Decision guidelines specify the matters that must be taken into account when deciding whether to increase or decrease a standard or whether a development meets the standard specified. Other matters may also be taken into account if they are relevant to how the particular standard helps achieve the objectives of the element.

### **How to use these provisions**

This clause is to be used as a whole. All elements of the relevant part are to be considered by the developer and the responsible authority. The elements should be considered in turn when preparing or assessing the development proposal. A proposal must satisfy each element.

It is the intention of these provisions that a development will satisfy an element by meeting all the objectives of that element. Invariably, different weightings will be given to each of the objectives of an element for any particular development because of the circumstances of the site. In certain cases a development may not meet all the objectives for an element but will, on balance, be considered to meet the objectives of the element.

### **Interpretation of standards**

There are two types of standard.

**Mandatory standards** must always be met. A planning permit must not be granted unless the proposal meets all mandatory standards. Mandatory standards use the verb 'must'.

**Discretionary standards** should be met unless a planning permit clearly provides for an alternative approach. Discretionary standards use the verb 'should'.

Where a standard is made up of a number of parts some parts of the standard may be discretionary and some parts mandatory.

After considering a particular development and its neighbourhood context a responsible authority may increase or decrease a discretionary standard. Standards should not be increased if the objectives can be met without such an increase. Standards must not be reduced unless the responsible authority is satisfied that the alternative approach will satisfy the objectives of the element as well as or better than the specified standard.

## **55.02 Site analysis and design response**

A site analysis must provide sufficient information to enable the responsible authority to judge whether:

- The objectives and standards in Clause 55.03 have been met.
- The objectives and requirements of any overlay have been met.

The responsible authority should not require information that is not relevant to a particular application.

A site analysis must provide as appropriate:

- Details of any covenant or restriction on title.
- A plan and written statement that locates the site in its urban context including:
  - . The location of local shops and facilities within walking distance.
  - . The location of public transport services within walking distance.
  - . The location and character of nearby public open space.
- A plan and written statement that provides sufficient information to determine the key features of the character of the neighbourhood including information, as appropriate, about:
  - . The patterns of development of the neighbourhood.
  - . The typical built form of the neighbourhood.
  - . The setbacks, building heights and space around buildings.
  - . The pattern and character of vegetation in the neighbourhood.
  - . The relationship of buildings to landscape areas and garden styles.
  - . The architectural rhythm and articulation of the street.
  - . The amount of detail typical of buildings in the neighbourhood.
  - . The roof styles and eaves treatments.
  - . The fencing.
  - . The architectural styles and materials typical of the neighbourhood.
- A plan and written statement that provides sufficient information to determine access and service constraints and opportunities including information, as appropriate, about:
  - . The location of access points and crossovers for the site.
  - . The street frontage features of the site such as street trees and poles.
  - . The amount and locations of on-street parking.
  - . The location and capacity of drainage and services.
- A detailed plan of the site and adjacent development including:
  - . Site shape, size, orientation and easements.
  - . Levels of the site and the difference in levels between the site and surrounding properties.

- . Areas of contamination or fill, where known.
- . Siting of existing buildings.
- . Location of significant trees and vegetation, including any recently removed significant trees.
- . Views from the site.
- . Any other notable features or characteristics of the site.
- . The location and use of surrounding buildings.
- . Location and height of walls built to the boundary of the site.
- . Secluded private open space and habitable room windows on nearby properties which have an outlook to the site, particularly those within 9 metres of the site.
- . Solar access enjoyed by surrounding residents.
- . Location of significant trees on surrounding properties.

A design response must explain how the development's design:

- Derives from the site analysis.
- Respects the character of the neighbourhood. This must include correctly proportioned street elevations or photographs showing the development in the context of adjacent buildings.
- Relates to any other dwelling on the site and to surrounding land and development.
- Avoids future management difficulties in areas of common ownership.

#### **55.03-1 Element 1: Location, form and site constraints**

##### **Objectives**

- OB1.1 To ensure that the form and intensity of development respects existing neighbourhood character or helps achieve a preferred future character where this has been identified.
- OB1.2 To ensure that development helps achieve the housing goals of the State and Local Planning Policy Framework.
- OB1.3 To support higher densities in areas where development can take advantage of physical and social infrastructure.
- OB1.4 To support higher densities for development on larger sites and to encourage the consolidation of sites.
- OB1.5 To ensure service infrastructure has the capacity or can be adapted to cater for new residential development.
- OB1.6 To avoid parking and traffic difficulties within the development and the neighbourhood.
- OB1.7 To limit development where site constraints exist that cannot be overcome.

##### **Standards**

#### **SB1.1 Neighbourhood character**

Development must respect the character of the neighbourhood.

### **Decision guidelines**

In deciding whether this standard is met the responsible authority must consider:

- The change in neighbourhood character required to achieve the objectives of the SPPF or LPPF.

#### **SB1.2 Diversity of dwellings**

Larger developments should provide a range of dwelling sizes and types.

#### **SB1.3 Higher density development**

Higher density development—that is, more than a five-fold increase over existing densities—should be located either:

- On larger sites where off-site impacts can be more easily managed.
- Within 400 metres walk of a railway station, shopping centre or tram stop.

### **Decision guidelines**

In deciding whether this standard is met the responsible authority must consider:

- Whether the LPPF identifies the area as appropriate for significant change or minimal change.
- The preferred character of the neighbourhood where this has been identified
- The density and pattern of development in the street generally.
- The ability of local infrastructure to accommodate increased density development.
- The ability of the proposal to manage off-site impacts, such as overshadowing, overlooking, parking and traffic flows.

#### **SB1.4 Services and access**

Development should not overload the capacity of public infrastructure including reticulated services, streets, open space, and social and community services.

Development should be connected to a reticulated sewerage system.

Development should not cause traffic difficulties in the neighbourhood.

#### **SB1.5 Site features**

Development should respond to site features and overcome site constraints.

### **55.03–2 Element 2: Site layout and building massing**

#### **Objectives**

OB2.1 To achieve developments with efficient and well designed layouts.

OB2.2 To integrate the layout of developments with the neighbourhood and abutting use and development.

OB2.3 To retain mature vegetation on site until a development has been approved.

OB2.4 To ensure that each dwelling has its own sense of identity and address.

OB2.5 To achieve energy-efficient and environmentally sensitive layouts.



- OB2.6 To provide secluded private open spaces that receive sunlight and are well-integrated with living areas.
- OB2.7 To ensure that street frontage setbacks suit the character of the neighbourhood, the amenity of residents and the efficient use of the site.
- OB2.8 To ensure that the setbacks, height and length of walls and visual bulk of a development are consistent with the neighbourhood.
- OB2.9 To ensure that site coverage is acceptable in terms of neighbourhood character and the capacity of the stormwater system.
- OB2.10 To ensure that the layout and design of development prevents unreasonable overlooking and the transmission of noise between dwellings.
- OB2.11 To ensure streets and driveways provide safe, manageable and convenient vehicle access to dwellings.

### **Standards**

#### **SB2.1 Connection to the public realm and safety**

Development should address public streets and be visible and easily identifiable from streets and other public areas.

Layouts must provide for the safety and security of residents and property.

#### **Decision guidelines**

In assessing whether a development complies with this standard, the responsible authority must consider whether:

- The amount of casual observation available to adjacent streets and areas of public open space is sufficient to contribute to improved public safety.
- Entrances to dwellings are obscured or isolated from the street and/or internal accessways.
- The development proposes good lighting, visibility and surveillance of car parks and accessways.
- Planting and landscaping has created obscured spaces or places of concealment along streets or accessways.
- Private spaces are protected from inappropriate use as public thoroughfares.

#### **SB2.2 Energy efficiency**

Layouts should enable dwellings to be designed for energy efficiency.

#### **SB2.3 Landscape and open space**

Development should provide for the retention or planting of significant trees where these are part of the character of the neighbourhood.

Development should provide for the replacement of any significant trees that have been recently removed.

Development should:

- Provide attractive and functional private open space for each dwelling.

- Reinforce and respect the secluded open spaces of surrounding dwellings.
- Complement any adjacent public open space.
- Provide solar access to living rooms.

#### **Decision guidelines**

In deciding whether this standard is met the responsible authority must consider:

- The health of any trees to be removed.
- The contribution the landscaping makes to the character of the neighbourhood.
- The amount of outdoor space set aside for landscaping.
- Whether a tree was removed to gain a development advantage.

#### **SB2.4 Setbacks from streets**

Front walls of development should be set back the same distance or greater than the average setback of front walls of adjacent development facing the same street.

Front walls of development facing the long side of a corner block less than 1200 square metres should be set back at least three metres.

Eaves, porches and verandahs (less than 3.6 metres high and 2.5 metres deep), but not garages, carports or porte-cochere, may encroach into this setback.

#### **Decision guidelines**

In deciding whether to increase or decrease this standard the responsible authority must consider:

- The predominant setback in the neighbourhood.
- The appropriateness of the different setback given the character of the neighbourhood.
- The need to retain vegetation within the front setback.
- The appropriateness of a different setback given the role of the site or area in achieving heritage or housing objectives.

#### **SB2.5 Building height**

Changes in building heights between existing dwellings and new development should be in keeping with the character of the neighbourhood.

Building height should not exceed 9 metres.

#### **Decision guidelines**

In deciding whether to increase or decrease this standard the responsible authority must consider:

- The height of existing buildings that help define the character of the neighbourhood.
- The preferred future character of the area where it has been identified.
- The desirability of graduated changes in height.
- The visual impact of upper storeys from the street and from adjoining properties.
- The need to limit higher buildings where low rise buildings make a significant contribution to the neighbourhood character.

## SB2.6 Site coverage

Buildings should occupy less than the site coverage shown in Table SB2.6.

**Table SB2.6 Maximum site coverage**

SITE AREA PER DWELLING	MAXIMUM SITE COVERAGE
Over 500 square metres	60 per cent
300 square metres to 500 square metres	60 per cent plus 1 percent for every 10 square metres the site area per dwelling is less than 500 square metres
Less than 300 square metres	80 per cent

### Decision guidelines

In deciding whether to increase or decrease this standard the responsible authority must consider:

- The capacity in the drainage network.
- The desirability of reducing stormwater run-off.
- The need to maintain garden or bush character of areas where this is a feature of the neighbourhood.
- The site coverage typical of the character of the neighbourhood.
- Any constraints imposed by existing development.

## SB2.7 Access and crossovers

The number of crossovers onto a road in a Road Zone should be minimised.

No more than one single-width crossover should be provided for each dwelling fronting a street.

The width of accessways or car spaces should not exceed 33 per cent of the street frontage (or 40 per cent where the total frontage is less than 20 metres).

Developments must provide for access for service, emergency and delivery vehicles.

### Decision guidelines

In deciding whether to increase or decrease the discretionary part of this standard the responsible authority must consider:

- The reduction of on-street car parking spaces.
- Traffic flows in the street and the safety of motorists and pedestrians.
- The loss of significant vegetation in the front of the site.
- The visual impact of proposed driveways on the streetscape.
- The reduction of stormwater run-off.
- The efficient use of the site.

## SB2.8 Car parking

Car parking facilities should:

- Be reasonably close and convenient to dwellings.

- Be secure and observable from dwellings.
- Be well ventilated if enclosed.
- Be separated from habitable room windows to reduce noise and fumes entering dwellings.
- Define shared visitor parking where provided.
- Be located and designed to reduce visual intrusiveness.

**SB2.9 Waste facilities**

Bin and recycling enclosures should be located for convenient access by residents and collection vehicles. If bins are located in rear yards access through a garage or along the side of the property must be provided.

**SB2.10 Public open space**

Any public open space provided on site should:

- Be large enough and suitable for a public park or recreational facility.
- Be substantially fronted by dwellings.
- Provide outlook for as many dwellings as practicable.
- Be designed to protect any valued natural features on the site.
- Be clearly accessible, useable and available to the broader community.

**55.03–3 Element 3: Amenity impacts**

**Objectives**

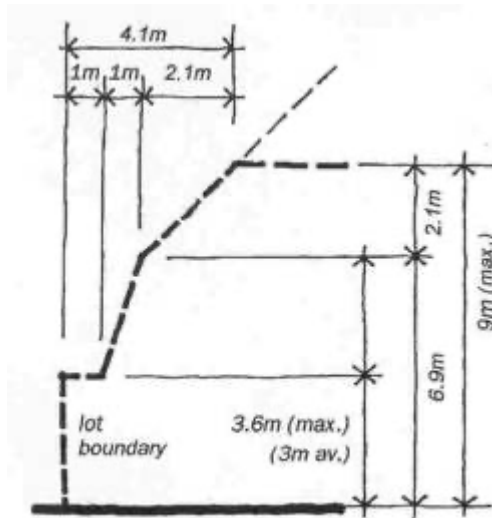
- OB3.1 To ensure that building height, length and location do not cause a significant loss of amenity to neighbouring residents.
- OB3.2 To ensure that daylight to habitable rooms and sunlight to main living rooms in adjacent dwellings is not significantly reduced.
- OB3.3 To ensure that the energy efficiency of adjacent dwellings is not unreasonably reduced.
- OB3.4 To ensure that buildings do not significantly overshadow neighbouring secluded private open spaces.
- OB3.5 To limit views into neighbouring secluded private open spaces and habitable rooms.
- OB3.6 To contain noise sources in developments that may affect new and neighbouring dwellings.

**Standards**

**SB3.1 Setbacks from side and rear boundaries**

Walls not on a boundary should be set back from side or rear boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.

**Diagram SB3.1 Setbacks from side and rear boundaries**



### Decision guidelines

In deciding whether to increase or decrease this standard the responsible authority must consider:

- The heritage implications if the site is within a Heritage Overlay.
- The impact of development on an adjoining dwelling's principal private open space or living room window.
- Whether the wall abuts a side or rear lane.
- Whether the wall is opposite a higher or simultaneously constructed wall built to the boundary.
- Whether the character of the neighbourhood is landscape or built form dominated.

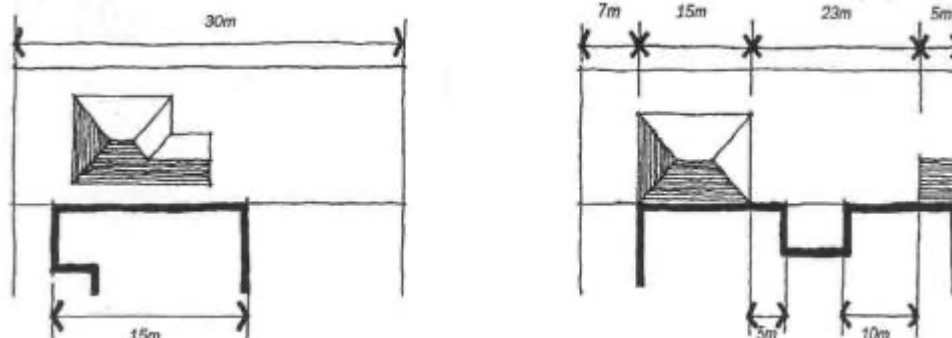
### SB3.2 Walls on boundaries

Walls built along a side or rear boundary may abut existing buildings but should not abut more than 50 per cent of the length of the boundary without existing buildings.

Walls built along a side or rear boundary should not exceed an average height of 3 metres and have no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.

Walls abutting an adjoining area of secluded private open space should have a maximum height of less than 60 per cent of the width of the space.

**Diagram SB3.2 Walls of boundaries**



*Where there are no abutting walls, new walls or carports built along a boundary should not abut more than 50 per cent of the boundary.*

*Where existing walls abut the boundary, new walls or carports should not abut more than 50 per cent of the length of boundary without walls.*

### **Decision guidelines**

In deciding whether to increase or decrease this standard the responsible authority must consider:

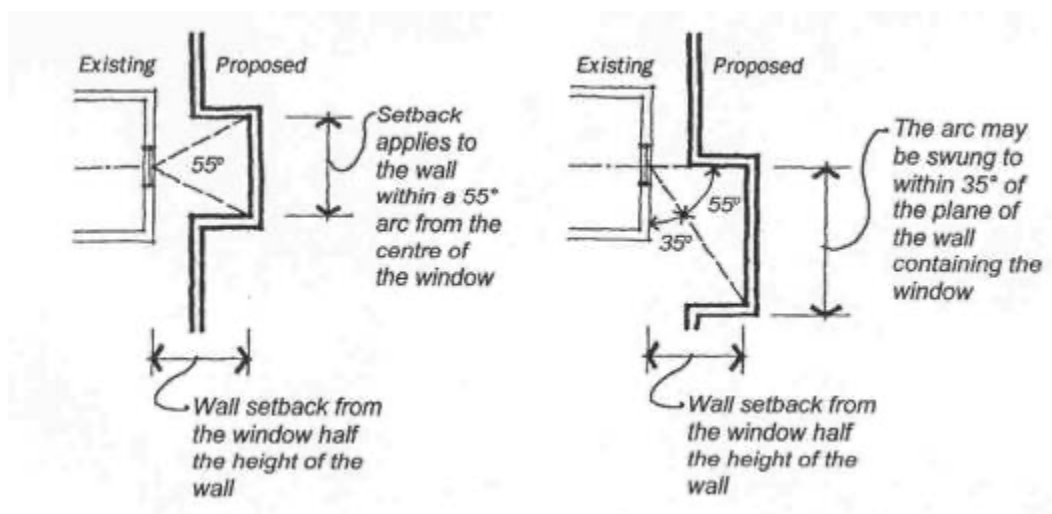
- The extent to which walls on boundaries are part of the character of the neighbourhood.
- The extent to which slope and retaining walls or fences reduce the effective height of the wall.
- The length and height of any wall abutting private open space.
- The existing impact of nearby walls.
- The overall scale of the development.

### **SB3.3 Daylight to existing windows**

Development opposite existing windows in habitable rooms should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The area may include land on the adjacent lot.

Walls over 3 metres in height that are opposite existing windows in habitable rooms should be setback from the window at least half the height of the wall. This restriction only applies to the wall within a 55° arc from the centre of the window—the arc may be swung to within 35° of the plane of the wall containing the existing window. Where the existing window is above ground floor level the height restriction is calculated from the floor level of the room containing the window.

### Diagram SB3.3 Daylight to existing windows



### SB3.4 Energy efficiency of adjoining properties

The energy efficiency of adjacent dwellings should not be unreasonably reduced and the opportunity for solar hot water services or photovoltaic energy on adjacent dwellings should not be unreasonably reduced.

#### Decision guidelines

In deciding whether to increase or decrease this standard the responsible authority must consider:

- The impact on the proposed development of changes required to ensure that the adjacent dwelling does not suffer any loss of energy efficiency.
- Whether the adjacent dwelling has reasonably anticipated the location of adjoining development in achieving its energy efficiency.

### SB3.5 Overshadowing

Where sunlight to the secluded private open space of an existing dwelling is reduced at least 50 per cent (or 40 square metres with minimum dimension 3 metres, whichever is the lesser area) of the secluded private open space should receive a minimum of four hours of sunlight between 9 am and 3 pm on 22 September.

Sunlight to the main living rooms of an existing dwelling should not be unreasonably reduced.

#### Decision guidelines

In deciding whether to increase or decrease the first part of this standard or whether the second part of this standard has been met the responsible authority must consider:

- The extent of sunlight penetration to the adjacent dwelling.
- The time of day that sunlight is available.

### SB3.6 Overlooking

Windows in living rooms or elevated terraces or patios within a development should not provide direct views into an existing dwelling's secluded private open space within 9 metres. Views are measured within a 45° angle from the plane of a window and from 1.6 metres above floor level.

Direct views into habitable rooms of existing dwellings from habitable rooms within a development should be avoided by careful design and location of windows.

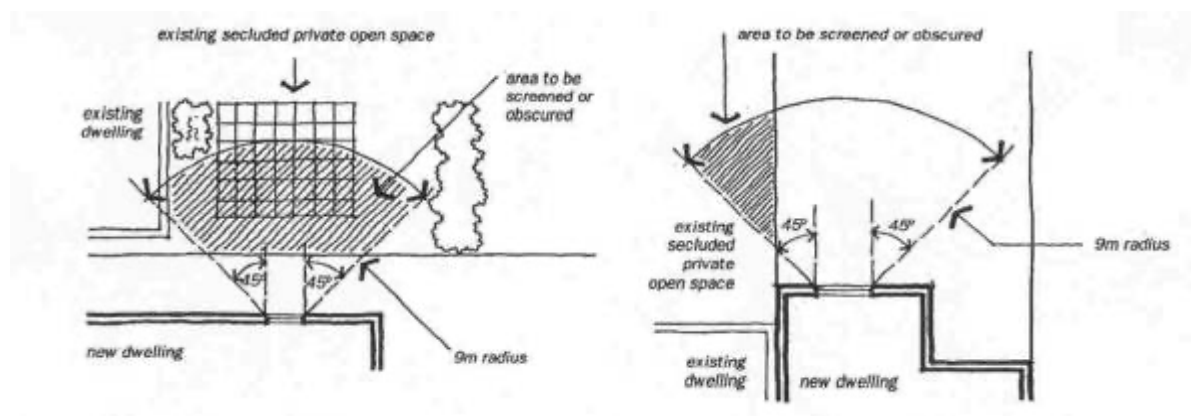
Windows in living rooms with a direct outlook to windows in the habitable rooms of another dwelling within 9 metres should either:

- Be offset a minimum of 1.5 metres from the edge of one window to the edge of the other.
- Have sill heights of 1.6 metre above floor level.
- Have fixed obscure glazing in any part of the window below 1.6 metre above floor level.
- Be screened.

Screens used to obscure a view should be:

- Perforated panels or trellis with a maximum of 25 per cent openings or solid translucent panels.
- Permanent and fixed.
- Durable.
- Designed and painted or coloured to blend in with the development.

#### Diagram SB3.6 Overlooking



#### Decision guidelines

In deciding whether to increase or decrease this standard the responsible authority must consider:

- The existing level of overlooking to and from adjacent sites.
- The level of overlooking typical in terms of the character of the neighbourhood.
- The internal amenity of the proposed development.

### SB3.7 Noise impacts

Noise sources likely to affect nearby dwellings should be controlled.



Equipment or plant—for example air conditioners or pool filters—must not generate a noise level greater than 5dB(a) above ambient L90 sound level at the boundaries of the development.

**55.03–4 Element 4: On-site amenity and facilities**

**Objectives**

- OB4.1 To provide safe, comfortable and functional environments.
- OB4.2 To ensure the design of developments considers and provides for the needs of people with limited mobility.
- OB4.3 To allow adequate daylight into the habitable rooms of new and neighbouring dwellings.
- OB4.4 To allow sunlight into the secluded private open spaces and onto the windows of main living rooms of new and neighbouring dwellings.
- OB4.5 To achieve energy-efficient development.
- OB4.6 To provide personal security for residents.
- OB4.7 To provide internal layouts adaptable to a variety of household types.
- OB4.8 To provide sufficient private open space for the reasonable recreation, service and storage needs of residents.
- OB4.9 To ensure that car and bicycle parking for residents, visitors and service vehicles is appropriate to the needs of residents and takes account of public transport services in the area.
- OB4.10 To provide adequate storage and site facilities for each dwelling.
- OB4.11 To protect residents from external noise.

**Standards**

**SB4.1 Accessibility**

The ground floor of dwellings should be accessible or able to be easily made accessible to people with limited mobility.

**SB4.2 Dwelling entries and fronts**

Entries to dwellings should provide shelter, a sense of personal address and a transitional space around the entry.

Outdoor areas at ground level between dwelling fronts and streets must be designed to create a good physical and visual connection between the dwelling and the street.

**SB4.3 Adaptability**

Larger dwellings should have layouts that are able to be adapted to suit a variety of household types.

#### **SB4.4 Energy efficiency of new dwellings**

Dwellings should achieve at least a four star energy rating using Sustainable Energy Victoria's 'QuickRate' system or equivalent. This does not apply to applications lodged before 1 September 2001.

Dwellings must be connected to reticulated gas supplies where this is available at a lot boundary.

#### **SB4.5 Daylight**

Windows in habitable rooms should face either:

- An open verandah or open carport.
- Outdoor space open to the sky or a light court that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an adjacent lot.

#### **SB4.6 Overlooking of dwellings within the same development**

Windows and balconies should be designed to prevent overlooking of more than 50 per cent of the secluded private open space of dwellings within the same development.

#### **SB4.7 Private open space area**

Dwellings should have private open space consisting of at least one of the following:

- An area of 40 square metres, with one part at the side or rear of the dwelling with an area of 25 square metres, a minimum width of 3 metres and convenient access from a living room.
- A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room.
- A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.

#### **Decision guidelines**

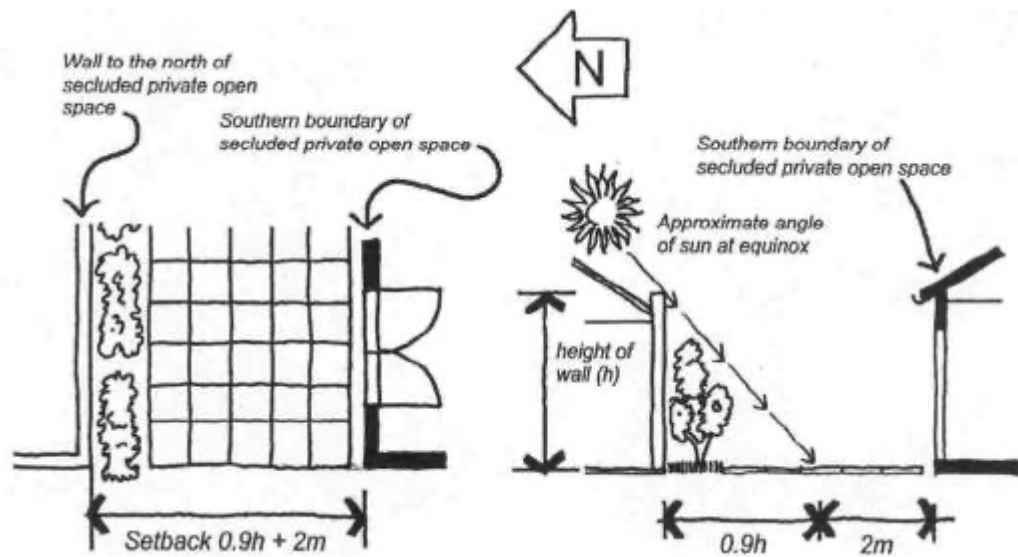
In deciding whether to increase or decrease this standard the responsible authority must consider:

- The adequacy to the residents of the area, dimension and slope of the secluded private open spaces.
- The access to direct sunlight, particularly during the warmer months of the year.
- The convenience of access from main living rooms.
- Whether communal open space or recreation facilities would better serve the needs of residents.

#### **SB4.8 Solar access to private open space**

The southern boundary of secluded private open space should be set back from any wall on the north of the space at least  $(2 + 0.9h)$  metres, where 'h' is the height of the wall.

**Diagram SB4.8 Solar access to private open space**



**Decision guidelines**

In deciding whether to increase or decrease this standard, the responsible authority must consider:

- The amenity for future residents.
- The useability of the amount of open space remaining following the calculation.
- The type of landscaping to be provided near the wall and its ability to thrive in areas of limited light.
- Whether the design of the wall to the north restricts the useability of the open space to the south.

**SB4.9 Accessways**

Car parks, accessways and streets should allow convenient, safe and efficient vehicle movements and connections within the development and to the street network.

Shared accessways or car parks of other dwellings should be located at least 1.5 metres from the windows of habitable rooms. This setback may be reduced to 1 metre where there is a fence at least 1.5 metres high or where window sills are at least 1.4 metres above the accessway.

**SB4.10 Car and bicycle parking**

Bicycle parking spaces should be provided for developments of five dwellings or more.

Car parking for residents should be provided as follows:

- One space for each one or two bedroom dwelling.
- Two spaces for each three or more bedroom dwelling, with one space under cover.
- One space for every three dwellings where residents are likely to have low car ownership (with two spaces for the first three dwellings) available to all dwellings on a shared basis.

Studies or studios that are separate rooms must be counted as bedrooms.

Car parking for visitors and service vehicles should be provided as follows:

- One space for every five dwellings.
- On-street where there are no parking restrictions and there is no body corporate space in the development.

In developments of more than 5 dwellings car parking spaces for visitors should:

- Be visible from the road or main accessway or clearly signposted.
- Not be provided in tandem with other parking.
- Be clearly marked as visitor parking.

#### **Decision guidelines**

In deciding whether to increase or decrease this standard the responsible authority must consider:

- The likely needs of users.
- The number, type and size of dwellings.
- The availability of public transport.
- The availability of on-street or nearby parking.
- The local traffic and parking management plans and safety considerations.
- The reduction of on-street spaces associated with the provision of off-street spaces.
- The amount of land available for parking where existing buildings are being converted to residential use.
- Any relevant parking precinct plan.

#### **SB4.11 Storage**

All dwellings should have convenient access to at least 6 cubic metres of external secure storage space.

#### **SB4.12 Protection from noise**

Dwellings close to busy roads, railway lines, airport flight-paths or industry should be designed to limit noise levels in habitable rooms to a maximum of 45dB(a).

#### **55.03–5 Element 5: Design detail**

##### **Objectives**

- OB5.1 To encourage high quality design that contributes to the character of the neighbourhood.
- OB5.2 To provide appropriate landscaping.
- OB5.3 To ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained.

##### **Standards**

#### **SB5.1 Materials**

The colour and type of materials and the design details of the development should not conflict with the character of the neighbourhood.

### Decision guidelines

In deciding whether this standard is met the responsible authority must consider:

- The desirability of encouraging innovative contemporary design.
- The desirability of diversity and choice.

#### SB5.2 Landscape design

The landscape design and layout should specify landscape themes, vegetation (location and species), paving and lighting that provide a safe, attractive and functional environment for residents.

#### SB5.3 Common property

Developments should clearly delineate public, communal and private areas.

Common property, where essential, should be functional and capable of efficient management.

#### SB5.4 Design of accessways and parking

Accessways longer than 60 metres or serving more than 40 dwellings should be designed as public streets.

Accessways should:

- Be at least 3 metres wide.
- Have an internal radius of at least 4 metres at changes of direction.
- Provide a turning space so that cars can exit the site in a forward direction if the accessway serves five or more car spaces, three or more dwellings, or connects to a road in a Road Zone.
- Provide a passing area at the entrance at least 5 metres wide and 7 metres long if the accessway serves ten or more spaces and connects to a road in a Road Zone.

Car spaces and accessways should have the following minimum dimensions.

**Table SB5.4 Car park and accessway dimensions**

ANGLE OF CAR SPACES TO ACCESSWAY	ACCESSWAY WIDTH	CAR PARK WIDTH	CAR PARK LENGTH
Parallel	3.6 m	2.3 m	6.7 m
45°	3.5 m	2.6 m	4.9 m
60°	4.9 m	2.6 m	4.9 m
90°	6.4 m	2.6 m	4.9 m
	5.8 m	2.8 m	4.9 m
	5.2 m	3.0 m	4.9 m
	4.8 m	3.2 m	4.9 m

A building may project into the space if it is at least 2.1 metres above the space.

Car spaces in garages or constrained by walls should be at least 6 metres long and 3 metres wide for a single space and 5.5 metres wide for a double space measured inside the garage.

Garage doors should be set back a minimum of 5 metres from a street if practicable to allow cars to pull off the road before opening the doors.

Car parking facilities should:

- Be designed for efficient use and management.
- Minimise the area of hard surface.
- Be designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- Be lit.

**SB5.5 Services**

The design and layout of dwellings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically.

**SB5.6 Design of facilities**

Garbage and recycling bin enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and blend in with the development.

Mailboxes should be provided and located for convenient access as required by Australia Post.

Proposed amendment **Add a new Clause 56 to set out standards for subdivision.**

# 6

## 56 RESIDENTIAL AND SUBDIVISION PROVISIONS PART C: SUBDIVISION

### Purpose

To provide wider choice in housing and greater cost effectiveness in residential subdivision, while meeting contemporary standards of health, safety and amenity.

To minimise exclusionary housing practices and to encourage a diversity of housing throughout all urban residential zones.

To encourage:

- The preservation of natural features.
- The consideration of climatic characteristics.
- The design of streets that are sensitive to landforms, protect privacy, and reduce run-off.
- The layout of lots for good solar access.

To ensure that new communities reflect a sense of place and identity.

To ensure that new subdivisions:

- Create, contribute to or enhance a preferred neighbourhood character.
- Are designed to be walkable scale, pedestrian friendly environments.
- Locate destinations (such as parks, shops, schools etc.) within safe, convenient walking distances of most dwellings in a development.
- Include areas of natural significance as a functional part of community.
- Recognise the needs of people with limited mobility.

To encourage subdivisions that:

- Promote environmental quality and sustainability.
- Provide for the widest possible choice of housing and residential lots.
- Ensure cost effective residential subdivision reflecting appropriate community standards for health, safety and amenity.
- Establish a design process and regulatory process based on research and professional input.

### 56.01 Application

The zone provisions specify the type of development that must meet the objectives, standards, site analysis and design process requirements of this clause.

Clause 56.02 sets out the requirements for a site analysis and Clause 56.03 sets out the design response for residential subdivisions.

Clause 56.04 sets out the objectives standards that apply to the design or assessment of a subdivision. The objectives and standards are divided into nine elements:

- Element 1: Community design.
- Element 2: Movement network.

- Element 3: Pedestrians and cyclists.
- Element 4: Public open space.
- Element 5: Lot size and orientation.
- Element 6: Street design.
- Element 7: Street construction.
- Element 8: Drainage systems.
- Element 9: Utilities provision.

These elements provide a structured and logical way of assessing development beginning with broad issues of community design and finishing with detailed design issues. All the elements contain objectives and standards. Some standards also have decision guidelines.

**Objectives** state the outcomes desired in the completed development.

**Standards** set out the requirements for development.

#### **How to use these provisions**

This clause is to be used as a whole. All elements are to be considered by both the developer and the responsible authority. The elements should be considered in turn when preparing or assessing the development proposal. A proposal must satisfy each element.

It is the intention of these provisions that a development will satisfy an element by meeting all the objectives of that element. Invariably, different weightings will be given to each of the objectives of an element for any particular development because of the circumstances of the site. In certain cases a development may not meet all the objectives for an element but will, on balance, be considered to meet the objectives of the element.

#### **Interpretation of standards**

There are two types of standard.

**Mandatory standards** must always be met. A planning permit must not be granted unless the proposal meets all mandatory standards. Mandatory standards use the verb 'must'.

**Discretionary standards** should be met unless a planning permit clearly provides for an alternative approach. Discretionary standards use the verb 'should'.

Where a standard is made up of a number of parts some parts of the standard may be discretionary and some parts mandatory.

After considering a particular development and its neighbourhood context a responsible authority may increase or decrease a discretionary standard. Standards should not be increased if the objectives can be met without such an increase. Standards must not be reduced unless the responsible authority is satisfied that the alternative approach will satisfy the objectives of the element as well as or better than the specified standard.

#### **Planning Context**

These provisions envisage a comprehensive and thoughtful approach to the creation of new housing areas through the preparation of district or local structure plans.



District or local structure plans will usually identify particular locations where residential and other forms of development can occur. They may also establish indicative layouts for new residential neighbourhoods.

Within this context consent is required to subdivide land for residential use. These provisions form the principal basis for assessment of development proposals. They set out the sort of information that must accompany applications for subdivision. Some of this information may have already been addressed in a district or local structure plan.

## **56.02 Site analysis**

A site analysis must provide sufficient information to enable the responsible authority to judge whether the objectives and standards in Clause 56.04 have been met. The extent of information required should be appropriate to the scale of the development and the features of the site.

**The responsible authority should not require information that is not relevant to a particular application or has already been supplied in a structure plan.**

A site analysis must provide as appropriate:

- Information about:
  - . Existing and planned neighbourhood, town and regional centres and major employment areas.
  - . Neighbourhoods around existing and planned neighbourhoods, town and regional centres, indicated by circles of 400 to 450 metres radius centred on the neighbourhood or town centre.
  - . Transport routes, including freeways, arterial routes and neighbourhood connector alignments, public transport routes, bus routes and railway stations.
  - . Walkable catchments of existing and planned railway stations via circles of 800 metres radius centred on the railway stations and any barriers to pedestrian movement.
  - . Surrounding subdivision (indicating fronts and backs of lots) for a reasonable and useful distance beyond the site boundary.
  - . Existing and proposed land use distribution.
  - . Site characteristics such as landform, areas of environmental protection significance, bushland, wetlands and foreshore reserves.
- In relation to the site:
  - . The dimensions and shape of the land and any existing or proposed easements.
  - . The orientation and contours.
  - . The street frontage features of the site such as utility poles, street trees and kerb crossings.
  - . Any existing trees and other significant vegetation.
  - . The existing and proposed access points.
  - . The existing and proposed drainage and infrastructure connections.
  - . Any other features or characteristics of the site likely to influence the design response.
  - . Any matter specifically required by a provision or policy of the planning scheme.
- In relation to land abutting or adjoining the site:
  - . The difference in levels between the site and surrounding properties.
  - . The location and height of any walls on the boundary of the site.

- . Any significant trees on adjacent properties or roads.
- . The use, built form, scale and character of surrounding and nearby development.
- . Any matter specified in a local variation.
- In relation to the neighbourhood or locality:
  - . A statement of the preferred neighbourhood character for the area, consistent with any statement of neighbourhood character for the area contained in a Local Planning Policy.
  - . The location and characteristics of any nearby public open space.
  - . Traffic volumes and movements on adjacent roads.
  - . The direction and distances to the nearest local shops, community facilities and public transport.
  - . Any other features or characteristics likely to influence the design response.

For a large scale residential development, a site analysis should also show:

- Any significant natural features of the site, including drainage lines and watercourses, significant flora and fauna habitats and movement corridors.
- Soil conditions, including any area affected by contamination, salinity or fill.
- Any significant cultural features of the site or environs.
- Existing and proposed pedestrian and bicycle paths.
- The direction and distance to the nearest school, public open space and any other nearby community or recreational facility.

Site analysis plans must also include a written report that explains the mapping.

### **56.03 The design process**

In preparing a design concept for a neighbourhood it is important to first identify the main local features, including landscape, view, movements and activity centres, around which the neighbourhood will be created and which in turn will help to give a strong sense of identity to the community.

From this flows important decisions about the major street and road networks, open spaces, pedestrian and bicycle paths. These are critical in producing a neighbourhood that is safe and convenient. This is also the time to identify the best orientation for streets and individual lots to provide maximum solar access.

Good subdivision design is critical to the personal, traffic and property safety of a residential area and ensures that the potential for vandalism and other anti-social activities is minimised.

Good design will also help in the efficient use of scarce fossil fuels and the protection of natural assets. This will involve lot layouts that provide for both increased densities and solar access to dwellings. At all levels, a residential area should minimise travel distances to daily activities, encourage walking and cycling, and operate well for people who do not have access to a car. In particular, footpaths and open space areas should recognise the needs of people with limited mobility.

Development of a stimulating environment can incorporate a sense of place using neighbourhood focal points, links with the landscape and a mix of uses. Focal points should, where possible, be within a reasonable walking distance (up to 400 metres) of most houses. A focal point could be a corner shop or neighbourhood house or may be larger and provide several facilities. Similarly, combining local open space with a bus

stop can provide a meeting place, thereby reinforcing neighbourhood identity and personal security.

### **Hierarchy of plans**

The orderly development of future communities requires a hierarchy of plans that resolves both the strategic and finer grain issues affecting the development parcel.

It is vital that landowners who wish to subdivide land develop an understanding of how a parcel of land fits within a broader urban and regional context. Large parcels of land must not only integrate with adjoining sites, but will need to be developed in accordance with strategic planning policy for the broader region.

This understanding is best developed as part of a local structure plan for the site. Following completion of this plan, the landowner may then wish to develop more detailed plans for the various neighbourhoods that comprise the development parcel.

The three scales of proposals envisaged are:

- District structure plans.
- Local structure plans.
- Subdivisions.

In some cases, applications for subdivision can be considered in the absence of an approved district or local structure plan. If a higher order plan has not been approved, applications for subdivision must demonstrate that the proposal will not prejudice the future planning of the broader neighbourhood.

**District structure plans** should show:

- Neighbourhoods as represented by circles of approximately 400 to 450 metres radius, together with town and neighbourhood centres.
- Existing and proposed neighbourhood centres.
- Arterial routes and connector streets.
- Natural features such as water courses and vegetation.
- Major open spaces and parkland.
- Major public transport routes and community facilities.

The plans should be supported by a written report that addresses the relevant elements of these provisions.

**Local structure plans** should show:

- Walkable neighbourhoods, represented by circles of approximately 400 to 450 metres radius around proposed neighbourhood and town centres, superimposed on the structure plan.
- Existing and proposed commercial centres.
- Proposed natural features to be retained.
- Proposed street layout.
- Proposed street network, including street types.
- Proposed land uses, including the distribution of medium and lower density residential.
- Proposed schools and community facilities.
- Public parkland.
- Proposed urban water management areas.

The plans should be supported by a written report that addresses the relevant elements of these provisions.

An application for **subdivision** must show as appropriate:

- Size and dimension of lots.
- Proposed street network, including street types and street cross sections.
- Location of proposed footpaths and shared use paths.
- The location of proposed public open space.
- Proposed easements.
- Location of proposed storm water management features.
- Building envelopes where these are proposed.

The plans should be supported by a written report that addresses the relevant elements of these provisions.

### **Written report**

Written advice should be submitted with structure plans and subdivision applications to enable consideration by the responsible authority and referral authorities.

The responsible authority should not require advice that is not relevant to a particular application.

This advice should include the following:

- For Element 1: Community design, a written report including:
  - . An explanation of how the proposed design responds to the context and site analysis.
  - . The objectives of the design and a description of how they are proposed to be achieved.
  - . The time frame and staging of proposed subdivision and development.
- For Element 2: Movement network, Element: 3: Pedestrians and cyclists and Element 6: Street design, a transport and traffic safety report addressing:
  - . Proposed traffic volumes and street hierarchy.
  - . Traffic management measures required to control traffic speed, indicative designs for roundabouts and intersections for streets.
  - . Public transport including bus routes, proposed bus stops locations (including calculations of walkable catchments served within a 400 to 450 metre radius) and existing and proposed railway station locations (including calculations of walkable catchments served within an 800 metre radius).
  - . Provision for pedestrians and people with limited mobility.
  - . Bike network plan.
- For Element 4: Public open space, a parkland provision and management report addressing:
  - . Location and amount of public open space proposed by the developer.
  - . Any landscaping plans for local and neighbourhood parks (including earthworks, grassing, tree planting, bollards, irrigation).
  - . A maintenance program for two summers, if required.
- For Element 5: Lot Size and orientation, a design rationale report addressing:
  - . Mixture and distribution of lot sizes.
  - . Characteristics of lots for special uses or future intensification.

- . Lot design for climatically responsive dwellings.
- . Justification of any exceptions for the direct frontage of lots to parks, natural areas and schools.
- For Element 8: Drainage systems, a drainage report addressing:
  - . An explanation of the proposed urban water management network including major and minor water systems.
  - . Maintenance of natural urban water management networks, ground water and aquifer system.
  - . Ground water recharge.
  - . Run-off water quality.
  - . Environmental values and physical characteristics of receiving domains of watercourses.
  - . Protection of people, property and built environment from stormwater and flooding.
  - . Developer cost contribution arrangements.
  - . Ongoing management arrangements and responsibilities.
- Element 9—utilities, a services report addressing:
  - . Main and trunk services (including easements).
  - . Common trenching (where utilised) and standard service provision.
  - . Cross sections through typical streets demonstrating essential services, street trees and other street requirements.

#### **56.04-1 Element 1: Community design**

This element is the most significant of the subdivision provisions for large scale developments. Responsible authorities must be satisfied that an application has satisfactorily addressed every objective and standard of this element. Applications for large scale development that do not satisfactorily resolve these matters should not be approved.

This element outlines the objective and design criteria that should guide the planning of a new residential area before applying the detailed provisions of the remainder of these provisions.

#### **Objectives**

- OC1.1 To design residential areas that promote community development through the creation of neighbourhood focal points and a sense of local character and identity.
- OC1.2 To facilitate an ecologically sustainable approach to urban development by minimising fossil fuel use, protecting environmental assets and providing for higher densities.
- OC1.3 To provide a movement network that establishes good internal and external access for residents, maximises safety, encourages public transport patronage and minimises the impact of through traffic.
- OC1.4 To provide residential areas that meet the diverse needs of the community with a wide choice in housing and associated public and commercial uses.
- OC1.5 To provide a public space network, including appropriate land for recreation, that can meet the diverse needs of today's residents and be adapted to the needs of future users.

OC1.6 To ensure that design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk.

**Standards**

**SC1.1 Residential character and identity**

Subdivision layouts must give a residential environment a strong and positive identity, by responding to site characteristics, setting, landmarks and views, and through the street and open space networks.

Neighbourhood identity must be reinforced by locating focal points for community and retail facilities within reasonable walking distance of most residents.

Street networks must provide a high level of internal accessibility and good external connections for local vehicle movements, with traffic management to restrain vehicle speed and deter through traffic.

Subdivision layouts must:

- Integrate with the surrounding urban environment.
- Encourage development to front major streets, through the use of service roads or side or rear access.

**SC1.2 Environmental sustainability**

Street layouts and lot densities must be designed to minimise fossil fuel use by reducing local vehicle travel distances, maximising public transport effectiveness and encouraging walking and cycling to daily activities.

Street and lot layouts must enable efficient provision of physical services.

Street and lot dimensions must facilitate the siting and design of dwellings that minimise fossil fuel use and maximise use of passive solar energy.

Subdivision layouts should:

- Retain significant vegetation and habitat areas.
- Incorporate natural and cultural features.
- Minimise soil erosion.
- Encourage on-site water retention.
- Avoid development on flood-plains.
- Use drainage methods that protect and enhance streams.

**SC1.3 Residential diversity**

The design of neighbourhoods should:

- Provide a variety of housing types and other compatible land uses.
- Be arranged to encourage provision of local services, facilities and employment, that minimise land use conflicts.

A mix of lot sizes should be provided that includes smaller residential lots and integrated medium density housing in areas close to services, public transport and public open space, or with good views.

#### **SC1.4 Public open space design**

Public open spaces must be designed and located to:

- Improve the legibility and character of the development.
- Provide for a range of uses and activities.
- Allow on-site infiltration of stormwater run-off.

Subdivision layout must ensure that major linear or regional open spaces are located to define the boundaries of neighbourhoods, rather than dissect them.

#### **SC1.5 Personal safety and security**

The layout must :

- Enhance personal safety and minimise potential for crime, vandalism and fear, by avoiding blank walls or high fences to streets and providing for urban open spaces to be under surveillance.
- Locate open space and community facilities at focal points that are easily observed by surrounding and passing residents.

The pedestrian network must be designed to be safe, attractive and efficient. This can be achieved by:

- Locating it along streets fronted by houses.
- Not creating areas with poor surveillance on routes to and from public transport.

#### **SC1.6 Bushfire hazard and safety**

The layout of residential development abutting areas of high bushfire hazard comprising the long-term urban edge or conservation areas must ensure that:

- Streets are designed, located and connected to allow safe and efficient movement of fire emergency vehicles.
- Lots are configured to facilitate siting and design of houses incorporating bushfire protection measures.

#### **56.04-2 Element 2: Movement network**

##### **Objectives**

- OC2.1 To provide acceptable levels of accessibility, safety and convenience for all street and road users in residential areas, while ensuring acceptable levels of amenity, and minimising the negative impact of through traffic.
- OC2.2 To establish a movement network that provides convenient linkages to activity centres and local facilities either within or adjoining the development.
- OC2.3 To provide a safe, convenient and legible movement network for pedestrians and cyclists along streets and paths to points of attraction within and adjoining the development.
- OC2.4 To provide a network of streets with clear physical distinctions between traffic routes and residential streets based on function, legibility, convenience, traffic volumes, vehicle speeds, public safety and amenity.

- OC2.5 To provide for bus routes that are both accessible from all dwellings and activity centres, and efficient to operate, and a movement network in the vicinity of fixed rail that is focused towards passenger stops.
- OC2.6 To provide an acceptable level of streetscape.
- OC2.7 To orient the street network to facilitate the production of lots with high solar access potential and integrate the street network with natural drainage and open space systems.
- OC2.8 To cater for the efficient provision of public utilities networks including water supply, sewerage, electricity, telecommunications and gas services, and for delivery of postal services and access of emergency vehicles.
- OC2.9 To provide the basis for cost effective design and construction of the street network.
- OC2.10 To provide a movement network that contributes to limiting the use of fossil fuels.
- OC2.11 To discourage residential streets from operating as through traffic routes for externally generated traffic, while limiting the length of time local drivers need to spend in a low speed environment.

**Standards**

**SC2.1 Street network**

Streets should conform to the adopted functions set out in Table SC2.1.

The design features of each type of residential street should convey its primary functions and encourage appropriate driver behaviour.

Larger roads and traffic routes must be designed and located to provide routes that are more convenient for external traffic than the residential street network.

Larger roads and traffic routes should be provided at intervals of approximately 1.6 kilometres and have adequate capacity to accommodate projected movement.

Internal street layouts should conform to the requirements of the external traffic route network and satisfy the transport provisions of a local structure plan or outline development plan that conforms to the principles of this scheme. Where appropriate, the proposed external road system should be modified to achieve a better overall network.

The street network should be oriented:

- Approximately east-west and north-south to promote efficient solar access for dwellings.
- Along valleys where the street is part of the drainage system.

The residential streets should be designed to carry 3000 vehicles or less per day. Most dwellings should experience significantly lower volumes.

The street network should be designed to limit target street speeds to those specified in Table SC2.1.

**Table SC2.1 Classifications of residential streets**

RESIDENTIAL STREETS TYPE AND FUNCTION	NUMBER OF DWELLINGS SERVED	VOLUME (2)	TARGET STREET SPEED
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**Access Lane**

A side or rear of lane principally providing access to parking for lots with another street frontage. 300 veh/day 15 km/hr

**Access Place**

A minor street providing local residential access with shared traffic pedestrian and recreation use, but with pedestrian priority. The maximum length of an access place is 100m. Small and fewer than 30. 300 veh/day 15 km/hr

**Access Street**

A street providing local residential access where traffic is subservient, speed and volume are low, and pedestrian and bicycle movements are facilitated. Fewer than 200 and preferably fewer than 100. 1000 veh/day 30 km/hr  
 2000 veh/day 40 km/hr

It includes streets serving 30 dwellings or less that are not comprehensively designed as access places.

**Collector Street**

The collector street collects traffic from the access places and access streets and carries higher volumes of traffic. 3000 veh/day 50 km/hr  
 20 km/hr at designated pedestrian or bicycle crossings (2)

**Trunk Collector**

The trunk collector streets provide a specialised form of connection between the residential streets and the traffic route system where it is desirable to concentrate local traffic to an outlet, but not to attract through traffic. Its principal function is to facilitate the convenient and safe movement of residential traffic to and from the major arterial road system usually at a signalled intersection. It is not a typical residential street. Residential development may be considered on these streets with siting conditions that ensure acceptable amenity and that provide for vehicles to enter the street in a forwards direction. 6000 60 km/hr (3)

1 Indicative maximum traffic volume for 24 hour period. These volumes depend upon location. Generation rates may vary between existing and newly developing areas.

2 Requires special design and control so that vehicle speeds are reduced progressively.

3 Design speed on trunk collector streets not to exceed legal speed limit.

**SC2.2 Street network details**

Residential streets should:

- Discourage through flow of externally generated traffic.
- Limit the length of time local drivers need to spend at a low speed.

Street networks should be designed to optimise the use of the traffic route investment, by ensuring they will operate at high volume/ capacity ratios at peak times in situations where no significant future increases in traffic volume are anticipated.

Trunk collector roads should be less than 150 metres in length, except where topography or the location of traffic routes make a longer distance unavoidable.

There should generally be no more than three turns at street intersections or junctions when travelling from any dwelling to the most convenient collector street or higher order road.

The driving distance from any dwelling to the nearest collector or higher order street should be less than 700 metres.

Speed should be controlled by limiting street leg length and providing appropriate slow points at the end of each leg. Slow points may be provided by a variety of mechanisms including street junctions, sharp bends and speed humps. Speeds may also be restrained by a continuous series of bends or by a combination of approaches.

### SC2.3 Intersections

Intersection between residential streets should either be controlled by T-junctions, roundabouts or other appropriate traffic management treatment to slow and control traffic.

Street and road junctions should be spaced as set out in Table SC4.3.

**Table SC4.3 Junctions along residential streets and traffic routes**

	TYPICAL AVERAGE <sup>1</sup> JUNCTION SPACING	MIN. SPACING OF STAGGERED JUNCTION-- LEFT/ RIGHT STAGGER	MIN. SPACING OF STAGGERED JUNCTION-- RIGHT/ LEFT STAGGER
<b>Residential Streets</b>			
<b>Access Place</b>			
<b>Access Street</b>	40	20	20
<b>Collector Street</b>	40	20	20
<b>Trunk Collector</b>	80	40	20
<b>Traffic Routes</b>			
2-lane sub arterial	100	60	30
3-lane sub arterial	100	100	30
Divided sub arterial	150	150	50
Divided arterial	150	150	50
Divided major arterial	200	150	50

1 The typical average junction spacing relates to the total number of junctions along both sides of the specified residential street or traffic route. Each cross-road counts as one junction. A right/left stagger on a three lane sub-arterial or higher order road also counts as one junction. Other junctions may form T-junctions or allow only restricted vehicle movement.

#### SC2.4 Local accessibility

The street network must:

- Facilitate walking, cycling and the use of public transport for access to daily activities.
- Enable relatively direct local vehicle trips within the neighbourhood and to local activity points.

The street network and paths should provide a movement system for pedestrians and cyclists that is efficient, cost effective and substantially capable of visual surveillance by residents.

Links should be provided to facilitate major pedestrian or cyclist movement where cul-de-sac heads abut other streets or public open space.

#### SC2.6 Public transport

The street and road network must provide for access to public transport within a reasonable safe and convenient walking distance of all dwellings.

Proposed bus routes must connect efficiently with existing or likely future bus routes, to provide for ease of movement of buses between developments, and link major activity centres internal and external to the development.

Buses must be able to safely access the development and cross traffic routes between developments without complicated turning manoeuvres.

Local bus routes must be located to efficiently serve the population. The alignment and geometry of streets that form bus routes must provide for the efficient and unimpeded movement of buses.

Street networks near railway stations and major light rail routes must be focussed towards stops, to provide high levels of accessibility and surveillance.

At least 90 per cent of dwellings should be within 400 metres safe walking distance from an existing or potential bus, tram or light rail route and not more than 500 metres from the nearest stop, or within 800 metres of a railway station.

Streets suitable for bus routes through the development should be no more than 30 per cent longer than those available on the adjacent traffic route network.

#### SC2.7 Controlling speed

Street leg lengths should be:

- Designed as specified in Table SC2.7-1.
- Limited to control vehicle speed between slow points designed to restrict design speeds to 20 kilometres per hour.

**Table SC2.7-1 Street leg length and design speed**

STREET TYPE	TARGET STREET SPEED	MAXIMUM LEG LENGTH BETWEEN 20 km/hr SLOW POINTS.
Access Street	30 km/hr	75 to 100 m
	40 km/hr	100 to 140 m

<b>Collector Street</b>	50 km/hr	120 to 155 m
<b>Trunk Collector</b>	60 km/hr	120 to 155 m

Slow points and carriageway narrowing should be designed taking into account the need of cyclists by ensuring:

- Speed compatibility.
- Adequate space for concurrent passage.
- Off-street diversions.

Where bends are introduced to control speeds to 20 kilometres per hour or less, the deflection angle in the change of alignment of a street pavement should be at least the angle determined from Table SC2.7-2.

**Table SC2.7-2 Minimum deflection angles for speed control to 20 km/hr**

BEND TYPE	STREET PAVEMENT WIDTH (1)		
	3.5 m	5-5.5 m	7-7.5 m
<b>Single bend</b>	60 degrees	70 degrees	90 degrees
<b>Chicane (2 reverse bends)</b>	30-30 degrees	45-45 degrees	60-60 degrees

1 Pavements may be reduced to 3.5 metres at bends by the use of medians.

Where bends or slow points are used which allow speeds greater than 20 kilometres per hour, the length of street between two bends or slow points complies with the distance specified in Table SC2.7-3.

**Table SC2.7-3 Slow point speed and length of street between slow points**

SPEED AT SLOW POINT OR BEND	MAXIMUM LEG LENGTH OF STREET BETWEEN SLOW POINTS/ BENDS TO LIMIT TARGET STREET SPEED TO:		
	30 km/hr	40 km/hr	50 km/hr
<b>20 km/hr</b>	refer Table SC2.7-1		
<b>25 km/hr</b>	45 m	80 m	135 m
<b>30 km/hr</b>	–	65 m	115 m
<b>35 km/hr</b>	–	50 m	100 m
<b>40 km/hr</b>	–		80 m
<b>45 km/hr</b>	–		60m

**56.04-3 Element 3: Pedestrians and cyclists**

**Objectives**

- OC3.1 To provide a safe, convenient and legible movement network for pedestrians and cyclists, incorporating the street network together with all-weather paths to provide access to points of attraction within and beyond the development.
- OC3.2 To design and develop new urban areas to promote walking and cycling to daily activities.

**Standards**

**SC3.1 Pedestrian and cyclists**

Subdivisions must provide a network of pedestrian and bicycle paths in accordance with any formally adopted state, regional or local walking trail or bicycle plan. This plan should have considered:

- Projected travel demand.
- Opportunities to link open space networks, community facilities and public services.
- Environment, location, safety and weather factors.

The residential street network should be designed to:

- Provide a permeable network of low traffic volume and low traffic speed routes for cyclists.
- Promote the use of streets for on-road cycling to daily activities.
- Connect abutting cul-de-sac heads with bicycle paths.

The street network must be designed to incorporate the pedestrian use of street pavements in access places.

**SC3.2 Provision of footpaths**

Footpaths and bicycle paths must be provided on streets according to Table SC6.3-1.

Footpaths should be provided on access streets, collector streets and trunk collector streets, and designed and located taking into account pedestrian amenity, sun and shade, postal deliveries and other likely use patterns.

Footpaths should be provided on both sides of a street. Footpaths may be provided on one side if:

- There is no development fronting that side of the street, or topography or vegetation precludes provision.
- Vehicle volumes and speeds are low and the use of the street pavement is considered safe and comfortable for some pedestrian use.
- Postal delivery will not be significantly inconvenienced.
- Pedestrian use will not be deterred by the lack of a footpath.

Footpaths should be separated from the street pavement unless vehicle volumes are low and site constraints exist that require footpaths to abut kerbs.

Footpaths or shared paths should be:

- Constructed with a durable, non-skid surface.

- Be of sufficient width and strength to cater for projected user types and volumes.
- Facilitate ease of use by the disabled, aged and the very young.

Maximum longitudinal gradient of bicycle paths should be no greater than any adjacent street pavement and provide for safe sight distances at crossings.

Alignment of paths should:

- Allow safe and convenient use by pedestrians and cyclists.
- Be varied to preserve trees and other significant features.
- Focus on vistas and landmarks to add visual interest where possible.

Widening of paths to be provided at meeting points or junctions on high use facilities should allow for passing of pedestrians and cyclists and provision should be made for the location of seats at appropriate locations.

Pedestrian and bicycle paths should be provided in accordance with any formally adopted state, regional or local walking trail or bicycle path plan and constructed in accordance with the approved construction standard.

#### **55.04-4 Element 4: Public open space**

##### **Objectives**

- OC4.1 To ensure that public open space of appropriate quality and quantity is provided to contribute towards meeting the recreational and social needs of the community in convenient locations.
- OC4.2 To incorporate natural and cultural features, where appropriate, into areas of public open space.
- OC4.3 To ensure that public open space is designed and located to provide a safe environment for users and abutting and adjacent residents.

##### **Standards**

#### **SC4.1 Shared usage**

Open space must be designed to encourage:

- Use for a variety of purposes.
- Shared use with other community facilities.

#### **SC4.2 Public open space strategies**

The location and design of open space should be consistent with any approved municipal open space strategy. Open space strategies should:

- Provide a balance between local, district and regional open space.
- Take advantage of and protect natural and cultural features.
- Incorporate land for regional linear open space as defined in state policy or regional strategy documents for regional walking and cycling trails.
- Provide for district parks of 3 hectare minimum, usually combining passive and active use, within 2 kilometres of all dwellings.
- Provide for large local parks usually of 1 hectare minimum, for active and passive use, within 500 metres safe walking distance from all dwellings.

- Provide for small local parks within 150 metres to 300 metres safe walking distance of all dwellings.
- Take into account shared use of active open space—for example ovals with schools.
- Take into account land used for drainage control or stream and floodway purposes, if generally available for recreational use.

#### **SC4.3 Location and design of public open space**

Public open space should be provided after giving consideration to the following:

- The consistency of the location and function with any adopted metropolitan or regional open space strategy, regional bicycle or walking trail network, local structure plan or municipal or district open space plan.
- The needs of the community to be served, the population density and profile of user groups, including those with limited mobility.
- The distance and accessibility of open space to users.
- The physical characteristics of the land in relation to the use, including landscaping and facilities to be provided.
- The safety aspects, including provision for lighting where appropriate in accordance with Australian Standard 1158.1 (1986).
- The requirements for protection of existing trees, habitats, rocks, streams and other sites of natural or cultural value.
- The proposed responsibilities, maintenance requirements and costs.
- The opportunities to link open space into networks, and with community facilities and public services.
- The opportunities for dual use of open space and drainage, such as water features to be created or retained and land forming to promote on-site infiltration and retention of stormwater run-off.
- The need for some areas of open space to be available for exercising pets.

#### **SC4.4 Personal and property security**

The location and layout of public open space should minimise problems relating to personal security and surveillance, property security and vandalism in relation to the park and its boundaries.

Lots should be oriented to front parkland and natural areas to enhance amenity while contributing to personal and property security and deterrence of crime and vandalism. Frontage to parks may be achieved by a variety of lot layout solutions.

Unencumbered public open space must be provided to the extent required under Clause 52.01.

Land provided for public open space must be:

- Of a quality and character that relates to its potential functions.
- Located to ensure that every lot in the subdivision is within 500 metres walking distance of an area of existing or proposed public open space.
- Related to the street and lot layout in a manner that promotes personal safety and surveillance for users of the public open space and surrounding areas.

Public open space must be either:

- In parcels of 4000 square metres or greater in area.
- A linear connection between streets, or to existing or proposed public open space.

- Combined with existing or proposed public open space on adjacent land.
- A small local park serving a neighbourhood within 300 metres safe walking distance.

#### **56.04-5 Element 5: Lot size and orientation**

##### **Objectives**

- OC5.1 To provide a range of lot sizes to suit a variety of dwelling and household types, with area and dimensions that meet user requirements.
- OC5.2 To provide lots that are oriented where practicable to enable microclimate management, including the application of energy conservation principles.
- OC5.3 To provide lots with areas and dimensions that protect environmental features and take account of site constraints.
- OC5.4 To arrange lots in a manner that enhances personal and property safety and security.

##### **Standards**

#### **SC5.1 Housing diversity**

Lot sizes must be designed to meet the projected requirements of people with different housing needs, and to provide for housing diversity and choice.

Lots must be designed to have the appropriate area and dimensions to enable the siting and construction of a dwelling and ancillary buildings, the provision of private outdoor space, convenient vehicle access and parking.

#### **SC5.2 Solar orientation**

A minimum of 70 per cent of all lots should have appropriate solar orientation, except where significant constraints limit achievement of such a target.

Lots have appropriate solar orientation when:

- The long axes of lots are within the range N20 degrees West to N30 degrees East, or E20 degrees North to E30 degrees South.
- Dimensions of lots are adequate to protect solar access on-site, taking into account likely dwelling size and the relationship of each lot to the street.

#### **SC5.3 Site constraints and features**

Lots must be designed to have an area and dimensions that enable dwellings to be sited to:

- Protect natural or cultural features.
- Acknowledge site constraints including soil erosion, poor drainage, saline soils or bushfire risk.

#### **SC5.4 Community and personal safety**

Lot frontages must be oriented to front streets, including major roads, and to open spaces such that personal and property security, deterrence of crime and vandalism, and surveillance of footpaths and public open spaces is facilitated.



### **SC5.5 Lot dimensions and design**

Lots with an area greater than 450 square metres should be capable of containing a rectangle suitable for building purposes measuring 10 metres by 15 metres.

Lots with an area of between 300 square metres and 450 square metres should:

- Be capable of containing a rectangle measuring 10 metres by 15 metres (or 9 metres by 15 metres where a boundary wall is nominated as part of the building envelope).
- Contain a building envelope that enables compliance with the planning scheme or an envelope that specifies heights of less than 8 metres on the boundary.
- Have their long axis within 30 degrees east and 20 degrees west of north if the lots are proposed to contain semi-detached dwellings.

The extent of any building envelope that does not comply with the setbacks or building heights specified in SA3 and SA4 of Clause 54 must be noted as a restriction affecting abutting lots using a Section 173 agreement under the *Planning And Environment Act* 1987, or Section 23 of the *Subdivision Act* 1988.

Lots less than 300 square metres in area should form part of a designated integrated development site.

Lots greater than 450 square metres designated as a dual occupancy site should contain requirements for development to be planned to the satisfaction of the responsible authority.

### **56.04-6 Element 6: Street design**

#### **Objectives**

- OC6.1. To provide attractive streetscapes that reinforce the junctions of a street and enhance the amenity of dwellings.
- OC6.2 To provide sufficient width of carriageway and verge to allow streets to perform their designated functions within the street network.
- OC6.3 To encourage use of residential streets by pedestrians and cyclists and allow cars, buses and other users to proceed safely and without unacceptable inconvenience and delay.
- OC6.4 To provide street geometry that is consistent with the needs of the street function, physical land characteristics and safety.
- OC6.5 To accommodate on-street parking where required.
- OC6.6 To provide a safe, distinct and pleasant environment for residents and other users.
- OC6.7 To locate and detail all elements within the street to provide an appropriate and attractive streetscape.
- OC6.8 To accommodate public utility services and drainage systems.
- OC6.9 To minimise street construction and maintenance costs without compromising other objectives.

## Standards

### SC6.1 High quality streetscapes

The street reserve together with dwelling fronts and front gardens must:

- Create an attractive streetscape and establish a clear character and identity for the street or precinct.
- Provide for appropriate street tree planting taking into account the image and role of the street, solar access requirements, soils and services.
- Encourage use of the street for walking, cycling, interaction between residents and other appropriate community functions.
- Ensure that informal surveillance of the public space is possible from within dwellings.
- Manage the speed and behaviour of traffic in accord with the street type to retain safety and amenity.
- Respond to the features of the site in terms of views, vistas, existing vegetation and landmarks.
- Ensure that the street reserve width is adequate for the proposed pavement, paths, planting, drainage and services.
- Facilitate infiltration of stormwater run-off wherever practical.
- Take into account maintenance responsibilities, requirements and costs.

### SC6.2 Streetscape plan

A streetscape plan must be prepared for all new streets showing:

- The street reserve together with typical cross sections.
- Location and detailing of carriageway pavement, parking bays, bus stops, kerbs, footpaths, bicycle paths and speed control devices.
- Location and species of proposed trees or other vegetation.
- Location of existing vegetation to be retained and proposed treatment to ensure its health.
- Typical dwelling front alignments including any setback variations together with any building detailing proposed to promote special character or identity.
- Any relevant details for front garden treatment—for example fences, driveways, landscape themes, and suitable locations for letterboxes.
- Any relevant details for the design and location of street furniture, lighting, seats, bus stops, telephone boxes and mailboxes.

The setback of buildings from the street frontage must be appropriate to the streetscape and neighbourhood character, the efficient use of the site and the amenity of residents.

The location and design of garages, carports and parked cars must:

- Enhance streetscape amenity.
- Provide for personal security and surveillance from dwellings.
- Not dominate the view of the dwelling from the street.

Fences in the frontage must be designed to take into account:

- The amenity of the street.
- Opportunities for casual surveillance and safety.
- The security of children, pets and property.
- The use of the front garden space.

### **SC6.3 Street width**

The street reserve width must be sufficient to cater for:

- The safe location, construction and maintenance of required paths and public utility services (above or below ground).
- All expected functions of the street, including the safe and efficient movement of all users.
- The provision for parked vehicles, acting as a buffer against traffic nuisance for residents.
- The provision of public utilities and landscaping.

The carriageway width together with verge width and crossover dimensions must allow for unobstructed access to individual lots. Motorists should be able to enter or reverse from a lot in a single movement.

The verge, when considered in conjunction with the horizontal alignment and permitted fence and property frontage treatments, should provide appropriate sight distances taking into account expected vehicle speeds and pedestrian and cyclist movements.

The carriageway width must allow vehicles to proceed safely at the operating speed intended for that type of street in the network, with acceptable minor delays in the peak period. This is to take into consideration the restrictions caused by parked vehicles where parking will occur on the carriageway.

Carriageways should be of sufficient width to ensure the safety of pedestrians using shared roadways.

Bus routes should have carriageway of sufficient width to allow for movement of buses unimpeded by parked cars, and to safely accommodate cyclists.

Where required, provision should be made for vehicles to park safely.

### **SC6.4 Control of speed**

Design of the carriageway should discourage motorists speeding by reflecting the functions of the street in the network.

The width, horizontal and vertical alignment should not be conducive to excessive speeds.

Stopping sight distances and junction or intersection sight distances should be based on the intended speeds for each street type.

### **SC6.5 Street alignments**

The horizontal and vertical alignments and cross fall should reflect physical land characteristics and major drainage functions while satisfying safety criteria.

Cross-falls on street pavements should be between 0.025 and 0.040 metres (fall) per metre (width).

Longitudinal gradient should not exceed 20 per cent on access streets, 15 per cent on other streets.

Super elevation of curves used for speed control should not exceed 3 per cent.

## SC6.6 Design for street function

The design features of each type of residential street must convey its primary function and encourage appropriate driver behaviour.

Carriageway widths, verge widths and parking provision within the street reserve should be designed in accordance with Table SC6.6-1.

Verge widths should be increased where necessary to allow space for larger scale landscaping, indented parking, future carriageway widening, retaining walls, bicycle paths or swale drains.

The drainage function of the carriageway and/or street reserve should be satisfied by the cross section profile of the total street reserve.

Streets designated as bus routes should comply with the requirements of the Public Transport Corporation and should have the maximum carriageway widths as specified in Table SC6.6-1.

Kerbing and pedestrian and cyclist facilities should be designed in accordance with Table SC6.6-2.

**Table SC6.6-1 Street widths and parking**

STREET TYPE	CARRIAGEWAY WIDTH (1)	PARKING PROVISION WITHIN STREET RESERVE	VERGE WIDTH (5)
<b>Access Lane</b>	3-8m (2)	none	none
<b>Access Place</b>	3.5m (3) or 5m	1 hard standing verge speed per 2 lots with scope for additional spaces	Total width 7m For services 3.5m, on one side, 2.5m on the other
<b>Access Street</b>	5 - 5.5m	carriageway	4 m minimum each side
	5 - 5.5m or 7 - 7.5m (4)	carriageway	4.5 m minimum each side
<b>Collector Street</b>	6 - 6.5m or 7 - 7.5m	indented to leave 6m minimum. clear carriageway	4.5m minimum each side with adequate road reserve width for widening for future bus route if required.
	At bus stops avoid vehicles overtaking a bus when passengers are alighting.	carriageway	
<b>Trunk collector street</b>	2 x 3.5m or 2 x 5 - 5.5m	Parking not permitted on minimum width carriageways	6m minimum each side
	Dual carriageway plus median. Bus bays to be indented	If required parking should be provided on a 5.5m carriageway in parking locations that allow cars to exist in a forward direction and includes parallel parking.	

- 1 The maximum width within the range should be used when bus use is anticipated or when upright kerbs are used.  
 Width is measured from kerb invert to invert. Widening may be required at bends to allow for wider vehicle paths (using SAA turning templates), but should not negate the function of bends serving as slow points.
- 2 Width will be determined by requirements for access to off street parking.
- 3 Requires parking provision and provision for widening to 5m if necessary in the future; 5m width required within 7m of junction with collector street; passing bay if more than 15 dwellings are served.  
 Typical verge widths of 3.5m each side, with indented parking to within 1.5m of a boundary. Add width on one side for future widening of carriageway to 5m if necessary.
- 4 7 - 7.5m width should be used when parking is required on both sides.
- 5 Verge width includes footpaths. Additional width may be required to accommodate a bicycle path.

**Table SC6.6-2 Street kerbs, footpath and bicycle path provision**

STREET TYPE	KERBING (1)	FOOTPATH PROVISION	BICYCLEPATH PROVISION
<b>Access Lane</b>		not required	not required
<b>Access Place</b>	layback/ flush and swale	1.2m wide footpaths (2)	not required
<b>Access Street</b>	layback/ flush and swale	1.2m wide footpaths (2)	not required
<b>Collector Street</b>	layback/ upright	1.2m wide footpath (both sides)	Footpaths should be widened to 2m in the vicinity of primary schools to allow for shared use by cyclists.
<b>Trunk collector street</b>	layback/ upright	1.2m wide footpaths or park or 2m bicycle path desirably offset 1m from abutting residential frontages	if required, 2m bicycle path one side only in the verge or two 1 - 1.5m wide bicycle lanes marked on carriageway but only where there is no carriageway parking

- 1 Where drainage is not required a flush pavement edge treatment can be used.  
 Layback kerbs are preferred for safety reasons. Upright kerbs may be considered for drainage purposes or in locations where on-street parking should be clearly defined and parking within the verge is not desired.
- 2 A minimum of one footpath on one side of the street to be constructed initially, with provision to construct a second footpath if required by residents in the future.

**SC6.7 Bush fire hazard**

Street carriageways abutting areas of high bush fire hazard comprising the long term urban edge or conservation areas should be designed to the requirements of the Country Fire Authority to provide adequate access to fire emergency vehicles under conditions of poor visibility.

**SC6.8 Intersection and turning**

Roundabouts should be designed according to *Ausroads Guidelines* (1992).

Kerb radii at intersections should be kept to a minimum, subject to satisfying required turning templates, to keep pedestrian crossing distances to a minimum and to control turning vehicle speeds.

The design of intersections or junctions should allow all desired movements to occur safely without undue delay. Projected traffic volumes should be used in designing all intersections or junctions on traffic routes.

Adequate provision should be made at the end of any no-through street for those vehicles that frequently use these streets to turn around.

The sight distances for stopping purposes should be greater than the distances set out in Table SC6.8.

**Table SC6.8. Minimum stopping distances**

STREET TYPE	TARGET SPEED	MINIMUM STOPPING SIGHT DISTANCE (Y)
Access Place	15 km/hr	5 m
Access Street	30 km/hr	20 m
	40 km/hr	30 m
Collector Street	50 km/hr	40 m
Trunk Collector Street	60 km/h	55 m

### SC6.9 Turning movements

At intersections, turning vehicles should be accommodated using SAA design vehicles and turning templates, to enable turns to be made in a single forward movement as follows:

- For turns between a trunk collector and traffic routes, collector streets or access streets, the ‘design articulated vehicle’ (turning path radius of at least 11 metres), using any part of the pavement (Figure B5 in AS 2890.2, 1989).
- For turns between collector streets and access places, access streets or collector streets the ‘design heavy rigid vehicle’ (turning path radius 11 metres) using any part of the pavement (Figure B4 in AS 2890.2, 1989).
- For turns between access streets and access streets or access places, the B99 ‘design car’ (turning path radius 7.5m), using the correct side of the pavement only (Figure B1 in AS 2890.1, 1986).

For turning movements at cul-de-sac heads, sufficient area should be provided for the ‘design small rigid vehicle’ to make a three point turn. Where driveway entrances are to be used for turning movements, the required area must be able to withstand the relevant loads (Figure B3. in AS 2890.2, 1989).

Kerb radii should not exceed 6 metres, except if required to accommodate turning vehicles in accordance with this standard.

Driveways and direct vehicle access to trunk collector streets should be designed to allow forward entry and exit of vehicles from properties.

## **56.04-7 Element 7: Street construction**

### **Objectives**

- OC7.1 To provide street pavement and edge that reinforce the street's function and amenity and in particular to use pavement materials that reinforce its residential function.
- OC7.2 To construct streets of appropriate strength to enable the carriage of vehicles at a minimum total cost to the community.
- OC7.3 To provide a pavement edge that is appropriate for the control of vehicle movements, performs any required drainage function and is structurally adequate.

### **Standards**

#### **SC7.1 Pavement construction**

Street pavements must be designed to:

- Carry wheel loads of travelling and parked vehicles.
- Enable the carriage of vehicles at a minimum total cost to the community over a 20 year period, including maintenance costs.

Street pavements should be strong enough not to be damaged by construction or building equipment.

Street pavement surfaces should be of a quality and durability to ensure the:

- Safe passage of vehicles, pedestrians and cyclists.
- Discharge of rainfall.
- Preservation of all-weather access and maintenance of a reasonable, comfortable riding quality.

Flexible street pavement construction should be based on the ARRB residential street pavement design method (*ARRB, 1989*) using equivalent standard axle loadings based on an average traffic generation rate of 10 vehicles per day per lot and a 20 year design life.

Concrete street pavement should be based on the CCA design table (*CCA, 1984*), to a minimum 20 year life span.

Interlocking block street pavement should be based on the ARRB interlocking block pavement design method (*ARRB, 1985*), to a minimum 20 year life span.

#### **SC7.2 Pavement edge, kerbs and crossovers**

The pavement edge treatment and the cross sectional profile of the street reserve should perform the required drainage functions and enable connections from house drains where necessary.

The pavement edge should clearly delineate to all street users the edge of the carriageway and be detailed to take into account streetscape character and amenity.

The pavement edge treatment must provide for:

- An appropriate level of control for vehicles.
- Safe crossing by cyclists at driveways and other appropriate locations.

The pavement edge treatment must allow for efficient and comfortable access to abutting properties at appropriate locations.

The pavement edge and drainage method on local streets should be designed to facilitate infiltration of stormwater run-off where soils and topography permit.

The pavement edge treatment must provide sufficient strength to prevent edge fretting.

Kerbs of the type specified in Table SC6.3-1 should be provided.

Pavement edge material should be concrete or stone or mortared brick.

Single driveway kerb crossover length should be:

- 4.5 metres in streets 5.5 metres or less wide.
- 3.8 metres in streets greater than 5.5 metres wide.

### **SC7.3 Construction of footpaths**

Access places and streets should provide a separate pedestrian path of bitumen, concrete or blockwork or 1.2 metres width to the approved construction standard, on at least one side of the street. Where pavements are 5.5 metres or less in width, footpaths may abut a kerb.

Collector streets should provide a separate path of bitumen, concrete or blockwork to the approved construction standard on each side and clear of the street pavement from which there is access to lots, or where there is a planned pedestrian or bicycle path.

Trunk collector streets should provide a separate path of bitumen, concrete or blockwork to the approved construction standard on each side and clear of the street pavement on which there is access to lots or where there is a planned pedestrian or bicycle path.

Pedestrian only footpath, where required, should be 1.2m minimum width widened to 1.4 metres minimum in the vicinity of meeting points, schools, shops and other activity centres. Pram crossings with a maximum gradient of 1:12 should be provided at upright kerbs.

Shared pedestrian–bicycle paths adjacent to trunk collector streets or collector streets providing major access to a primary school should be a minimum 2 metres wide and designated as a shared pedestrian/ bicycle route in accordance with the guidelines published by the State Bicycle Committee (1987).

### **56.04-8 Element 8: Drainage systems**

#### **Objectives**

OC8.1 To prevent stormwater damage to property.

OC8.2 To contain nuisance flows to a level that is acceptable to the community.

OC8.3 To provide a stormwater system that can be maintained economically.

OC8.4 To provide a stormwater system that utilises open space and other open land for infiltration of run-off and stormwater retention in a manner that does not detract from its principal function.

OC8.5 To minimise the occurrence of traffic accidents during minor storm events.



- OC8.6 To minimise increases in stormwater run-off, and protect the environmental values and physical characteristics of receiving watercourses from degradation by urban run-off.
- OC8.7 To prevent flood damage to the built and natural environment and prevent both short term and long term inundation of dwellings.
- OC8.8 To ensure the street system operates adequately during and after major storm events.
- OC8.9 To provide a stormwater system that minimises erosion and utilises open space in a manner that does not detract from its principle function.
- OC8.10 To protect the environmental values and physical characteristics of receiving watercourses.

### **Standards**

#### **SC8.1 Minor drainage design layout**

The design of drainage systems must be undertaken by a qualified person, using recognised hydraulic, hydraulic and residential parameters and design methodology.

The minor drainage system must ensure that any overflow is directed to the major drainage system without causing damage to property or affecting the safety of people.

The minor drainage system should be designed to ensure that existing downstream flows are restricted to pre-development levels unless otherwise agreed to by the responsible drainage authority.

The minor drainage system must enable the safe passage of vehicles at reduced speeds on streets that have been affected by run-off from an AEP of 50 per cent.

The drainage network must be accessible and designed for easy maintenance.

Drainage networks must minimise the potential for accumulation of silt and debris, and provide for collection and removal at accessible locations.

Drainage networks must ensure that there are no hidden flow paths that could reduce the effectiveness and operation of failsafe mechanisms.

Where a portion of the drainage system lies within a lot, access must be available for maintenance.

#### **SC8.2 Minor drainage capacity**

The minor drainage system should be designed to have the capacity to control stormwater flows under normal operating conditions for an Annual Exceedance Probability (AEP) of 50 per cent, except where overland flows exceed 0.4 square metres per second in this case piping to 20 per cent AEP should be provided. In this standard control means the management of the flows to ensure the system will act in a predetermined manner under a specific rainfall event.

The minor drainage system should prevent ponding for a prolonged period from a stormwater flow of an AEP of 50 per cent—that is ponding for longer than 1 hour after cessation of rainfall.

### **SC8.3 Minor drainage design details**

Materials used in drainage networks must be durable, maintainable and cost effective to the community.

Design should be based on the *Australian Rainfall and Run-off* (I.E. Aust, 1987) and cited references.

Design should be based on a coefficient of run-off for impervious areas of 0.9, and for pervious areas, a coefficient derived from *Australian Rainfall and Run-off* or from locally based research.

Design should be based on a rainfall intensity based on the Annual Exceedance Probability as follows:

- For suburban residential areas, an AEP of 50 per cent, except where the gap flows create a situation where the mean flow depth (da) multiplied by the mean flow velocity (vave) exceeds 0.4 square metres per second.
- For residential lots with gross densities less than 20 lots per hectare, an AEP of 20 per cent.
- For residential lots with gross densities greater than 20 lots per hectare, an AEP of 10 per cent.

Swale drains on access places or access streets should be designed so that ponding for greater than 1 hour after cessation of rainfall is unlikely, operating flow velocities are less than 1.5 metres per second and the turf used is resistant at operating flow velocities to scour and erosion, and tolerant of submersion.

### **SC8.4 Minor drainage direction of discharge**

House drainage should be directed to the front of the lot and discharged into the street gutter or legal point of discharge unless the topography of the lot makes it necessary to do otherwise.

Where soil permeability is adequate for on-site filtration, a soak pit may be provided.

Where the topography of the lot makes it necessary to discharge to the rear of the lot, inter-lot drainage designed to accept the run-off from impervious areas should be provided.

### **SC8.5 Drainage pits**

Drainage pits should be spaced at intervals of no greater than 90 metres, to assist maintenance programs.

Drains should be placed so that the minimum depth below the top of the kerb is 0.75 metres to top of pipe, and in lots the minimum depth is 0.3 metres from top of pipe to the finished surface (except where plastic pipes are used, when the minimum depth is 0.45 metres).

Drainage pits should be designed for the collection and retrieval of silt, debris and litter provided at locations nominated by the responsible drainage authority.

Culverts and piped drains should operate with flow velocities between 0.6 and 0.8 metres per second under normal conditions providing that it can be demonstrated that the culvert or drain will remain serviceable at high velocities.

Culverts and piped drains should operate under head during a designed flow, providing that a detailed hydraulic grade line analysis demonstrates that no section of the drainage network is surcharged to the extent that stormwater will leave the piped drainage system and discharge overland except by design.

Culverts and pipes should comply with the appropriate Australian Standard for their manufacture and installation.

#### **SC8.6 Major drainage system**

The drainage system should be designed by a qualified person in accordance with the requirements of the responsible drainage authority.

The major drainage network should have the capacity to control stormwater flows under normal and minor system blockage conditions for an AEP of 1 per cent.

All dwellings must be protected from inundation during a flood or 1 per cent AEP.

The drainage system must be designed to ensure that flows downstream of the site are restricted to pre-development levels unless increased flows are approved by the responsible drainage authority.

The built environment downstream of the proposed residential development must not be degraded by major drainage flows or floodwaters.

The street system should retain access to lots and minimises the occurrence of traffic accidents during and after major storm events.

The drainage system must be designed to ensure that the land form of watercourses is stabilised and that erosion is minimised.

Floodways must be restricted to areas where no damage to property can occur and must discharge all gap flows. Roadways may be used as floodways provided the flow depths and velocities do not create hazards for motorists.

Flow depths on streets should not exceed 50 millimetres above the top of the kerb (or where there is no kerb, above the top of theoretical kerb). Flows should be contained in the street reserve.

Flows within the street should be limited in depth and velocity by the formula:

$$d_a v_{ave} < 0.4 \text{ square metres per second}$$

where  
 $d_a$  = kerb side flow depth in metres  
 $v_{ave}$  = flow mean velocity in metres per second.

Habitable rooms must have floor levels 300 millimetres above the estimated flood level resulting from a flood of 1 per cent AEP.

#### **56.04-9 Element 9: Utilities provision**

##### **Objectives**

OC9.1 To provide public utilities to each lot in a timely, efficient and cost effective manner.

- OC9.2 To maximise the opportunities for shared (common) trenching and reduce constraints on landscaping within road reserves.
- OC9.3 To provide a sewerage system which is adequate for the maintenance of public health and the disposal of effluent in an environmentally friendly manner.
- OC9.4 To provide public lighting to ensure safety of pedestrians, cyclists and vehicles.
- OC9.5 To provide an adequate, reliable, safe, efficient and potable supply of water.

### **Standards**

#### **SC9.1 Common trenching**

The reticulated services for water, gas, telecommunications and electricity should be provided in common trenching wherever practical to minimise construction costs and land allocation for underground services.

#### **SC9.2 Sewerage**

Provision should be made for the treatment and disposal of sewerage wastes to the satisfaction of the responsible authority or relevant servicing authority.

Sewerage should be disposed of by a reticulated system.

Sewerage facilities must be designed by a qualified person in accordance with the requirements of the relevant servicing authority.

#### **SC9.3 Water supply**

An adequate supply of water must be provided to all lots in the development to the satisfaction of the responsible water supply authority.

#### **SC9.4 Electricity**

The electricity supply system must be designed by a qualified person in accordance with the requirements of the relevant electricity supply agency.

#### **SC9.5 Telecommunications**

The telecommunications system must be designed by a qualified person in accordance with the requirements of the relevant telecommunications servicing agency.

#### **SC9.6 Gas**

The reticulated gas supply must be designed by a qualified person in accordance with the requirements of the relevant gas supply agency.

#### **SC9.7 Public lighting**

Public lighting should be provided to streets, footpaths, public telephones, and to major pedestrian and bicycle links likely to be well-used at night to provide safe passages for pedestrians, cyclists and vehicles.

The street lighting must be designed in accordance with *Australian Standard 1158.1 (1986)*.

**SC9.8 Mail boxes**

Provision should be made for the siting of mailboxes of appropriate size and height for the safe and convenient delivery of mail to each dwelling, in accordance with the requirements for Australia Post in *Provision for Mail Delivery in New and Renovated Buildings (1985)*.

Proposed amendment **Add new definitions to the VPP to assist in interpretation.**

**7**

<b>GENERAL TERM</b>	<b>DEFINITION</b>
<b>Access lane</b>	A side or rear lane principally providing access to parking on lots with street frontage.
<b>Access place</b>	A minor street providing local residential access with shared traffic, pedestrian and recreation use, but with pedestrian priority.
<b>Access street</b>	A street providing local residential access with shared traffic, pedestrian and recreation use with localised movement priority.
<b>Accessway</b>	A driveway within a multi-unit development.
<b>Approved construction standard</b>	Any specification document adopted by the responsible authority which outlines the standards of construction for pedestrian paths, bicycle paths and streets.
<b>Building Envelope</b>	A diagram setting out siting and wall heights for development on a particular lot.
<b>Carriageway</b>	The area of road provided for the movement or parking of vehicles, which is usually between the kerbs of the road.
<b>Deflection angle</b>	The angle between two tangent sections of a carriageway.
<b>Design speed</b>	A speed chosen for determining the geometric properties of a proposed carriageway.
<b>District structure plan</b>	A plan showing how a parcel of land fits within a broader urban and regional context, including location of local neighbourhoods, land use, major transport and utility networks, drainage and open space systems.
<b>Elevated</b>	More than 1.5 metres above natural ground level.
<b>Habitable room</b>	A room used for normal domestic activities including a bedroom, living room, lounge room, music room, television room but excluding a bathroom, water closet and other spaces of a specialised nature occupied neither frequently nor for extended periods.
<b>Integrated development</b>	The subdivision and development of lots for dwellings for which development approval is given for subdivision in conjunction with the siting and design of buildings, services and landscaping and where necessary the construction of street.
<b>Local streets</b>	Access places and access streets.
<b>Local structure plan</b>	A plan showing in outline the overall development intentions for an area, including land use, major transport and utility networks, drainage and open space systems and built form.
<b>Neighbourhood character</b>	The interplay of natural, built form, social and cultural characteristics that make one place different or distinct from another.
<b>Open to the sky</b>	An unroofed area or area roofed with material that transmits 90 per cent of light.

<b>Private open space</b>	An open area of land or building attached to a dwelling intended for the exclusive use of the occupants of the dwelling.
<b>Public open space</b>	Land set aside on a plan for recreational purposes by the public and includes parks, public gardens, riverside reserves, pedestrian and cyclist access ways, playgrounds and sportsgrounds.
<b>Secluded private open space</b>	That part of private open space primarily intended for outdoor living activities which enjoys a reasonable amount of privacy.
<b>Setback</b>	The horizontal distance between a proposed wall or window and the boundary or other window.
<b>Site</b>	An lot proposed for development, or part of a lot identified for a stage of development.
<b>Site analysis plan</b>	A plan which illustrates the site in the context of its surrounds and which identifies opportunities and constraints.
<b>Site coverage</b>	The area of a site covered by buildings, usually defined as a percentage. It does not include the area covered by unroofed swimming pools, unroofed terraces or eaves.
<b>Slow points</b>	Sections of a street which have geometric features which limit the travel speed of vehicles. These include bends, constrictions to carriageway width, surface obstructions, etc.
<b>Streetscape plan</b>	A plan showing the visible components within a street or part of street, including the form of buildings, setbacks, fencing, landscaping, driveway and street surfaces, utility services and street furniture such as lighting, signs, barriers and bus shelters.
<b>Subdivision</b>	The division of land into 2 or more parts which can be disposed of separately.
<b>Unencumbered public open space</b>	Any public open space which is unaffected by any easement or other condition which limits its use or availability to the public.
<b>Verge</b>	That part of the street reserve between the carriageway and the boundary or adjacent lots. It may accommodate public utilities, footpath, indented parking, stormwater flows, street lighting poles and planting.
<b>Wall height</b>	The vertical distance between the natural ground level and the point where the wall plane intersects the top of the roof covering. The height of a wall supporting a skillion roof is the average height of the roof line. The height of a triangular gable end is measured from a point one-third the height of the gable.

Amend the Building regulations to

- Delete words marked as follows: ~~Deleted words shown like this.~~
- Add words marked as follows: Additional words shown like this.

### **Division 3—Class 1 and associated Class 10 buildings**

#### **4.3 Application of this Division.**

Subject to section 11 of the Act this Division applies to a single Class 1 building and associated class 10 buildings on an ~~allotment with an area of more than 300m<sup>2</sup> or an~~ allotment where a planning permit is not required for that development

#### **4.4 Siting requirements—~~VicCode 1~~ Clause 54 of the planning scheme**

- (1) Subject to this regulation, Class 1 buildings and associated Class 10 buildings must comply with  
~~the following VicCode 1 provisions—~~  
~~Element 2 Building siting and design—Performance Measures 1–3 and 5–12; and~~  
~~Element 3 Private open space—Performance Measures 1;~~  
the Standards set out in Clause 54.03 of the planning scheme of the relevant municipality; and
- (2) The consent and report of the relevant council must be obtained to an application for a building permit in relation to a design which does not comply with sub-regulation (1).
- (3) The relevant council may give its consent under sub-regulation (2), if the design meets the appropriate ~~Performance Criteria and Objectives~~ set out in ~~VicCode 1 for the Elements listed in sub-regulation (1)~~ Clause 54.02 of the planning scheme after consideration of the Decision Guidelines of the appropriate Standard.
- (4) Fences must comply with the following Elements and Performance measures—
  - (a) a fence exceeding 2m in height (except a fence to which paragraph (b) or (c) applies) must comply with  
~~Element 2 Building Siting and design, Performance Measures 2,8,9 and 10 of VicCode 1;~~



Standards SA4, SA5 and SA7 of Clause 54.03 of the planning scheme;

- (b) a fence (except a fence to which paragraph (c) applies) exceeding 2m in height within 3m of the street alignment forming the frontage of a lot must

~~comply with Element 8 Streetscape, Performance Measure 4 of VicCode 1 as if the reference in that Performance Measure to 1.2m were a reference to 2m;~~

be greater than 50 per cent transparent;

- (c) a fence located on a side or rear boundary and which divides abutting lots must comply with

~~Element 2 Building Siting and design, Performance Measures 2,8,9 and 10 of VicCode 1~~

Standards SA4, SA5 and SA7 of Clause 54.03 of the planning scheme  
if it exceeds 2m in height.

- (4A) The consent and report of the relevant council must be obtained to an application for a building permit for the construction of a fence which does not comply with sub-regulation (4)(a), (b), (c). In giving this consent the Council must be satisfied that the design of the fence meets the appropriate Objectives

~~and criteria set out in VicCode 1 for the Elements listed in sub-regulation (4)(a), (b), (c).~~

of Clause 54.02 of the planning scheme after consideration of the Decision Guidelines of the appropriate Standard.

- (5) The report and consent of the relevant council must be obtained to an application for a building permit for a carport which does not comply with sub-regulation (1).

- (5A) A window to which ~~Element 2 Building siting and design, Performance Measure 1 of VicCode 1~~ Standard SA7 of Clause 54.03 of the planning scheme applies may face a carport which would not satisfy the provisions of ~~Performance Measure 1 if Standard SA7 provided~~ the carport—

- (i) has two or more sides open; and  
(ii) is open for at least a third of its perimeter.

- (5B) For the purposes of sub-regulation (5A) a side of a carport may be taken to be open if the roof covering the carport adjacent to that side is not less than 500mm from another building on the allotment or the adjacent allotment boundary.

- (6) The relevant council may give its consent under sub-regulation (5) to a carport with a lesser setback distance to a street alignment ~~in accordance with Element 4 Vehicle parking, Performance Measure 8 of VicCode 1~~

after consideration of the Decision Guidelines of the Standard SA1 of Clause 54.03 of the planning scheme.

- (7) When calculating the site coverage under sub-regulation (1), unroofed swimming pools unroofed terraces and eaves may be disregarded.
-