

Determining compliance with assessment benchmarks

What determines compliance?

The Planning Act 2016 establishes the rules for deciding development applications, whilst the planning scheme sets out the rules for determining compliance with requirements and assessment benchmarks. The rules for determining compliance with assessment benchmarks are found in section 5.3.

This is particularly important for code assessment, where the *Planning Act 2016* requires that Council:

- a. must approve an application that complies with all of the assessment benchmarks;
- b. may approve an application even if the development does not comply with some of the assessment benchmarks; and
- c. may refuse a development:
 - i. only to the extent that it does not comply with an assessment benchmark; and
 - ii. only if compliance cannot be achieved through lawful development conditions.

Because the planning scheme was drafted under former planning legislation, the codes were not drafted with the Planning Act's bounded assessment and decision rules in mind. We are proposing changes to ensure that the planning scheme assessment occurs as intended.

What changes are proposed in Major Amendment 2?

The planning scheme currently provides that a code assessment achieves compliance with the entire assessment benchmark by complying with all of the acceptable outcomes. To ensure that development is assessed against the entire assessment benchmark, it is proposed to amend the rules for code assessment to provide that development that complies with the performance and overall outcomes complies with the code.

The amendment also includes rewording of application statements for each code and reworks relevant headings throughout each of the codes to ensure that the entire code is treated as a relevant assessment benchmark for code assessment.

Each code has been reviewed, and application statements and relevant headings of the code have been amended where required to ensure that the benchmarks operate as intended.

Of note, the application statements for each zone code have been expanded to apply to development that is reconfiguring a lot and operational works.

Where should I look in the planning scheme to find out more?

- Section 5.3 Categories of development and assessment
- Throughout part 6 - 8, particularly at the application statement and headings