



# Town of Cottesloe

Town of Cottesloe

Local Planning Scheme No. 3

Amendment No. 13

Modification to clause 5.7.5 in Local Planning Scheme No. 3 to introduce discretion to building height controls for new residential development

Planning and Development Act 2005

**RESOLUTION TO ADOPT AMENDMENT 13  
TO LOCAL PLANNING SCHEME NO.3**

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

*1.1 Modifying clause 5.7.5 as follows:*

*i. amend the first paragraph to read:*

*In the case of new dwellings, or proposed alterations, additions or extensions to existing dwellings, in the Residential, Residential Office, Town Centre, Local Centre, Foreshore Centre and Restricted Foreshore Centre zones, the local government may vary the maximum heights specified in Table 2 and clause 5.7.2, where in its opinion it is warranted due the circumstances and merits of the proposal, having regard to (as applicable);*

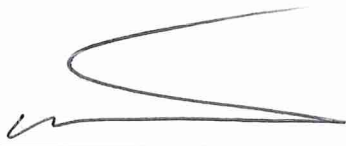
*ii. amend the last paragraph to read:*

*An application for planning approval requiring the exercise of the discretion under this clause is to be advertised in accordance with clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the notice of the application is to include such reference to the variation sought to any height standard or requirement as the local government thinks fit.*

The amendment is basic under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reason(s):

*It is consistent with the Planning and Development (Local Planning Schemes) Regulations 2015 and Residential Design Codes.*

Dated this 7<sup>th</sup> day of September 2022.



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(Chief Executive Officer)

## 1.0 INTRODUCTION

The purpose of this report is to present a proposed amendment to Local Planning Scheme No. 3 (LPS 3) to introduce discretion to building height controls for new residential development.

The change is considered necessary due to some of the building height provisions in LPS 3 being redundant as they have been superseded by the “deemed provisions” in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

## 2.0 BACKGROUND

The fundamental height regime for residential and non-residential development in the Town (apart from Special Control Area 2 and the Development zone areas) is contained in clause 5.7: Building Height, related Schedule 11, and Table 2: Development Requirements of LPS 3.

The definitions in LPS 3 relating to Building height, Wall height and the diagrams in Schedule 11 however, are redundant as they have been superseded by the “deemed provisions” in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The gazettal of the *Planning and Development (Local Planning Schemes) Regulations 2015* relating to the definition of building height, wall height, and natural ground level is significant as it has made some of the provisions in LPS 3 redundant. This is particularly true for new residential development which under the current LPS provisions is excluded from any height discretion being allowed.

If no change is made to LPS 3, the non-discretionary maximum building height for new residential development may result in an undesirable streetscape that does not satisfy the aims and objectives of the Scheme. This is largely due to the building heights being measured from existing approved site levels (including sites that have been excavated), in accordance with the “deemed provisions”.

### 3.0 LOCAL PLANNING CONTEXT

Modification to clause 5.7.5 in Local Planning Scheme No. 3

### 4.0 PROPOSAL

It is proposed that clause 5.7.5 in LPS 3 be refined to include new dwellings, and to read as follows:

*In the case of new dwellings, or alterations, additions or extensions to existing dwellings in the Residential, Residential Office, Town Centre, Local Centre, Foreshore Centre and Restricted Foreshore Centre zones, the local government may vary the maximum heights specified in Table 2 and clause 5.7.2, where in its opinion is warranted due the circumstances and merits of the proposal, having regard to (as applicable) -*

- a) the existing heights of the dwelling;*
- b) any relevant Local Planning Policy or Design Guidelines;*
- c) any heritage considerations relating to the dwelling;*
- d) relevant planning considerations identified in clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015;*
- e) adequate direct sun into buildings and appurtenant open spaces;*
- f) adequate daylight to major openings into habitable rooms;*
- g) access to views of significance;*
- h) building design to ameliorate the visual effects of height including consideration of setting-back the side walls of added storeys from the side walls of existing buildings; and*
- i) the amenity of adjoining properties, including road and public open space reserves, and the character of the streetscape;*

*and subject to the development -*

- a) not exceeding the permitted number of storeys; or where that is already exceeded, not exceeding the existing number of storeys;*
- b) not exceeding the height of the existing dwelling, unless the Council is satisfied with the design and its implications having regard to the above criteria; and*
- c) in the Foreshore Centre Zone, the development not exceeding the requirements of clause 6.4.3.1 (a) and (b).*

*An application for planning approval requiring the exercise of the discretion under this clause is to be advertised in accordance with clause 64 of the Planning and Development*

*(Local Planning Schemes) Regulations 2015 and the notice of the application is to include such reference to the variation sought to any height standard or requirement as the local government thinks fit.*

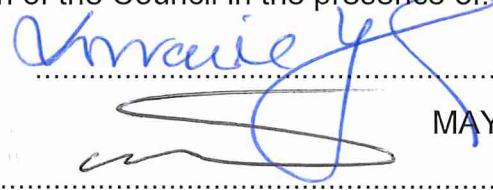
**5.0 CONCLUSION**

This is a basic amendment that does not require advertising as the proposed changes to the Scheme text are consistent with the Planning and Development (Local Planning Schemes) Regulations 2015 and the R-Codes.

FORM 6B

**COUNCIL ADOPTION**

This Basic Amendment was adopted and is recommended for approval by resolution of the Council of the Town of Cottesloe at the Ordinary Meeting of the Council held on the 26 day of July, 2022 and the Common Seal of the TOWN OF COTTESLOE was hereunto affixed by the authority of a resolution of the Council in the presence of:

  
.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER

**WAPC ENDORSEMENT (r.63)**

.....  
DELEGATED UNDER S.16 OF  
THE P&D ACT 2005

DATE.....

**APPROVAL GRANTED**

.....  
MINISTER FOR PLANNING

DATE.....