

Cr Boulter raised a point of order, stating that as Council has not fulfilled its resolution of 23 February 2016 to “*defer initiating a Scheme Amendment until Council has adopted a policy position as to height discretion in Local Planning Scheme No. 3*” the item should not be considered.

The Mayor determined that Council should vote on whether to uphold Cr Boulter’s point of order.

That Cr Boulter’s point of order be upheld.

Lost 3/5

For: Cr Boulter, Thomas and Pyvis

Against: Mayor Dawkins, Crs Angers, Burke, Rodda and Birnbrauer

10.1.2 LOCAL PLANNING SCHEME NO. 3 - PROPOSED AMENDMENT NO. 6 - CLAUSE 5.7.5 - REFINEMENT OF PARTICULAR HEIGHT PROVISIONS

File Ref:	SUB/2126
Attachments:	Schedule 11 Wall Height Submitter Wall Height Diagram
Responsible Officer:	Mat Humfrey Chief Executive Officer
Author:	Andrew Jackson Manager Development Services
Proposed Meeting Date:	26 April 2016
Author Disclosure of Interest:	Nil

SUMMARY

Council first considered this matter on 23 February 2016 and given a range of aspects raised resolved to defer initiating a Scheme Amendment until:

1. *Council has adopted a policy position as to height discretion in Local Planning Scheme No. 3.*
2. *Council has had an opportunity to properly reflect on the proposed alternative recommendation circulated at 3.09 pm 23 February 2016 by the Manager of Development Services.*

Subsequently Council and staff held a discussion session on the matter to consider the above in relation to the preferred scope and content for the proposed Scheme Amendment.

This report now re-presents the proposed Amendment to Local Planning Scheme No. 3 to introduce some additional discretion in relation to the residential building height controls. As previously reported to Council, Local Planning Scheme No. 3 was formulated and finalised with quite tight height controls and limited discretion.

The Local Planning Scheme No. 3 core height controls were modelled on those of former Town Planning Scheme No. 2, with a number of changes to detail which reduced discretion and constrained wall heights. After Local Planning Scheme No. 3

commenced, Council requested that staff report on the matter and has since undertaken two Scheme Amendments as follows:

- Amendment No. 1, to create discretion to increase height for extensions to existing dwellings, and for heritage buildings, echoing such discretion under Town Planning Scheme No. 2 but more closely guided.
- Amendment No. 3, to restore the maximum wall height limit for single storey buildings of 6m as under Town Planning Scheme No. 2, so that design is not unduly constrained.

This further Amendment is to allow a greater degree of flexibility for residential development by refining specific provisions that have been found to be restrictive. The beachfront Special Control Area 2 and the Development Zone have separate height provisions, which are not affected by this Amendment.

The recommendation is to proceed to prepare and advertise the proposed Scheme Amendment documentation.

BACKGROUND

As did former Town Planning Scheme No. 2, Local Planning Scheme No. 3 has its own height controls as distinct from relying on the Residential Design Codes (for residential development) and the basic limits are absolute with no general discretion to be varied, although there is specific discretion in certain circumstances.

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

Clause 5.7 defines *Building Height*, *Storey* and *Wall Height*; stipulates heights in metres in relation to number of storeys; and specifies discretion for a third storey in the roof space of a dwelling in the Residential Zone. The Scheme determines wall height as described and shown in the Schedule 11 diagrams (attached).

Clause 5.5: *Variations to Site and Development Requirements* excludes residential development from this provision for general discretion. Related *Schedule 13* makes it clear that this clause does not provide discretion in respect of height; that is, the only discretion for height exists within the height provisions themselves.

Clause 5.7.5 introduced by Amendment No. 1 gives Council discretion to consider over-height extensions to existing dwellings, applicable to the existing number of storeys and subject to the evaluation criteria; but it does not permit an additional storey to exceed the normal height limits. Hence an additional storey is required to comply with the limits as for a new two-storey dwelling.

While this framework for height control remains intact, concern has been raised regarding limits on extensions to existing dwellings, the measurement of wall height, and the method for natural ground level, which this report considers.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Planning & Development Act 2005

Planning & Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No. 3

FINANCIAL IMPLICATIONS

Cost of advertising can be met within existing budgets.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The Scheme Amendment process includes public advertising and consideration of submissions.

CURRENT CONSTRAINTS

Despite the abovementioned Scheme Amendments undertaken, in recent months a few development proposals have still been found to be constrained by the current height controls. Discussions with the proponents have generated submissions to Council seeking greater flexibility to accommodate building design considerations. Council and officers have indicated that the requests would be examined towards further refinements, to which this report responds.

The need to consider additional discretion is focused on two main aspects: extensions to existing dwellings and the interpretation of wall height, as explained below.

Clause 5.7.5

At present this clause is as follows:

In the case of 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 warranted due the circumstances and merits of the proposal, having regard to:

- (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 10.2;*

- (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; 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 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).*

The first part of the clause lists planning criteria against which to assess whether discretion is warranted in a particular case, as applicable. The second part of the clause goes on to specify provisos for such discretion to be exercised – it sets limitations on the extent to which height may be increased beyond the basic standards.

In the second part, the intent of point (a) read in context is that the discretion does not allow:

- A new over-height storey to be added above an existing dwelling (eg over-height second storeys to single-storey dwellings).
- The permitted maximum number of storeys to be exceeded for a dwelling that complies with that limit (eg third storeys to two-storey dwellings).
- Another storey to be added to an existing dwelling already exceeding the maximum number of storeys (eg three or more-storey flats). Note: this is distinct from the discretion regarding number of storeys in clause 5.3.5 for the redevelopment of existing grouped or multiple dwellings.

The intent of point (b) is that an extension to an existing over-height dwelling (which may comprise one, two or more storeys) should not exceed that building height unless the assessment criteria are satisfied.

Some practitioners have suggested that:

- The arrangement of the clause to firstly list assessment criteria and then limit their application is illogical and unfair.

Officer comment: The construction of the clause is sequential and the essence of Scheme provisions is to impose controls. The first and second parts of the clause could be reversed with the same effect. The main issue is that the clause does not allow an over-height second storey to be added atop an existing single storey dwelling (whether or not the single storey component complies with height).

- In the first part of the clause the “and” at the end of (h) means that all of the criteria must be satisfied, but that “or” is implied at the end of each point.

Officer comment: The “and” means that Council is to have regard to the relevant criteria applicable to a case. This is appropriate and should remain.

- The second part of the clause is confusing in terms of whether points (a) to (c) apply altogether or only where applicable.

Officer comment: The “and” means that points (a) to (c) are to be taken into account as applicable to a case. This is the same as in the RDC and should remain.

It is concluded that in the second part of clause 5.7.5, point (a) could be amended to provide discretion for a permitted storey added above an existing dwelling to be over-height, as determined against the assessment criteria. This would cater for a second storey added above an existing single-storey dwelling as the most likely occurrence, as well as for zones where three-storey dwellings may be permitted.

However, it is still considered important that the discretion be applied only where existing over-height dwellings render an added storey infeasible, such as due to the necessary space between the existing ceiling below and the new floor above, or the floor-to-ceiling height of the added storey having to meet the building code, etc, so that the clause is not exploited.

On another matter, it is noted that in the first part of the clause the reference in (d) to clause 10.2 has been superseded by similar clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Although this provision of the new Regulations is deemed to apply to Local Planning Scheme No. 3, amending clause 5.7.5 affords the opportunity to update this detail.

Wall height

Clause 5.7.1 defines wall height as follows:

“Wall Height” means the vertical distance between —

- (a) any point of natural ground level; and*
- (b) the level of the roof or the top of a parapet from that point in accordance with Figures 1, 2, 3 or 4 in Schedule 11.*

This is a change from Town Planning Scheme No. 2 which defined Building Height as the difference between the natural ground level at the centre of the site and the uppermost part of the building. The change arose as a modification required by the Minister for Planning, for consistency with the Residential Design Codes, Model Scheme Text and modern schemes. Due to the diverse building and roof forms experienced in Cottesloe, Council devised Schedule 11 to elaborate on the measurement of wall height. The primary definition in this clause is articulated in the Schedule to describe *the level of the roof* as follows:

Wall height shall be measured to the plate height of the wall (ie top of the wall as constructed, upon which the roof structure sits), whether or not there are eaves and whether or not the eaves are open or enclosed.

Some practitioners have suggested that this penalises designs because:

- This wall/plate height specification did not exist under Town Planning Scheme No. 2, which operated satisfactorily in relation to the measurement of wall height.
- The Residential Design Codes do not contain this wall height technique/restriction, relying on wall height being measured to the beginning of an eave, whereby the effective wall height presents below the eave (which may be open or enclosed).
- The detailed construction design of skillion and pitched roofs places the plate height at different points thereby affecting functional design and actual wall heights.

Two diagrams submitted illustrating the plate height/eaves situation are attached.

Officer Comment:

Although in the past there has been debate about the interpretation of wall height in relation to plate height, the Explanatory Guidelines of the Residential Design Codes advise that height is measured to the highest point of the wall or roof of a building (which includes plate height) and this is reflected in the wall height diagrams of the Codes. Therefore, Local Planning Scheme No. 3 is in keeping with the Codes in this respect, which also correlates with the meaning of natural ground level for consistency between the Scheme and the Codes, as mentioned below.

On this basis it is concluded that the Schedule 11 diagrams and reference to plate height as the method of measurement should remain. However, clause 5.7.5 for extensions to existing dwellings enables discretion to allow increased wall height measured in that manner.

Natural Ground Level

The measurement of natural ground level is another height aspect that changed from Town Planning Scheme No. 2 to Local Planning Scheme No. 3 and has also been queried. For building height (for all types of development) Local Planning Scheme No. 3 now relies on natural ground level at the point of measurement, rather than relative to the centre of the site as under Town Planning Scheme No. 2. As mentioned above, this is the same as how natural ground level operates under the Residential Design Codes and arose from a Minister's Modification to Local Planning Scheme No. 3. This Scheme Amendment does not propose to change that.

PROCEDURE

The Scheme Amendment procedure is initiated by a Council resolution, followed by preparation of official documents and gaining any environmental clearance prior to advertising for submissions. After considering any submissions Council resolves whether to support the amendment and any modifications, for forwarding to the Western Australian Planning Commission for assessment then the Minister for Planning for approval. Given approval, upon publication in the Government Gazette the amendment becomes incorporated into the Scheme and those provisions apply.

It is considered that under the Planning & Development (Local Planning Schemes) Regulations the changes contemplated to the height provisions constitute a

“standard” category Scheme Amendment, being technical in nature and warranting advertising, but not being a major or strategic matter requiring a “complex” Scheme Amendment procedure.

BRIEFING AND DISCUSSION SESSIONS

Council at its 16 February 2016 Briefing Session examined the matter and discussed discretion generally.

Officer comment:

In terms of the degree of discretion which may be exercised by Council – ie, how much additional height may be granted – that is to be determined in each case based on the assessment criteria of the clause and any other relevant planning considerations. This approach operated effectively under Town Planning Scheme No. 2 and is similar to how the Residential Design Codes work; entailing the initial specification of height limits in metres, then the ability to allow variation in accordance with guiding parameters.

To set a new limit in the discretion would in that sense defeat the purpose of providing for variation (subject to approval) in anticipation of a range of unforeseen circumstances which may arise. In each instance officers liaise with applicants to ensure that any variation is acceptable, while ultimately Council can condition the amount or not agree to a request it sees as excessive.

At the 29 March 2016 Discussion Session Council further examined the matter, including height-related Scheme Amendments so far, the core height controls, natural ground level, wall height, extent of discretion, upper-level side setbacks, submitter concerns, Councillor concerns and possible additional changes.

Overall, Council was of the view that:

- The Scheme Amendment should be confined to clause 5.7.5.
- The extent of discretion need not necessarily be limited, as it is closely-guided by the assessment criteria.
- Consideration of upper-level setbacks could be incorporated, whilst noting that the Residential Design Codes prescribe increased setbacks as the height of walls/buildings increase in any case.
- Any review of other height control aspects such as natural ground level or wall height should be dealt with separately from the proposed Scheme Amendment.

Consideration might also be given as to whether the discretion ought to be allowed only where it is demonstrated that an extension complying with the height requirements is infeasible; e.g. where the minimum ceiling height, rise of stairs, correct construction, etc, cannot be achieved. However, while that is one test of the need for discretion, a degree of design flexibility for balanced built form, sympathetic proportions, consistent roof pitches, etc, is another consideration, whereby the range of variables which may arise to seek discretion cannot be predicted. Therefore, such a qualification in clause 5.7.5 would seem too constraining and the assessment criteria enable case-by-case determination.

CONCLUSION

Whilst existing over-height dwellings may be extended (most often at the rear) to match their existing wall and roof heights, under Local Planning Scheme No. 3 as it stands a new second storey added above an existing single storey dwelling is required to comply with the basic height standards for such. This constrains design and may inhibit second storey additions to established dwellings, which exhibit streetscape, character or heritage attributes worthy of retention and restoration rather than potential demolition and replacement with a whole new dwelling. Hence the submissions seeking discretion to enable added second storeys to have increased wall and/or roof heights.

In this respect it is concluded that further amendment of the Scheme is desirable to cater for development proposals involving existing dwellings, allowing a reasonable degree of discretion. Whilst only a minor change is necessary, it is significant in facilitating dealing with alterations, additions or extensions to existing dwellings. The recommendation has been evolved to reflect Council's deliberations on the matter. Advertising of a draft amendment and consideration of any submissions will enable Council to finalise and adopt the improved provisions for endorsement by the Western Australian Planning Commission and approval by the Minister for Planning.

The wording of the necessary Council Resolution is in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* in terms of the statutory administrative procedure. For ease of understanding the full version of how clause 5.7.5 would read is set out below, with the changes indicated – wording to be deleted is shown struck-through and wording to be added is shown shaded.

Proposed amended clause 5.7.5

In the case of 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 warranted due the circumstances and merits of the proposal, having regard to:

- (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 10.2~~ 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 building; 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 existing number of storeys; Not exceeding the permitted maximum 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).

VOTING

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council in pursuance of the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*, hereby resolves to:

1. Amend the Town of Cottesloe Local Planning Scheme No. 3, to refine particular residential height provisions, by amending the Scheme Text clause 5.7.5 as follows:
 - a. In the first part, amend point (d) to read:

Relevant planning considerations identified in Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015;
 - b. In the first part, amend point (h) by adding the words below shown underlined:

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
 - c. In the second part, amend point (a) to read:

Not exceeding the permitted maximum number of storeys; or, where that is already exceeded, not exceeding the existing number of storeys;
 2. Form the opinion that the proposed amendment is a “standard” type amendment for that procedure to be followed, as the proposal is confined to existing residential development and involves desirable yet relatively minor technical adjustments only.
 3. Request the Chief Executive Officer to prepare the amendment documents for the purpose of advertising.
 4. Refer the proposed amendment to the Department of Environment for environmental clearance prior to advertising.
 5. Advertise the proposed amendment for submissions for a period of 42 days by:
-

- a. A notice in local newspapers, on the Town's noticeboard, on its website, and at the Library; and
- b. Placing a copy of the proposed amendment for inspection at the Town's Office, on the Town's website and at the Library.

Carried 5/3

For: Mayor Dawkins, Crs Angers, Burke, Rodda and Birnbrauer

Against: Crs Boulter, Thomas and Pyvis



Dickie
architects

architecture, landscape + urban design

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E dicarch@inet.net.au The Dickie trading as Dickie Architects / ABN 20 743 506 022 Reg No 1345

20th July 2015

The Chief Executive Officer
Town of Cottesloe
PO Box 606
Cottesloe
WA 6911

Dear Sir

re: ADVERTISING OF AMENDMENT No 6 TO LPS3

In response to the advertising of this proposed amendment we would like to draw the following to the attention of Council.

Changes were introduced in LPS3 that significantly alter the method of calculation of residential building heights. These are contradictory, unclear and differ from the methods provided in the Residential Design Codes. They also have the effect of encouraging development which is not in harmony with the existing forms of houses in the area. Whilst the amendment proposed allows Council discretion which should have been provided in previous amendments, it does nothing to address three other issues:

- 1 The method of measuring building height was altered in LPS3 by changing the base datum or natural ground level. In LPS2 the centre of the site was used but this has been altered to the vertical distance from natural ground level at a point. This has the effect of reducing permitted building height for some sloping sites and makes it more complex and expensive to fit a house on a sloping site since it may need to be stepped to comply;
- 2 In LPS2 wall height was not defined, therefore the definition in the R Codes should apply. WAPC has clarified that the heights set out in Table 3 of the Codes are to the underside of eaves, called "tops of external walls". LPS3 now defines wall height to "the level of the roof" which is not only illogical but it reduces the permitted maximum height of pitched roof dwellings by at least 400mm; and
- 3 The new definition allows an additional metre for measurement to the top of a parapet. The increase in permitted height to 7 metres has the result of encouraging flat roofed homes which are not typical of the area.

Diagrams which are reproduced in Schedule 11 of LPS3 from the R Codes are incorrect since they are used to limit building height. In the Codes these same diagrams are clearly marked "Wall height for lot boundary setbacks". They are NOT applied to building height.

Schedule 11 creates uncertainty by the statement "wall height shall be measured to the plate height of the wall". The scope for confusion is recognised by a supposed clarification "ie top of the wall as constructed, upon which the roof structure sits" but this introduces additional uncertainty since the roof structure can sit at differing heights depending on the roof form and wall construction. This definition is in conflict with that in Clause 5.7.1: "the level of the foot or the top of a parapet".

We support the amendments and in particular the addition to the second point (a) of Clause 5.7.5 which will give the Elected Members discretion to consider houses which exceed the height limits in all situations.

However we urge Council to address the other issues we have mentioned which have the effect of disrupting the streetscape by penalising homes with sloping roofs in favour of flat roof forms.

Yours sincerely

Martin Dickie

also on behalf of Andrew Stevens of Andrew Stevens Construction

Submission Form

Regulation 24(1)(a), 26(6)(a), 40(1)(a) & 49(1)(a)

Planning and Development Act 2005

To: The Chief Executive Officer of the Town of Cottesloe.

Submission on: Local Planning Scheme 3 / Amendment No 6Name: Matthew KeoghOrganisation / Company (if applicable): Nexus Home Improvements

Phone: _____

Address: 61 Spencer St Cottesloe Central

State how your interests are affected, whether as a private citizen, on behalf of a company or other organisation, or as an owner or occupier of property.

on behalf of builder

ADDRESS OF PROPERTY AFFECTED (if applicable). (Include lot number and nearest street intersection).

ST COTTESLOE
Closest to Marmion

SUBMISSION - Provide your comments in full and any arguments to support them (attach additional pages if necessary).

This is another project of many in the last year Nexus has not been able to present the client with an option to extend up as the rules do not allow it. A small discretion in height would of permitted a second storey addition. Now the owner has decided not to renovate another poor outcome for Nexus + Cottesloe.

Date: 13-7-16 Signature: [Signature]

Submission Form

Regulation 24(1)(a), 26(6)(a), 40(1)(a) & 49(1)(a)

Planning and Development Act 2005

To: The Chief Executive Officer of the Town of Cottesloe.

Submission on: Local Planning Scheme 3 / Amendment No 6

Name:

Matthew Keogh

Organisation / Company (if applicable):

Nexus Home Improvement

Phone:

Address:

61 Spencer St Cottesloe [sic]

State how your interests are affected, whether as a private citizen, on behalf of a company or other organisation, or as an owner or occupier of property.

on behalf of builder

ADDRESS OF PROPERTY AFFECTED (if applicable). (Include lot number and nearest street intersection).

Street Cottesloe
close to Birbeck Av

SUBMISSION - Provide your comments in full and any arguments to support them (attach additional pages if necessary).

Proposed second storey renovation
on hold due to height restrictions.
A small discretion on height would enable
this project to proceed. Without this
it is another older home left to fall
apart or be knocked down

Date:

13-7-16

Signature:

Submission Form

Regulation 24(1)(a), 26(6)(a), 40(1)(a) & 49(1)(a)

Planning and Development Act 2005

To: The Chief Executive Officer of the Town of Cottesloe.

Submission on: Local Planning Scheme 3 / Amendment No 6Name: Matthew KeoghOrganisation / Company (if applicable): Nexus Home Improvement

Phone: _____

Address: 61 Spencer St Cockburn Central

State how your interests are affected, whether as a private citizen, on behalf of a company or other organisation, or as an owner or occupier of property.

on behalf of builder

ADDRESS OF PROPERTY AFFECTED (if applicable). (Include lot number and nearest street intersection).

Cottesloe.
Closest Curtin Av.

SUBMISSION - Provide your comments in full and any arguments to support them (attach additional pages if necessary).

See attached letter which was
addressed to Shire and councilDate: 13-7-16 Signature: [Signature]

26th November 2015

Town of Cottesloe
109 Broome Street
Cottesloe WA 6011

Dear Sir/Madam,

Cover Letter for Application for Development Approval for

Cottesloe:

Nexus Home Improvements was engaged by the Cullen family to design and construct an upper floor addition for their character home at Street Cottesloe. The client wanted to provide more space for their house without sacrificing their beloved gardens and outdoor space which contribute extensively to the surrounding area.

Nexus consulted with the Town of Cottesloe regarding the proposed design and received positive comments regarding the proposed development. As a result of the positive comments received, Nexus proceeded to finalise the design and proceed to contract signing and planning application submission and to final colour addendum consultations with our client. Nexus submitted the planning application and after following up with Ronald Boswell were then advised that the application needed to be advertised and if no objections were received the councillors also had a week to review.

After the initial period had expired, Nexus then enquired again about the planning application and was advised that the application was with the Planning Manager awaiting final sign off. A week later, Nexus received an email advising that the wall height cannot exceed 6m from the NGL and the roof height cannot exceed 8.5m from the NGL and that there is absolutely no discretion to this regulation.

In light of this and the fact that this is a relatively new clause, Nexus believes that a variation to the Clause or a change in Policy guidelines needs to be considered for the following reasons. The Policy effectively means that in the Town of Cottesloe, virtually no character homes can have a second storey addition. The character homes, in Cottesloe, are built on limestone foundations that in this case are 0.85 metre in height from the natural ground level to floor level of the house. Once a 3.36 meter high existing ceiling is added, this gives a height from natural ground level of 4.21 metres.

Then the height from the ground floor ceiling to upper floor level is approximately 0.60 metres so the upper floor level is 4.81 metres from natural ground level. Consequently, there is only 1.19 metres in height left to reach the maximum wall height of 6.0 metres, which is completely unfeasible. The characteristics of this house are typical to all character homes in the Town of Cottesloe and indeed character homes of many established suburbs in Perth. So this Clause it seems was instated to impede any second storey additions, for existing dwellings in the precinct.

The local Town Planning Scheme No.3 does allow for these maximum heights to be exceeded but not when adding another floor to an existing dwelling:

5.7.5. In the case of 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 warranted due the circumstances and merits of the proposal, having regard to:

(a) The existing heights of the dwelling;

And subject to the development:

(a) Not exceeding the existing number of storeys;

Therefore, according to the Town of Cottesloe Policy, there are special circumstances where an existing two storey dwelling, that already exceeds the maximum height restrictions, can extend at the same height. However, an existing home which has pre-existing high ceilings, which cannot be amended, will have no discretion with the policy when adding another floor to the dwelling. The policy highlights the impracticability of such a clause, in a precinct a high number of old, single storey, character homes, which at some stage in the future would more than likely wish to add another storey to increase the floor space of the house.

Nexus would also like to highlight the fact that all neighbouring property owners have been consulted and that there were no objections to the planned development and there was no negative feedback about the proposed height of the development. The block is north-south orientated and therefore, the additional storey does not increase overshadowing to neighbours and there are no overlooking issues. Also the proposed new height for the dwelling will not impede on any potential views from any other neighbouring properties.

In consideration of the above mentioned points Nexus would like to request that The Town of Cottesloe consider using discretion with the proposed development at _____ and to make an assessment on a case by case basis. Included below are examples of dwellings where discretion was used by local council in the last 12 months. Both of these are examples of what can be achieved by a good quality and well-designed addition.



The result of this local planning scheme threatens the future existence of character homes remaining in Cottesloe where there is no option to extend up, as these properties will be more than likely bulldoze and start again propositions. Just a quick drive around the surrounding streets to Webb Street demonstrates this unfortunate result very clearly. There is plenty of construction underway but it is all for new homes which threaten the very aims of the scheme which claim to promote a strong sense of community identity and to sustain the character and streetscape quality of the area. The purpose of local government should be to protect the community from individuals carrying out developments that negatively impact other residents, in this instance there is no negative impact except for the development not being approved for our client so we are unsure as to whom the policy is trying to protect.

In consideration of the above mentioned reasoning, Nexus would like to suggest discretion of 500mm to 1000mm for maximum plate height for this instance as there is no neighbour objection, overshadowing or overlooking.

Going forward an amendment to the policy would be required with some sort of discretion permitted to allow these types of developments. Where there are no overshadowing, no overlooking and no or minimal impact to local residents the shire should be able to recommend for approval. Nexus would be happy to engage local councillors and planning officers to help come to



some sort of resolution. Our suggestions would be discretion of between 500mm and 1000mm on maximum ridge and plate height would be the most suitable.

Thank you for your consideration.

Kind Regards

Matthew Keogh
Nexus Home Improvements
Director

Submission Form

Regulation 24(1)(a), 26(6)(a), 40(1)(a) & 49(1)(a)

Planning and Development Act 2005

TOWN OF COTTESLOE

15 JUL 2016

RECEIVED

To: The Chief Executive Officer of the Town of Cottesloe.

Submission on: Local Planning Scheme 3 / Amendment No 6

Name:

DAVID & FELICITY CULLEN

Organisation / Company (if applicable):

Phone:

Address:

State how your interests are affected, whether as a private citizen, on behalf of a company or other organisation, or as an owner or occupier of property.

ADDRESS OF PROPERTY AFFECTED (if applicable). (Include lot number and nearest street intersection).

SUBMISSION - Provide your comments in full and any arguments to support them (attach additional pages if necessary).

We endorse the Amendment No 6
as it should allow modest necessary
renovation without having any negative
influence on our neighbour.

Date:

14-7-2016

Signature:

Cottesloe 6011
6th May 2016

CEO
Cottesloe Town Council
Broome St,
Cottesloe 6011

Dear Sir, re proposed additions to

This is to advise that we, as immediate neighbours of David and Felicity Cullen of
Cottesloe, have no objection to their proposal to extend their house to a second
storey, as shown on the plans they have submitted.

Yours faithfully,
Michael and Jacqueline Gregson.

TOWN OF COTTESLOE

15 JUL 2016

RECEIVED

DA 3247.

RECEIVED

Cottesloe

Western Australia 6011.

1 May 2016

To whom it may concern

I am the current sole owner of _____ I have inspected the planning application submitted to Cottesloe Council for an extension to their property by my adjacent neighbours Mr and Mrs Cullen at _____ and I have no objection to the building works proposed.

Yours sincerely

Timothy W Isaacs

LOCAL PLANNING SCHEME NO. 3 – AMENDMENT NO. 6

Existing clause 5.7.5 showing changes adopted by Council on 26 April 2016 for advertising and now recommended for final approval.

In the case of 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 warranted due the circumstances and merits of the proposal, having regard to:

- (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 10.2;~~ 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 existing number of storeys;~~ Not exceeding the permitted maximum number of storeys; or, where the permitted maximum number of storeys 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).*