

TOWN OF COTTESLOE

LOCAL PLANNING SCHEME NO. 3

AMENDMENT NO. 4

**PLANNING AND DEVELOPMENT ACT 2005
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME**

TOWN OF COTTESLOE

LOCAL PLANNING SCHEME NO. 3

AMENDMENT NO. 4

RESOLVED that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend the Town of Cottesloe Local Planning Scheme No. 3 to exclude roof terraces from being counted as open space in residential developments in certain circumstances, by amending the Scheme Text as follows:

In clause 5.3 *Special application of Residential Design Codes*, adding a new sub-clause entitled 5.3.8 *Roof terraces*, stating:

In the Residential zone, in areas coded less than R40, the provisions of the Residential Design Codes allowing open areas of accessible and usable flat roofs of dwellings (ie "roof terraces", including roof gardens, roof pools, viewing platforms or other roof-top recreational use and development) to be included towards the provision of open space, for the purposes of the Scheme are excluded from being counted towards the provision of open space, where:

- (a) located on the top storey of a flat-roofed dwelling; or*
- (b) located on the flat roof of the second storey of a dwelling having a third storey within the roof space of the dwelling.*

Dated this 4 August 2015


CHIEF EXECUTIVE OFFICER

MINISTER FOR PLANNING

Proposal to amend a Local Planning Scheme

1. Local Authority: Town of Cottesloe
2. Description of Town Planning Scheme: Local Planning Scheme No. 3
3. Type of Scheme: District Zoning Scheme
4. Serial No. of Amendment: Amendment No. 4
5. Proposal: To amend the Scheme Text to exclude roof terraces from being counted as open space in residential developments in certain circumstances.

SCHEME AMENDMENT REPORT

INTRODUCTION

This report explains the proposed Scheme Amendment to control residential roof terraces in lower density areas. The term *roof terrace(s)* includes roof gardens, roof pools, viewing platforms or other roof-top use and development (apart from rooftop access solely for building maintenance or servicing equipment).

In June 2015 Council considered a Notice of Motion to control roof terraces and resolved to examine amending the Scheme to disallow them, including any pools, to be treated as open space. The underlying concerns included loss of ground-level open space and greenery, bulkier dwellings, often with boundary walls, less attractive streetscapes, amenity impacts (eg privacy, noise), and limited use or maintenance of roof terraces as genuine open space.

In July 2015 Council considered a report and resolved to proceed with an Amendment as detailed herein. The focus is not to disallow residential roof terraces altogether, but rather to discount certain roof terraces from contributing to open space, whereby useable open space is to be otherwise provided.

BACKGROUND

Roof terraces can occur in single, grouped and multiple dwellings. Design-wise, roof terraces can be located atop a dwelling or, where a building is stepped, atop a storey with the next storey opening onto it (ie as a large terrace or balcony).

In Cottesloe roof terraces may apply to residential, commercial centre and beachfront localities, having regard to topography, views, climate and built form (ie lot size, height and density of development). Over the years a number of roof terraces have been proposed and approved in various buildings and positions. Council has considered them on a case-by-case basis, taking into account the planning implications and any submissions. Where within height limits and overlooking is controlled by setbacks or privacy screens, they have generally been supported.

However, a trend towards roof terraces at the expense of conventional open space has caused concern in core residential areas, which this Amendment responds to.

CURRENT SCHEME

The Scheme currently does not mention roof terraces or contain provisions managing them. The Scheme does, however, require that developments take into account the Scheme aims, zone objectives, orderly and proper planning, amenity, compatibility of development, submissions, built form, scale and appearance, and views. The Scheme also requires that applications should address the nature and extent of any open space and landscaping proposed for a site. These planning parameters are reference points in considering roof terraces.

CURRENT RESIDENTIAL DESIGN CODES

The Residential Design Codes (RDC) are a State Planning Policy incorporated into local planning schemes by reference, and deal with residential development only.

In relation to the RDC, under the Scheme a generic power of all schemes, in clause 5.3 *Special application of Residential Design Codes* provides for variations to the RDC for particular aspects, some being already contained in the Scheme. Further variations may be made via a Scheme amendment, which is required in order to alter how roof terraces are dealt with for residential development in Cottesloe.

The RDC define open space as including open areas of accessible and useable flat roofs. The RDC Explanatory Guidelines in section 4.3 refer to roof decks as countable open space (subject to visual privacy controls); and state that *the RDC should not unduly constrain how open space is provided and that adequate open space should, however, be retained for the lifecycle of the dwelling.*

The RDC in Part 5 set out design elements for single, grouped and multiple dwellings with less than R30 density coding. The context identifies open space as important to managing amenity, built form, landscaping and streetscape. Sections 5.1.4 and 5.1.5 specify open space provision as either deemed-to-comply or as assessed under design principles (ie performance-based assessment criteria), whereby there is discretion to reduce open space. For R20 and R30 density-coded areas, as in Cottesloe, for single or grouped dwellings the deemed minimum open space amount is 50% of the site area, with a minimum outdoor living area of 30sqm.

Interpretation of the RDC has been found to allow uncovered outdoor living areas that are more than 0.5m above natural ground level (eg a raised alfresco terrace or large entertainment balcony) to be allocated towards the provision of open space, thereby reducing ground level open space.

The RDC also define communal open space as shared recreational open space for the occupants of a group of dwellings. In Part 5 the deemed-to-comply standard permits common property communal open space for grouped dwellings to be partially credited towards open space provision, within defined limits – being a maximum 20% reduction per dwelling, the total reduction not exceeding the area of communal open space, and no reduction of the outdoor living area for each dwellings.

The RDC in Part 6 set out design elements for multiple dwellings in areas of R30 or greater density coding, or in mixed-use developments or activity centres. Deemed-to-comply open space provision is specified, or it may be assessed under design principles. For R30 to R60 density-coded areas, as in Cottesloe, for multiple dwellings, the deemed minimum open space amount is 45% of the site area.

CHANGES TO RESIDENTIAL DESIGN CODES

In July 2015 the State Government announced approved changes to the RDC, to commence on 23 October 2015, to provide local governments with greater control on the location and nature of multiple dwellings. The changes include reducing the number of apartments that can be built on lots density-coded R30 and R35, as multiple dwellings will need to satisfy minimum and average lot area requirements.

These changes will address the concerns shared by Council and other local governments about the bulk and scale and other impacts of multiple dwellings in suburban areas. Open space continues to be required, ranging from 50% of the site areas at R20 density coding to 45% of the site cover at R35 density coding. Roof terraces are still allowed to be counted as open space; ie there is no change to the RDC in that respect.

AMENDMENT PROPOSAL

The Scheme Amendment is straightforward in disallowing rooftop terraces to be counted as open space for residential development in lower density areas. This means that open space as defined by the RDC would be required to be provided at ground or other levels, encouraging setbacks and discouraging extensive boundary walls.

The aim is to protect the Residential zone R20 and R30 density-coded areas in particular from the erosion of conventional suburban open space. Hence the Amendment relates only to the Residential zone for area coded less than R40 (which is consistent with the proposed new structure or the RDC).

The effect of the Scheme Amendment would be that, for solely residential development (ie single, grouped or multiple dwellings), a roof terrace to the top storey may still be approved but could not be claimed as open space. This would avoid appeals against the Town not accepting such roof terraces as open space.

The Scheme Amendment is aimed mainly at typical two-storey flat-roofed dwellings with roof terraces on the roof of the top storey. However, the Scheme also provides for a third storey within the roof space (at Council's discretion) and such designs may propose a roof terrace on the flat roof of the second storey and open onto it. While there are not many of these developments, the roof terrace to the second storey is the same as for a two-storey flat-roofed dwelling in terms of whether it should be counted as open space. Hence it should also be controlled by the Scheme Amendment.

Some parts of the Residential zone have higher density-codes, including areas of R40, R50 and R60 near the beachfront and areas of R40, R50, R60 and R30/60 near Stirling Highway. These areas already contain or are candidates for grouped and multiple dwellings developments, and may also attract roof terraces. The RDC stipulate a minimum open space requirement for all types of dwellings from R30 to R60. In the context of these denser nodes of development, roof terraces can be seen as desirable and constituting legitimate open space.

The Scheme Amendment does not apply to mixed-use developments in other zones, as for those areas clause 5.3.6 of the Scheme sets-aside the RDC and relies on Table 2 and other provisions to specify development requirements, based on plot ratio and other measures rather than open space.

CONCLUSION

The Scheme Amendment is a logical and practical mechanism to ensure that the subject roof terraces do not detract from open space provision, the quality of housing design and the amenity of residential developments and neighbourhoods.

TOWN OF COTTESLOE
LOCAL PLANNING SCHEME NO. 3
PROPOSED AMENDMENT NO. 4

Council resolves to recommend to the Honourable Minister for Planning that the Town of Cottesloe Local Planning Scheme No.3 be amended as follows:

Amend the Scheme Text in clause 5.3 *Special application of Residential Design Codes*, by adding a new sub-clause entitled 5.3.8 *Roof terraces*, stating:

In the Residential zone, in areas coded less than R40, the provisions of the Residential Design Codes allowing open areas of accessible and usable flat roofs of dwellings (ie "roof terraces", including roof gardens, roof pools, viewing platforms or other roof-top recreational use and development) to be included towards the provision of open space, for the purposes of the Scheme are excluded from being counted towards the provision of open space, where:

- (a) located on the top storey of a flat-roofed dwelling; or*
- (b) located on the flat roof of the second storey of a dwelling having a third storey within the roof space of the dwelling.*

ADOPTION

Adopted by resolution of the Council of the Town of Cottesloe at the Ordinary Meeting of the Council held on the 27 July 2015.


MAYOR


CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted for Final approval by resolution of the Council of the Town of Cottesloe at the Ordinary Meeting of the Council held on the _____, and the seal of the Municipality was pursuant to that resolution here unto affixed in the presence of:

MAYOR

CHIEF EXECUTIVE OFFICER

Submitted for Final Approval

DELEGATED UNDER S16 OF PLANNING AND DEVELOPMENT ACT 2005

Date: ____/____/____

Final Approval Granted

MINISTER FOR PLANNING

Date: ____/____/____