

CURRENT DELEGATION OF PLANNING POWERS – SEPT 2014

SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND

- (1) Council delegates to the Manager of Development Services and the Chief Executive Officer, the authority to recommend to the Western Australian Planning Commission those applications for subdivision and/or amalgamation for single houses that:
 - (a) conform to the provisions and requirements of Council's Town Planning Scheme and Town Planning Scheme policies.
 - (b) conform to an application for planning consent that Council granted its approval, which involved the subdivision or amalgamation of land as part of that application.
 - (c) do not involve a building that is listed in:
 - (i) State Register of Heritage Places;
 - (ii) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
 - (iii) Municipal Inventory as Category 1 and Category 2 buildings.
 - (iv) Town Planning Scheme Policy No. 12; or
 - (v) those buildings that are listed as either "Essential" or "Contributory" in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy unless the application meets the requirements of (1)(b) above.
- (2) Subject to (1)(c), should an application for subdivision for single house lots be received, and those lots do not comply with the average lot size for the applicable density coding, the Manager of Development Services is authorised to make a determination on that application provided the original site is suitable for the development of grouped dwellings.
- (3) The delegate is to consider the imposition of such conditions as the delegate considers necessary to:-
 - (a) meet the requirements of the Town Planning Scheme, or Residential Design Codes, Town Planning Scheme Policies or conditions of planning consent where appropriate; and
 - (b) preserve the amenity of the area by addressing such matters as effective site maintenance and controls, such as screening of the site where no development is proposed for that site.

Clearance of Conditions of Subdivision or Amalgamation Approval

- (a) The Manager of Development Services or the Chief Executive Officer are authorised to grant a clearance of the conditions of subdivision approval for any application for subdivision or amalgamation, where the Manager of Development Services or the Chief Executive Officer are satisfied that the relevant conditions of approval have been complied with.

DETERMINATION OF APPLICATIONS FOR PLANNING CONSENT

In accordance with the provisions of Clause 7.10 of the text to the Town of Cottesloe Town Planning Scheme No. 2, Council delegates to the Manager of Development Services or the Chief Executive Officer, the authority to determine those applications for planning consent detailed in Clause 1, subject to the provisions of Clause 2.

(1) Extent of Delegation

- (a) Subject to the provisions of Clause 2, the authority to determine applications for planning consent shall be restricted to the following types of applications:
 - development relating to single houses;
 - additional dwelling;
 - no more than two grouped dwellings or multiple dwellings;
 - home occupations;
 - minor additions and alterations to existing unit developments;
 - minor additions and alterations to existing commercial premises; and
 - change in land uses.

In the case of applications for planning consent for the demolition of a building, the authority to grant planning approval is restricted to only those buildings that are not listed in the:

- (b) State Register of Heritage Places;
- (c) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
- (d) Municipal Inventory as Category 1 and Category 2 buildings;
- (e) Town Planning Scheme Policy No. 12; or

- (f) List of those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.

The delegation referred to above, also extends to development that occurs within a Primary Road Reservation under the Metropolitan Region Scheme.

CONDITIONS OF DELEGATION

- (a) If it is a requirement of:
- (i) Town Planning Scheme No. 2; or
 - (ii) the Residential Planning Codes; or
 - (iii) the Town Planning Scheme Policies; or
 - (iv) any other relevant statutory document.
- (b) that the adjoining owners, occupiers and owners of other properties which may be affected by the proposed development, be advised in writing of the application and given the opportunity to submit comments in writing to the Council, then before exercising this delegated authority, the Manager of Development Services or the Chief Executive Officer, must be satisfied that when such a requirement exists, the required notices were served.

Power to Grant Planning Approval

- (a) The Manager, Development Services or the Chief Executive Officer has delegated authority to determine those Residential applications for Approval to Commence Development where:
- (i) the development meets the Acceptable Standards in the Residential Design Codes;
 - (ii) the Manager, Development Services is satisfied that the development meets the Performance Criteria for Design Elements 2-6 and 8-10;
 - (iii) the development meets the Acceptable Standards of Part 4.1 – Special purpose Dwellings;
 - (iv) the development meets the requirements of the existing Town Planning Scheme Text and Policies; and
 - (v) submissions received on the development proposal:
 - (A) are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated on planning grounds;

- (B) are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR
 - (C) can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.
- (b) The Manager, Development Services or the Chief Executive Officer does not have delegated authority to make a determination on an application for Approval to Commence Development that:
 - (i) seeks a variation to Design Element 1 – Density of the Residential Design Codes;
 - (ii) seeks approval for development forward of the 6.0m street setback line (unless the matter relates to Town Planning Scheme Policy 004 – Garages and Carports Forward of the Building Line);
 - (iii) development under Part 4.2 Mixed-Use Development provisions of the Residential Design Codes;
 - (iv) variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;
 - (v) unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:
 - (A) State Register of Heritage Places;
 - (B) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
 - (C) Municipal Inventory as Category 1 and Category 2 buildings;
 - (D) Town Planning Scheme Policy No. 12; or
 - (E) those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.
 - (vi) that has been "called in", as set out in part (5) below.
- (c) Notwithstanding the requirements of parts (3)(a) and (b), where Council has previously made a determination on an application for Planning Approval and:

- (i) that approval has expired and a new application for planning approval has been lodged; or
- (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;
- (iii) the Manager, Development Services or the Chief Executive Officer are authorised to deal with these application under Delegated Authority.

Power to Refuse Planning Approval

When the application does not conform to the provisions and requirements of the Council's Town Planning Scheme, Policies and/or the Residential Design Codes and no discretion to vary such control exists.

Call In Process for Applications

- (a) Before exercising their delegated powers, the relevant officer is required to provide a notice to each Councillor in writing, advising of their intention to make a determination on the application(s) for Planning Consent contained within that notice.
- (b) The notice will identify at least, the following information:
 - issue date of notice;
 - closing date for calling in of applications;
 - the address of the property,
 - the applicant;
 - description of the proposal;
 - whether proposal was required to be advertised,
 - whether there were any submissions;
 - Council or applicants response to the submission(s); and
 - the date the application was received.
- (c) Councillors have seven days from the date of the notice to call in any application to be dealt with by the Manager, Development Services or the Chief Executive Officer.
- (d) An application will be deemed to be "called in" when:
 - (i) written notification of the call in has been received by the Planning Services Secretary; and

- (ii) two Councillors have supported in writing, the call in of the application.
- (e) A called in application will be referred to the next appropriate meeting of the Development Services Committee for consideration.
- (f) The Planning Services Secretary is to confirm receipt of the calling in of any application.
- (g) Should one or both of the two Councillors that called in the application withdraw their support in writing, then the application is no longer "called in".
- (h) If one of the two Councillors withdraw their support for the calling in of the application, the staff are to inform the other councillor of the withdrawal of support.
- (i) The Manager, Development Services or the Chief Executive Officer are then authorised to proceed with making a determination on the application for Planning Consent.

Development Applications for minor works requiring approval by the Western Australian Planning Commission

The Manager, Development Services is authorised under section 7.10 of the Town Planning Scheme text to provide comments to the Western Australian Planning Commission on development applications on Reserved Land that involves minor works, where the Western Australian Planning Commission is the determining authority.

Amendments May 2006

- (a) Adding to this delegation in the section on Subdivision and Amalgamation the following; being new clause (1) (d):

Minor subdivision or amalgamation proposals such as boundary adjustments, ROW widenings, corner truncations, etc, and in relation to any zoning, land use or development, which are considered to be virtual technicalities and of no consequence to other parties nor of strategic significance, may be responded to under this delegation.
- (b) Deleting from this delegation the references to those buildings that are listed as either Essential or Contributory in the proposed Heritage Areas under the Town of Cottesloe Draft Heritage Strategy; being clause (1)(c)(v) in the Subdivision/Amalgamation section, clause (1)(f) in the Planning Consent section, and clause (b)(v)(E) in the Conditions of Delegation section as indicated in the report.