



MINUTES

Special Council Meeting

Wednesday, 6 June 2018 at 6.31pm

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MINUTES OF THE SPECIAL MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER, 135 CANNING HIGHWAY EAST FREMANTLE ON WEDNESDAY, 6 JUNE 2018.

1. OFFICIAL OPENING

The Presiding Member opened the meeting at 6.31pm

2. ACKNOWLEDGEMENT OF COUNTRY

"On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place."

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

Mayor J O'Neill	Presiding Member
Cr C Collinson	
Cr J Harrington	
Cr A McPhail	
Cr M McPhail	
Cr D Nardi	
Cr A Natale	
Cr T Watkins	
Cr A White	

The following staff were in attendance:

Mr G Tuffin	Chief Executive Officer
Mr A Malone	Executive Manager Regulatory Services
Ms C Catchpole	Senior Planner
Ms J May	Minute Secretary

There were 63 members of the public in attendance.

3.2 Apologies

Nil.

3.3 Approved Leave of Absence

Nil.

4. DISCLOSURES OF INTEREST

4.1 Financial

Nil.

4.2 Proximity

Nil.

4.3 Impartiality
Nil.

5. PUBLIC QUESTION TIME

5.1 Public Question Time
Nil.

6. PRESENTATIONS/DEPUTATIONS

6.1 Presentations
Nil.

6.2 Deputations

6.2.1 R Travers, George Street

Supported the Amendment as the best possible option for the site to have the building restored.

6.2.2 M Christensen, King Street

Supported the Amendment – wished to see the building restored but not at any price.

6.2.3 R Warren, George Street

Did not support the Amendment as he believed it would kill the development proposal.

6.2.4 P Unsworth, Duke Street

Could not support the Amendment as he considered the parking requirement directly related to the height of the proposed development. The car parking requirement should not be discretionary.

6.2.5 G McNish, East Street

Supported the Amendment however asked if it could be overruled. Advice was provided that the Amendment would be forwarded to the WA Planning Commission who could approve, refuse or modify the Amendment.

6.2.6 P New, Hubble Street

Sought confirmation that the height proposed by the Amendment would only allow a building to the height of the existing dome. This information was confirmed.

6.2.7 O Citronis, Glyde Street

Sought clarification of the setbacks to Duke Street which was provided.

6.2.8 D Hartree, Glyde Street

Did not support the Amendment which he believed would not provide scope to allow a viable development to fund the restoration of the heritage building.

6.2.9 T Jones, Bedford Street

Did not support the Amendment as he considered it was too restrictive and would not allow for a viable development to fund the restoration works.

6.2.10 J Farmer, Sewell Street

Supported the Amendment and congratulated elected members and staff for the work in preparing this document.

6.2.11 C Innes, Hubble Street

Supported the Amendment.

6.2.12 P Unsworth, Duke Street

Wished to clarify his earlier statement, advising that he supported all elements of the Amendment except where discretion was allowed when considering parking requirements.

6.2.13 J Saraceni, (Owner of Royal George Hotel site)

Stated that the main objective of the owners of this site and the community was to have the building restored and reused and requested Council reconsider the Amendment as it will render the site unviable. Development was required to have a plot ratio of 3:1, this was a requirement to develop the lot and restore the hotel. Disappointment expressed with the lack of consultation by Council with the owners of this site prior to determining the Amendment document. Stated that they had not set the development height of the building and they were still open to negotiating an outcome.

6.2.14 G Hawkes, Duke Street

Contrary to owner's comment, believed restoration of the building would provide a monetary return.

7. BUSINESS

7.1 Complex Amendment No. 15 to Local Planning Scheme No. 3 to Supplement Special Zone - Royal George Hotel Provisions – Consideration of Submissions and Support with Modifications

Owner	34 Duke Street P/L (Saracen Properties)
Applicant	Town of East Fremantle
File ref	TPS3A15; P/DUK34
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	6 June 2018
Voting requirements:	Simple Majority
Documents tabled	Nil
Attachments	1. Schedule of Submissions 2. Local Planning Scheme No. 3 - Amendment No. 15 - Modified Provisions

Purpose and Executive Summary

In June 2017 the Council initiated and prepared a Scheme Amendment for the Royal George Hotel site to supplement provisions in Local Planning Scheme No. 3 (LPS 3) specific to the site. The Hotel site (being 1,499m² and all of Lot 303 (No. 34) Duke Street) is a permanent entry in the State Heritage Register, classified by the National Trust and listed in the Scheme's Heritage List and Municipal Inventory (Category A). The site was purchased by Saracen Properties in June 2017 after it was transferred to the State of WA from the National Trust. A Heritage Agreement between the Heritage Council of WA and the owner formed part of the contract of sale.

After discussions with the owner and the then Department of Lands in May 2017 it became clear to the Town that the *Conservation Management Strategy* (developed in conjunction with the Heritage Agreement) would not address issues of development control or compatibility with the character and heritage qualities of the Royal George Hotel building, but was solely focussed on the restoration of the Hotel. Despite requesting to be engaged in drafting of the heritage agreement, the Town was not invited by the parties to that Agreement to be engaged in the process. The Town was also advised that the *Conservation Management Strategy* and the contract of sale would contain no specific development controls for the vacant portion of the site.

Following this outcome the Town then considered an Amendment to LPS 3 was required to incorporate site and development controls to apply to the restoration/conservation of the Hotel and redevelopment of the remainder of the site. At the Special Council meeting of 7 June 2017 the Council resolved to amend LPS 3 for this purpose and to proceed to advertise 'complex' Amendment No. 15 and refer the Amendment to the Heritage Council of WA and the Environmental Protection Authority.

Consent to advertise the Amendment was granted by the WAPC in June 2017 and the statutory advertising period ran for 66 days concluding on 11 September 2017. A total of 23 submissions were received; 15 from the community expressing both support and opposition to the Amendment but all favouring a low scale building of an equivalent height to the Hotel. One of the community submissions was a 115 signature petition primarily objecting to the building height and the associated traffic and parking impacts. The remaining submissions were from the Heritage Council, government departments and servicing agencies. The land owner's representative (Urbis planning

consultancy) also made a submission proposing modifications (9 storeys with potential for additional storeys if performance criteria achieved) depending to the Amendment primarily relating to building height, plot ratio and car parking.

The history of discussions with the owner has focussed on redevelopment of the rear of the site with a high-rise apartment tower. This development intention combined with the complexities of designing a building for a very constrained site which also contains a landmark heritage building resulted in the Town engaging an experienced urban design consultant to undertake a detailed built form study and review of proposals. The study was to primarily focus on building height and setbacks. The additional consultancy work and workshops held with Elected Members and consultation with the applicant resulted in the Town seeking an extension of the statutory period for considering submissions and preparing the final Amendment report for consideration by the WAPC. The WAPC has, however, granted an extension of time until July 2018.

During further discussions later in 2017 between the Town and the owner regarding the proposed development controls for the site, the owner requested the Town allow a community engagement exercise to be undertaken before determining the Amendment. Three community open days were held to gauge the level of community and business owner (George Street) support for a 21 storey residential building (5 level podium with 16 storey tower comprising ~40-45 apartments plus car parking). Notification of the Open Days was undertaken with a brochure delivered to residents/occupiers in the entire suburbs of North Fremantle, East Fremantle, White Gum Valley, Bicton, Palmyra, Fremantle (almost 11,000 flyers). The Town was aware of the Open Days but was not officially involved in organising or providing information at the Open Days or in preparing the information circulated beforehand and at the Open Days.

Subsequent to advice from the urban design study and related workshop discussions and feedback to the Town from the Open Day, modifications to the Amendment are now proposed. Most notably the modifications introduce a revised building height and increased building setbacks. Changes and additions have also been made to the land use, vehicle parking, noise and traffic management, access and the residential development/density provisions to further address the amenity concerns of nearby residents and to supplement and strengthen these provisions. The provisions relating to public art, landscaping and public open spaces have been deleted as they are no longer required; adoption of specific local planning policies has addressed these matters. The provision to vary standards has been removed in regard to the building height and setback controls.

The proposed modifications are believed to specifically address the issues raised in the submissions by further reducing the overall height, scale, bulk and physical impact of the building on the Hotel and the surrounding residential area and heritage Precinct (i.e. lower maximum building height and increased lot boundary setbacks). Further, all vehicle parking is to comply with Scheme provisions with no as of right provision for parking concessions and other provisions have been supplemented or introduced to address matters such as building design, noise, access, traffic management and land use.

As such further advertising of the Amendment modifications by the Town is not considered necessary from the point of view that residents' concerns are being addressed and the intensity and scale of development will be further curtailed. The applicant is also aware of the Town's point of view in regard to the preferred built form outcome for the site. Notwithstanding, further advertising will delay formalisation of development controls for the site as a minimum 42 day readvertising period would be required, which would further delay consideration of the Amendment by the WAPC and the Minister. This is not considered justified given further consultation will more

than likely result in a repetition of the submissions received in the initial advertising period. It is noted, however, that the WAPC or the Minister for Planning may require advertising of the modifications.

In light of the above it is recommended the Council resolve to support Amendment No. 15 to LPS 3 with proposed modifications and no further advertising of the modifications as outlined in the Officer's Recommendation (refer to Attachment 2 for Scheme Text provisions) and forward the Amendment to the WAPC for its consideration.

Background

The Royal George Hotel site is a 1,499m² triangular shaped lot located within the Town's historic Plympton Precinct directly abutting the Stirling Highway MRS 'Primary Regional Road' reserve. It is bound by Stirling Highway to the east, Duke Street to the west and George Street to the south. The Hotel is a permanent entry in the State Heritage Register, classified by the National Trust and listed in the Scheme's Heritage List and Municipal Heritage Inventory (Category A). The site having previously been owned by the National Trust is now in the ownership of a private property developer after its purchase from the State in June 2017.

Current site specific LPS 3 development controls

Gazettal of Amendment No. 10 in 2016 inserted the following clauses into the Scheme Text:

Part 4 - Zones

Clause 4.2- Objectives of the Zones

Special Zone – Royal George Hotel

- *To encourage the preservation and re-use of the Royal George Hotel building;*
- *To accommodate the redevelopment of the Royal George Hotel site in a manner which will complement the preservation of the hotel building; and*
- *To enhance and promote George Street as a vibrant main street.*

Part 5 – Special Development Controls

Clause 5.9.1

SPECIAL ZONE – ROYAL GEORGE HOTEL

(a) An application for the refurbishment or reuse of the Royal George Hotel building is to be accompanied by a heritage plan that will ensure the preservation of the hotel building.

(b) A heritage plan may include development standards and requirements for the development of the balance of the land on which the hotel building is located.

(c) The Council may consider innovative approaches to the development of land on which the hotel is located, if the development will lead to the on-going reuse of the hotel building for a purpose consistent with the objectives of the zone.

During early discussions with the owner/developer and the Department of Lands it was the Town's understanding that development standards, which would ensure that development on the vacant part of the lot would be compatible with the character and heritage qualities of the Hotel building and the surrounding residential area, were to be included in the *Conservation Management Strategy*. The Town did not have any involvement in any preceding discussions or drafting of the conservation strategy and was unaware that it was being progressed by the State Heritage Office, having had no advice from that office that it was being prepared. Shortly thereafter the Town became aware that the *Conservation Management Strategy* addressed only the restoration of the Royal George Hotel building.

The sale of the land to a private owner/developer was subject to a Heritage Agreement being registered on the Title in the form of a Memorial. The Heritage Agreement is a statutory binding agreement between the Heritage Council of WA and the owner/developer and will specify that the restoration works undertaken on the Hotel are to be completed within three years of the effective date (June 2017). The Agreement has been prepared by the State Heritage Office in conjunction with input from the Department of Lands. A *Conservation Management Strategy* (prepared by TPG Planning Consultants) is annexed to the Agreement and specifies the works to be undertaken to restore the Hotel. The Town was also advised that the Hotel is to be restored in conjunction with, or before any proposed development on the rear of the property. To ensure this, the Department of Lands also registered an absolute caveat on the Title and this will only be removed once the Hotel has been restored in line with the Heritage Agreement. As such no strata titling and subsequent selling of any apartments can commence until the State lifts the caveat.

Of greater consequence for the Town is that the Heritage Agreement and *Conservation Management Strategy* specifically deal with the restoration of the Hotel and not redevelopment at the rear of the site. It was the Department of Planning, Lands and Heritage's view that the developer would engage with the Town regarding the proposal and the development approval application process. It should be noted the Town was not contacted by the State Heritage Office during the preparation of the *Conservation Management Strategy*. The State Heritage Office was subsequently contacted by the Town's Officers in regard to the documents and the process followed and the response was as follows:

"...the State Heritage Office has been working with the Department of Lands on a Heritage Agreement which will form part of the contract of sale for that lot. The Heritage Agreement has a "Building Condition Assessment with Conservation Works" report attached to it to ensure that appropriate conservation works are undertaken as part of the development.

The State Heritage Office has not received any detailed plans or presentations from the prospective buyer. Preliminary concepts were presented to officers at a meeting in June 2015, which was also attended by Town of East Fremantle planning officials, but no drawings were retained for further review or comment. Therefore, I am unable to provide any comment on the Heritage Council's view of any proposed development of the site.

I understand that the Town of East Fremantle initiated a Special Zone for the lot in Scheme Amendment No. 10. The Special Development Controls point to a "heritage plan that may include development standards and requirements for the development." Would you be able to provide more information regarding the Town's proposal for the "heritage plan"? If the plan has not been finalised, has the Town begun the process of formulating its content? The State Heritage Office can provide assistance with the heritage aspects of the plan if required."

The Town has been informed by Saracens that they have been engaged in on-going discussions with the Heritage Council regarding the high-rise apartment tower proposal; the Town has not been involved in discussions or informed of the outcome of these meetings. A number of meetings have also been held with Main Roads WA to consider the potential use of Main Roads owned land by Saracens for parking purposes.

The owner has indicated and advised the community during the Community Open Days engagement exercise that a development approval application (i.e. a DAP application) is intended to be submitted in the coming months. The application will be for a mixed use development which would include the refurbishment of the Hotel for commercial purposes (e.g. café, restaurant, office, retail) as well as a 16 storey residential tower on top of a 5 storey podium building containing car parking and apartments (~40-45 multiple dwellings).

Details

Amendment Details

The Amendment proposes changes to the Scheme Text to add a column into the Zoning Table, and to incorporate site and development controls to apply to the restoration/conservation of the Hotel and redevelopment of the remainder of the site. The added column in the Zoning Table would set out, for the 'Special Zone – Royal George Hotel', the permissibility status for every use listed by the Planning Scheme. The site and development controls will be added to the end of the existing clause 5.9.1 which is headed 'Special Zone – Royal George Hotel'.

The original provisions addressed building height, building setbacks, plot ratio, noise management, car parking, traffic management, residential development, public art, landscaping and public spaces. It was also proposed that there would be a 'relaxation-of-standards', that is a variation provision, as a final sub-clause within clause 5.9. It would be specific to the 'Special Zone – Royal George Hotel'.

Within existing Planning Scheme provisions, there is a provision (i.e. clause 5.3.4) which provides that residential development within a non-residential zone is to be at a maximum density of R40. Although not a valid planning consideration the owner has argued that a density of R40 will almost certainly be incapable of producing a form of development that would be sufficiently viable to enable a developer to fund the restoration of the Royal George Hotel building. On the other hand, to the extent that provisions currently exist which are specific to the 'Special Zone – Royal George Hotel', these are open-textured with regard to the potential scale and intensity of potential development on the site. Whilst the heritage values of the Royal George Hotel building would be a relevant planning consideration on any development application, either for refurbishment of the Hotel building itself, or for development of any of the vacant part of the site, views may differ as to what scale and intensity of development on the vacant portion would be considered appropriate, in the absence of more specific controls. This position is of serious concern to the Town because it is highly likely a DAP application will be lodged in the near future which will propose a high-rise residential tower.

Urban Design Review/Study

Since preparation of the Scheme Amendment and following the feedback received during advertising, the Town concluded that the initial urgency and restricted timeframe in which the Amendment was prepared had not allowed for adequate time for full consideration of the built form scenarios and site constraints relevant to the site. As a result the Town engaged an experienced urban design consultant to provide detailed advice on alternate built form outcomes. In particular overall building height and building setbacks, focussing on the submission comments, heritage considerations, the surrounding suburban context, site constraints and the proximity of the Town Centre and Canning Highway developments.

The outcome of that work, as well as the results from the Amendment submissions, has primarily resulted in the controls relating to the overall height, scale and bulk of the building envelope being reduced from that initially proposed. It became evident and consolidated the Town's view that this

was the preferred built form outcome. Once the impact of buildings of a much greater scale could be visualised through a comparative building bulk, scale and massing exercise, including an analysis of car parking requirements and options. The various built form scenarios considered clearly demonstrated the impact various buildings would have on the Hotel, streetscape, Town Centre and the Municipality. The other relevant planning matter to be further considered was the very significant residential amenity impacts that redevelopment at the scale proposed on a severely constrained site would have on the local community and the short and long term repercussions for the Precinct of a development eventuating at the scale being proposed.

These issues have been reviewed and addressed through more onerous site and development controls in respect to land use, building height and setbacks, vehicle parking, access, noise and traffic management, building design and residential development. The amended, supplemented, and introduced provisions are believed to give sufficient consideration to the submissions, albeit the building envelope is still greater than that considered acceptable by most submitters and addresses the relevant planning considerations and matters raised. The Council response and recommendation in respect to each submission is noted in the Schedule of Submissions (refer to Attachment 1).

Community Design Advisory Committee

Despite the proposal not being a formal development approval application the owner requested a presentation be made to the Community Design Advisory Committee (CDAC). The CDAC made the following comments on the proposal:

- *Improved curtilage around the Royal George is requested.*
- *Improved residential and pedestrian interface with Duke Street.*
- *Request for the building to be of outstanding architectural merit.*
- *Request for increased public use and public return for the Royal George Hotel building.*
- *Concerns raised about the overall proposed building height.*

The proposal presented at the Community Open Days was the same as that presented to the CDAC.

Consultation

On 27 June 2017 the WAPC consented to the Amendment being advertised as a 'complex' Amendment.

The Commission advised that no modifications were required, however, the following comments were provided:

"The amendment documentation should be updated to reflect the WAPC's determination to consider amendment 15 a 'complex amendment'.

Whilst the Commission has undertaken a preliminary assessment, this should not be construed as support for the amendment or that further modifications cannot be sought post advertising."

The Amendment was officially advertised from 8 July to 11 September 2017 in accordance with the minimum 60 days required under the LPS Regulations 2015. Advertisements were placed in the *Fremantle Gazette* and *The Herald* for two consecutive weeks on 8 and 15 July 2017.

The formal advertising process included:

- letters sent to landowners and occupiers in the area generally bound by Marmion Street to the south, East Street to the west, Bolton Street and Preston Point Road to the north, the Town Centre and Allen Street to the east;
- information posted on the Town of East Fremantle web site (Form 4 on-line submission and ability to download the form);
- Signs on all frontages of the Amendment site;
- EPA, Heritage Council, Main Roads WA and service authorities notified;
- Notices on the Town's public notice board at Council's administration office;
- Administration office counter copies available; and
- A media release and article in the East Fremantle Newsletter and eNews.

As required under the Planning and Development Act, 2005 the Amendment was referred to the EPA and the Heritage Council. An environmental review was not required by the EPA and the State Heritage Office's comments are summarised as follows:

- a development application for the site is to be referred to a *suitably-convened* design advisory panel;
- remove duplication of provisions already contained in the Heritage Agreement;
- do not 'link' new development only with restoration of the Hotel – scope for new development that prepares both existing buildings and new development for future use;
- remove reference to *Conservation Management Strategy* in development control section – this is not a statutory planning instrument;
- replace/remove the word 'heritage plan' in the Scheme documents – redundant could be replaced with local development plan (LDP);
- replace development controls in Scheme Text with LDP;
- retain 'single house' use class in the Zoning Table – the number of restrictions on developers should be limited;
- review inclusion of provisions relating to public art and landscaping – consider deleting; and
- supportive of inclusion of height control subject to an understanding that the Heritage Council of WA may not support a development which complies with the height control but has a negative impact on heritage values.

At the Special Council meeting of 7 June 2017 the Council resolved to amend LPS 3 and to proceed to advertise 'complex' Amendment No. 15 and refer the Amendment to the Heritage Council of WA and the Environmental Protection Authority. Consent to advertise the Amendment was granted by the WAPC on 27 June 2017.

A total of 23 submissions were received; 15 from the community expressing both support and opposition to the Amendment. The submissions in support were primarily based on support for the Council placing a height control on the rear vacant portion of the site, whilst those objecting were on the basis that the height limit proposed was not low enough. Nearly all submissions commented on the significant traffic and parking issues being experienced in the Precinct and the impact on amenity of recent developments on George Street.

One of the community submissions comprised a 115 signature petition, primarily objecting to the height of the development and the associated traffic and parking. The land owner's planning consultant also made a submission which proposed modifications to the Amendment that mostly suggested changes to the height controls (9 storeys with the potential for further storeys if performance criteria could be achieved). The remaining submissions were from the Heritage

Council, government departments and servicing agencies. The matters raised in the submissions are summarised below and the submissions can be read in full in Attachment 1.

Community submissions

Supportive of Amendment (King, Bedford and Sewell Street) – 7 submissions:

(subject to certain requirements and conditions being imposed)

- Support for seven (7) storeys and the provisions in the Amendment on the basis all parking must be provided on the site.
- Concern with a decision-maker's ability to vary the height requirement (not supportive of provision to vary standards). Community should be provided with certainty in regard to land use and height. The provisions cannot be changed without scrutiny, transparency and accountability.
- A high quality architectural outcome must be the result of any redevelopment proposal.
- Heritage elements of the Hotel and the Precinct must be taken into account in the redevelopment of the rear of the site.
- A parking policy and strategy for the whole Precinct should be developed.
- Support a caveat remaining on the site to prevent sale of the development on the rear of the site until restoration complete.
- Council flexibility is required in assessment of a development proposal to ensure restoration of the Hotel.
- Keep as many mature trees as possible on the site. If not possible then plant additional trees on Duke Street.
- Building at the rear to be no higher than the existing Hotel.
- Support for commercial development of the site which includes heritage restoration.
- Apartment development at rear of the site is acceptable subject to parking for residents being provided on-site.
- Parking to be provided on-site for commercial uses as insufficient parking available for residents and this will worsen with size of family homes increasing in the Plympton Precinct.
- Traffic flow, management, safety and parking are critical issues in the Plympton Precinct and must be given top priority with any redevelopment proposal for the site.
- Any development over three (3) storeys should only be developed in the Town Centre with easy access to public transport and major traffic distributors.

Opposed to Amendment (King, Bedford and Allen Street) – 8 submissions (including petition)

- A seven (7) storey building is too high. Nothing higher than 3 - 4 storeys should be permitted.
- Redevelopment contained to a small high rise development no higher than five (5) storeys. Concerned about the visual impact on the integrity of the Royal George Hotel site. Also concerned with the impact of a development on traffic flow and parking. A problematic parking situation in the Precinct already exists and residents are very concerned the development will cause greater problems (petition).
- Character of the area should be maintained. Recent developments in the Town and this proposal are contrary to the character of the area.
- Seven (7) storeys will not complement the Royal George Hotel and will detract from the Hotel and the surrounding area.
- Any development on the site should not exceed the height of the Brush Factory. Ground level must be very clearly defined.

- The Hotel should not be detrimentally impacted by unattractive high-rise development.
- Seven (7) storeys would significantly impact on privacy and 'free use and enjoyment' of property and rear garden. Overlooking from apartments would severely impact privacy as rear gardens pools and outdoor entertaining areas face east due to street orientation.
- Car park building should not overshadow the dome of the Hotel.
- Preservation of a premier heritage building must be the priority. The Hotel dome should remain a significant feature of the skyline.
- Support for a strategic traffic impact assessment in the Plympton Precinct is required. King Street has not been mentioned in respect to traffic flow and since the completion of Richmond Quarter there has been a significant increase in the traffic volume in King Street. Significant increase in traffic is expected when the Brush Factory is completed and if there is residential development on the Hotel site this will exacerbate the problem.
- Parking, access and service delivery (e.g. waste collection) issues in the area in general have escalated over recent years with development along George Street and the Brush Factory. Granting concessions through use of street parking has not been adequate.
- Loss of solar access for solar collectors due to overshadowing unacceptable.
- Any infill development on the site should be accessible to low and middle income earners.

Regardless of whether the submissions supported or were opposed to the Amendment the main issue raised was with the height and scale of a potential building at the rear, its impact on the heritage building and the intensity of development (if a high rise apartment tower was to eventuate). Residents were mostly concerned with the visual dominance and physical presence of a high rise building and the impact on the Hotel and the heritage character of the Precinct. The concerns regarding the intensity of development mostly focussed on the impact a greater demand for parking would have on the area and likely congestion and traffic flow problems that would arise with additional residents and employees accessing the area. Support for the Amendment was qualified by comments related to full compliance with parking being provided on site, full restoration of the Hotel, compliance with the seven storey height limit and traffic and parking management being a priority consideration in the assessment of a development approval application. Particular individual concerns related to overshadowing, privacy, traffic, parking, access (vehicle and pedestrian), landscaping, retention of trees and the number, type and cost of apartment to be developed and the development being contrary to the objectives of infill development.

During continuing discussions between the Town and the owner, the owner proposed to undertake a number of Community Open Days to gauge the level of public support for a 21 storey residential building at the rear of the site. Notification of the Open Days was undertaken with a brochure delivered to residents/occupiers in the entire suburbs of North Fremantle, East Fremantle, White Gum Valley, Bicton, Palmyra, Fremantle (almost 11,000 flyers). The Town was aware of the Open Days but was not officially involved in organising or providing information at the Open Days or in preparing the information circulated beforehand and at the Open Days.

Information provided at the Open Days presented material that focussed on restoration and re-use of the Hotel and concept sketches for proposed improvements to the pedestrian underpass. Two detailed 21 storey architectural perspectives were provided of the apartment tower, however, there were no specific details in regard to car parking, vehicle access, servicing of the site and traffic management or any panoramic / skyline perspectives. A number of attendees at the Open Days commented negatively to the Town about this aspect of the consultation exercise. They were of the view that the full potential impact of the proposal on the community was being significantly understated. Another negative feedback comment was that the method of brochure delivery

advising of the Open Days was by a pamphlet distribution company who did not deliver to letterboxes where 'no junk mail' was posted on the box. Consequently, people did not receive the information or potentially discarded it because it was delivered with other pamphlets. The Town has also received written responses to the apartment tower proposal from residents who are strenuously objecting to the proposal. Many of the submissions make the comment that they would not want to see the Royal George Hotel refurbished if the cost or outcome was the construction of a high-rise building. This information has been forwarded to the owner's community consultation consultants.

Advertising of Modifications

At this point in the Scheme Amendment process further advertising of the modifications is to be given consideration by Council.

Further to the above, advertising of the modifications is not recommended for a number of reasons as discussed below:

- the modifications are not considered significant in that the variations to the site and development controls do not change the intent of the Amendment in that the objective to contain the height, scale and bulk and intensity of the development on the site to a low scale building (with a limited number of apartment) that does not exceed the height of the Hotel remains as such;
- the issues raised and the concerns of the submitters have been addressed and supported in that the building envelope is less than proposed and somewhat more closely aligned with the aspirations of the community;
- the site and development controls work more towards limiting the intensity and scale of development on the site;
- in light of the above re-advertising of the modifications would more than likely only illicit the same response to redevelopment of the site, more than likely with a stronger theme of objection to any development higher than the Hotel in light of the high rise tower proposal promoted at the Community Open Days. The Town and Elected Members are aware of the degree of community concern and the aspects of that concern;
- the owner has already made a submission on the Amendment indicating objection to the development controls proposed and has also indicated that a Development Approval application will be submitted in May 2018, thereby indicating that regardless of the Amendment provisions or progress of the Amendment they are intending to progress a development approval application; and
- that in keeping with the matters required to be given due regard by a local government for assessment of a development application under clause 67 of the Local Planning Scheme Regulations 2015 the proposed modifications are considered to: meet the requirements of orderly and proper planning, including the provisions of the local planning scheme and local planning policies; give consideration to the heritage conservation of the Hotel; have due regard for the compatibility of potential development within its setting and the amenity of the locality; give due regard to the amount of traffic likely to be generated by the development; considers the history of the site and the impact of the development on the community as a whole and considers the submissions received.

Furthermore, the Council has already determined that the development potential of the site should be greater than the current Scheme provisions allow (i.e. R40) so if further advertising resulted in submissions of a similar nature, or a repetition of those already submitted, the Town's response would not be to recommend further changes to the Amendment provisions.

Statutory Environment

Planning and Development Act 2005

Heritage Act of WA

Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No. 3 (LPS No. 3)

State Heritage List – Permanent Entry (30.10.1998)

Classified by the National Trust (5.12.2005)

LPS No. 3 – Heritage List – Category A

Policy Implications

Draft Local Planning Strategy 2016

Municipal Inventory 2015 – Category A

Financial Implications

Nil

Strategic Implications

The proposed Amendment is considered to be in line with the recommendations of the State strategic planning policies such as *Directions 2031 and Beyond* and *Perth and Peel @3.5Million*. It is anticipated that the Amendment will ultimately facilitate the development of this important heritage site with additional dwellings and commercial floor space commensurate with a mixed use area which will contribute to the economic development of the George Street mixed use area and the Town's dwelling target under State urban infill strategies.

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

Built Environment

Accessible, well planned built landscapes which are in balance with the Town's unique heritage and open spaces.

3.1 Facilitate sustainable growth with housing options to meet future community needs.

3.1.1 Advocate for a desirable planning and community outcome for all major strategic development sites.

3.1.2 Plan for a mix of inclusive diversified housing options.

3.2 Maintaining and enhancing the Town's character.

3.2.1 Ensure appropriate planning policies to protect the Town's existing built form.

3.3 Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.

3.3.1 Continue to improve asset management practices.

3.3.2 Optimal management of assets within resource capabilities.

3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
 - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
 - 4.1.2 *Plan for improved streetscapes parks and reserves.*
- 4.2 *Enhance environmental values and sustainable natural resource use.*
 - 4.2.1 *Reduce waste through sustainable waste management practices.*
- 4.3 *Acknowledge the change in our climate and understand the impact of those changes.*
 - 4.3.1 *Improve systems and infrastructure standards to assist with mitigating climate change impacts.*

Site Inspection

Various site inspections throughout 2017/18.

Environmental Implications

There are no known significant environmental implications associated with this proposal. The Amendment was referred to the EPA for 'Review' and the EPA advised on 3 July 2017 that the proposed Scheme Amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* and that it is not necessary for the EPA to provide any advice or recommendations.

Comment

Review of Advertised Amendment Provisions

Following the conclusion of the advertising period the Town continued to have serious reservations regarding the strength of development controls required to ensure a building of an acceptable height to the Town and the community was developed on the rear of the site. The concerns were increased after the submissions received indicated strong community concerns about residential amenity impacts if the redevelopment of the site was not at a scale and intensity appropriate to the Precinct both in respect to building height and new commercial uses on the site.

Modifications to the Amendment provisions to strengthen the development controls was therefore considered to ensure the Town achieves the best possible built form outcome and re-use of the site. Whilst the restoration and re-use of the Hotel is obviously a major consideration and should be facilitated, redevelopment of the whole of the site should be based on sound planning practices and principles which result in a balanced community outcome. The amenity of the residents, many of whom are long term residents of the Precinct and who value the heritage status of the Precinct should not be impacted to an extent that the Precinct no longer becomes a desirable or pleasant place to live. A balance must be struck between the objectives of restoration and re-use and the orderly and proper planning for the area.

At this point in time development approval for any major works on the site can be sought via a DAP application. In this context it would be problematic for Council to maintain the character and heritage qualities of the Hotel building and the amenity, efficiency and safe functioning of the George Street mixed use and residential areas in a manner that complies with Council's desired outcomes for the Town. It is important that appropriate controls and mechanisms are put in place to ensure an appropriate development outcome in keeping with the objectives for the Precinct. As noted in the Officer's report dated 7 June 2017 this can only be achieved by incorporating a set of sound planning controls to guide the future redevelopment of the remaining developable area of land behind the Hotel. Specific planning, site and development controls incorporated in the Scheme

Text provides Council with a greater ability to assess and comment on built form, and the type of and intensity of uses on the site through the development assessment and approval process.

As outlined above in the 'Background' section of the Report, Amendment No. 10 introduced two additional clauses into the Scheme Text which are considered insufficient in respect to providing site and development control standards over the site. Although clause 5.3.4, as outlined above, may apply some level of development control over the site, where residential development is proposed in a non-residential zone, by providing a presumptive maximum R-Code of R40 on the site, it is now reasonable to expect that, in addition to the restoration and re-use of the Hotel, an apartment development far in excess of the R40 development standards for multiple dwellings has been proposed by the owner. Hence, despite the possible maximum of R40 there needs to be further controls by way of modifications to the Scheme Amendment to address best planning principles and provide for a consistent urban form recognising the heritage character of the area.

With the above and the community submissions in mind, an experienced urban design consultant was engaged to provide more detailed advice in regard to the review of the Amendment provisions. The urban design consultant's advice was to specifically focus on height and setbacks. Workshops were held with Elected Members to further discuss the outcome of the urban design review. The objective being to review the development controls for the site, primarily the issue of an acceptable maximum building height and also whether a maximum height, with removal of any power by the decision-maker to vary the height control and setbacks, should be included in the Amendment provisions. The study and workshops resulted in modifications to the development control provisions of the Amendment.

The revised built form controls were arrived at through a process that considered a number of built form scenarios for the site in the context of the surrounding development setting; the concerns of the local community and the implications for the heritage building and Precinct. The various development scenarios were conceptualised in streetscape perspectives, elevation and plan form to better understand the likely building forms, parking bay numbers and layout, height, scale and bulk and apartment yield to determine the extent of the impact of redevelopment on the surrounding residential area, Hotel and heritage listed Brush Factory. These scenarios were explained and discussed with Elected Members. Following the workshops further meetings were held with the applicant to primarily discuss the Town's position in regard to a maximum height control in respect of a residential apartment building, as well as to discuss the preferred set of development controls, including height, plot ratio and vehicle parking requirements.

Further to meetings with the owner and the owner's town planning consultants the Town agreed not to progress its revised and modified version of the Scheme Amendment provisions until after the Community Open Days were held and feedback from the community obtained. However, whilst the community feedback is of interest it is not a factor that will influence Officer recommendations in regard to the Scheme Amendment process. The feedback cannot be formally considered in the assessment of a development approval application or a Scheme Amendment because it has not been undertaken by the Town and has not been subject to the same level of rigour that would be applied in respect to the statutory advertising procedures required with a DAP application, or the Scheme Amendment process. As such further delay in regard to progressing the Amendment is not considered warranted and it is recommended the modifications outlined below be considered by the Council and the Amendment forwarded to the WAPC for its consideration as soon as possible. Justification in respect to why each modification does not require advertising is provided in respect to each of the provisions and is discussed in detail below.

Modifications to Amendment Provisions

It should be noted that the following discussion in regard to the proposed modifications to the Amendment responds to both the community's submissions in relation to the specific Amendment proposal, as well as to the owner's high rise apartment tower proposal. Information in regard to the owner's proposal for redevelopment of the site has been publicly available through the press, referenced in the Officer Report of the Council Minutes of 7 June 2017, presented at the Community Design Advisory Committee meeting and made publicly available at the Community Open Days. Submissions from the community therefore refer to high rise development in addition to the site and development controls proposed by the Council in preparing the Amendment.

With the exception of the site and development controls modifications (which are discussed further on in the 'Comment' section of the Report) there is no intention to modify the intent of the Amendment provisions which address specific heritage, locational and procedural planning matters relevant to the entire site with the following exception. The modification to clause 5.9.1 is a result of comments made by the Heritage Council of WA (refer to Attachment 1 - Schedule of Submissions – Submission No. 1 for full details).

Clause 5.9.1 – Special Zone - Royal George Hotel (Amendment No. 10 – gazetted 2016)

This clause was introduced in Amendment No. 10 which reclassified the Hotel site from Mixed Use/R20 to Special Zone. Three sub-clauses were introduced as noted below:

- (a) *An application for the refurbishment or reuse of the Royal George Hotel building is to be accompanied by a heritage plan that will ensure the preservation of the hotel building.*
- (b) *A heritage plan may include development standards and requirements for the development of the balance of the land on which the hotel building is located.*
- (c) *The Council may consider innovative approaches to the development of land on which the hotel is located, if the development will lead to the on-going reuse of the hotel building for a purpose consistent with the objectives of the zone.*

Two of the clauses (b) and (c) referred to a 'heritage plan'. The Heritage Council of WA has requested that the term 'heritage plan' be replaced with a '*suitable and recognised defined planning mechanism*'. This comment is acknowledged and reference to the term and inclusion of the clauses in the Scheme Text are no longer considered relevant. A *Conservation Management Strategy* for the Hotel has been prepared by a private planning consultancy and the document forms an annexure to the Heritage Agreement for the site which binds the current and all future land owners. Also the proposed Amendment provisions introduce all other required and relevant development control, so the requirement for the 'Heritage Plan' is redundant and therefore it is recommended these clauses be deleted. The other recommendations made in the Heritage Council's submission are addressed in the Schedule of Submissions.

Site and Development Control Provisions

The changes to the site and development control provisions are noted below. For clarity the original provision is noted in plain text followed by discussion points explaining the modifications. The modified provision is then noted in italics.

Land Use

Original provision

- (i) Adding a fifth column entitled 'Special Zone – Royal George Hotel' to the Zoning Table after the 'Town Centre' column and inserting the following listed uses and the corresponding use class permissibility symbol:
- Advertising Sign as 'A';
 - Aged or Dependent Persons Dwelling as 'D';
 - Amusement Parlour as 'X';
 - Ancillary Accommodation as 'X';
 - Bed and Breakfast as 'A';
 - Caretaker's Dwelling as 'D';
 - Child Care Premises as 'A';
 - Cinema / Theatre as 'A';
 - Club Premises as 'A';
 - Community Purposes as 'D';
 - Consulting Rooms as 'D';
 - Convenience Store as 'A';
 - Educational Establishment as 'A';
 - Exhibition Centre as 'D';
 - Family Day Care as 'D';
 - Fast Food Outlet (Refer 5.8.9) as 'A';
 - Funeral Parlour as 'A';
 - Grouped Dwelling as 'D';
 - Home Business as 'D';
 - Home Occupation as 'D';
 - Home Office as 'P';
 - Home Store as 'D';
 - Hospital as 'X';
 - Hotel A';
 - Industry – Cottage as 'D';
 - Industry – Service as 'D';
 - Market as 'A';
 - Medical Centre as 'A';
 - Motel as 'A';
 - Multiple Dwelling as 'A';
 - Night Club as 'X';
 - Office as 'A';
 - Place of Worship as 'A';
 - Pre-School / Kindergarten as 'D';
 - Recreation – Private as 'A';
 - Residential Building as 'A';
 - Restaurant as 'A';

- Service Station as 'X';
 - Shop as 'D';
 - Showrooms as 'A';
 - Single House as 'X';
 - Small Bar as 'A';
 - Tavern as 'A';
 - Telecommunications Infrastructure as 'A'; and
 - Veterinary Centre as 'A'; and
4. Subject to the provisions of: the Telecommunications Act 1997; the Telecommunications (Low-impact Facilities) Determination 1997 and Amendment No. 1; and the Telecommunications Code of Practice 1997.

Appropriate land uses for the site are generally considered to be those listed under the Mixed Use zone of the Zoning Table because this was the zoning previously applied to the Hotel portion of the land. However, under the specialised zoning '*Special Zone – Royal George Hotel*' it is considered necessary to clearly specify the use class permissibility for each use. An amendment to the Zoning Table is therefore considered necessary to incorporate a specific column for the 'Special Zone'. This column lists the corresponding permissibility classification for each use listed in the Scheme as outlined above. Where the use class permissibility symbol differs from that applied in the Mixed Use zone it is highlighted in red.

It is proposed that a minor modification be made to this clause to address a comment made by the Heritage Council of WA, as discussed above, and to simplify the Scheme provision and lessen the likelihood of requiring a Scheme Amendment should the site be developed for a lesser density and dwelling types other than grouped or multiple dwellings. As such it is recommended that the use class permissibility for 'single house' and 'ancillary dwellings' be modified from 'X' use to 'D' to enable development approval to be granted for these dwelling types. The Zoning Table for the 'Special Use Zone' will therefore be amended to change the classification symbols as indicated below.

This is considered to be a very minor modification and has no impact on the intent of the Amendment, particularly as it is very unlikely either form of dwelling type will be constructed. Advertising of this modification is therefore not considered warranted.

Modified provision

The Special Zone – Royal George Hotel column is modified in respect to the uses below and will read as follows:

- ***Ancillary Accommodation as 'D';***
- ***Single House as 'D';***

Building Height

Original provision

A maximum building height of 7 storeys from natural ground level shall not be exceeded with the following stipulations:

- (i) The ground floor will not exceed a maximum height of 4.0 metres measured floor to floor with all other floors a maximum height of 3.5 metres per floor measured floor to floor.

- (ii) Ground floor to first floor height shall be a minimum 3.2 metres with a minimum floor to ceiling clearance of 3.0 metres.
- (iii) If any part of the inner surface of the roof of a level of basement parking is more than 1.5 metres higher than the level of Duke Street when measured at the entry to the point of access to the basement parking, the level of basement parking shall be counted as one storey.
- (iv) Irrespective of the maximum plot ratio permitted maximum building height shall not be permitted to exceed 7 storeys above natural ground level.

Modification comments

Whilst the Town primarily gave consideration to development controls for the site on the basis of insufficient controls in the current Planning Scheme it also considered it necessary to do so on the basis that planning proposals for the site should be assessed on the basis of sound planning principles underpinning the provisions developed for the site. It is also relevant to take into account the owner's submission on the Amendment which proposes the Amendment be modified to permit a 9 storey building (with provision for gaining additional height above 9 storeys through achievement of performance criteria).

Since initiation of the Amendment and following consideration of community submissions the Town has been reconsidering the maximum building height and the building setback from Duke Street and the Hotel. The Town's and community's reservations with the proposed building heights and setbacks resulted in the Town engaging a consultant to undertake a built form review. Following a number of workshops with the urban design consultant and the Elected Members the Town's Officers reached the conclusion that an alternative maximum building height which is one storey lower than initially proposed should be considered by Council. The owner's proposal for a high-rise residential tower has in effect assisted the Town in considering two diametrically opposed built form outcomes as part of the urban design review process. The conclusion reached is that any building constructed on the vacant land should not exceed the height of the Hotel dome and that it must be in keeping with the scale and streetscape proportions of development in the Plympton Precinct.

The building height and setbacks provisions have been modified to reduce the visual presence and the prominence of a building in this context. This, along with careful consideration of the intensity of commercial and residential development on the site, is considered to be of the utmost priority in this setting. This site is located within a heritage precinct comprising mostly turn of the century dwellings and commercial buildings which the Town has endeavoured to preserve for the heritage of Perth and the State for the past 100 years. This heritage legacy is the essence of the Precinct's charm and its character and appeal which is so highly valued by residents and it should not be jeopardised in any respect. Constraining the building envelope for any form of development of the rear of the site is therefore the reason why the building height has been lowered and the Hotel and street setbacks increased.

In more detail the revised provisions will result in a built form which will front Duke Street with residential or commercial tenancies taking pedestrian and vehicle access also from Duke Street. As the building increases in height the setback from Duke Street would also be increased under the modified provisions. The building would be required to 'step back' in two stages from Duke Street, increasing in setback from the fourth storey upwards. Vehicle parking is proposed to be contained in semi-basement or undercroft parking which would be 'sleeved' or screened from the surrounding streets by commercial or residential uses fronting Duke Street. The result of these revised built form controls will mean the building will be less prominent in respect to the Hotel building, less overbearing from the streetscape perspective and noticeably less dominant for residents in the surrounding residential area. It will also reduce the physical dominance of development in respect to

the Hotel building and minimise the amount of overshadowing and loss of privacy. These latter two concerns are considered to be particularly relevant and notably were a common concern expressed by residents the greater the height of a building.

The preferred height of a maximum of 6 storeys (including basement parking) has been lowered from the initially proposed 7 storeys. The modified height in conjunction with the modified setbacks is considered to better respond to the height of the Hotel and to achieve an urban form that is believed to provide an optimal apartment yield, rather than a maximum yield. In effect, the preferred built form scenario is considered to reflect the amount of development appropriate for the site (apartments and car parking) and further minimises the amenity impacts for residents in the Precinct. Keeping in mind the re-use of the Hotel will generate parking demand and traffic which must also be factored into the overall development potential and therefore the development controls for the site. It is noted that the provision of the parking requirement under the Scheme (~40 – 45 bays – based on uses proposed by the owner) that that will apply with reuse of the Hotel is yet to be resolved in respect to where this parking will be provided. The owner has indicated that all parking will be provided on-site for the commercial uses and the ~40 apartments. This component of redevelopment must therefore be considered in formulating the overall capacity for redevelopment of the site.

Whilst there are no formal plans submitted for Council's consideration the owner has announced the intention to submit a DAP application in the coming months. Based on discussions to date it is the owner's intention to submit a DAP application will propose a high rise 21 storey residential building. A building of this scale is equivalent to buildings in the CBD and the South Perth and Canning Bridge activity centres. A proposal of this nature is believed to be a substantial departure from the existing local planning framework and, if entertained, would result in a dramatic transformation of the skyline in the wider locality and context and a standalone structure that would be visible for many kilometres and from many public vantage points in Fremantle, East Fremantle and even further afield.

The aspirations of the land owner, in relation to development on the rear of the site, are clearly not aligned with those of the Town or outlined in the community submissions given the high-rise tower proposed by the owner. The owner has argued the high-rise tower proposal is a better design outcome and the only viable option from a financial perspective. This is an economic concern related to the dwelling yield and the cost required to refurbish the Hotel and is not considered a valid planning consideration in regard to determining development controls for the site based on sound planning principles. The Royal George Hotel refurbishment must proceed regardless of the form of redevelopment on the rear of the site (three year timeframe for completion in the Heritage Agreement unless an extension is agreed to by the Heritage Council) because strata titling of the Hotel site or any residential development cannot proceed until refurbishment is complete. This is in the contract of sale and was known to the developer prior to purchase. The Town is also proposing a Scheme provision which states that development of any part of the land will not be supported unless the Hotel has been restored to the satisfaction of the Council or development is staged in such a manner as to secure, by staging conditions and /or legal agreement means for achieving the restoration of the Hotel before occupation of the use(s) approved for any other part of the site.

The nomination of an appropriate building height in this location is believed to be the most important site consideration given the remaining developable lot area is heavily constrained. The site has a direct interface with a residential area, the George Street commercial strip, Stirling Highway, the Royal George Hotel and is opposite the heritage listed Brush Factory. Aside from the heritage considerations the suburban context in which this site is situated is a principal factor in

determining the appropriate building height. Keeping in mind, that with the exception of the Richmond Quarter (~7 storeys) located in the Town Centre and Harbour Lights and Harbour Heights (both ~9 Storeys) mostly all other development does not exceed 2 storeys. Further afield in the Fremantle CBD buildings are still below ~8 storeys, with the Port Authority building being about ~12 storeys (including observation tower/communications dish). Amendment No. 14 to LPS 3 (91 – 93 Canning Highway) restricts building height to approximately 7 storeys. A multi-storey building on such a small building footprint (less than 750m² of land area in a triangle shape) is therefore considered to be of a height and scale that is irreconcilable with its context and location and not justifiable other than to provide an increased number of apartments with views that cannot be obtained from a building of a lesser height.

Any further development of the site should result in a total redevelopment which complements and respects the Royal George Hotel and does not detract from the building or the surrounding area. Development on the site must integrate as seamlessly as possible (in all aspects of operation, parking and land use) with the surrounding established residential area and be able to adequately address the considerable constraints pertaining to this site. It is therefore considered imperative that the decision-making authority does not have the discretion to approve a development approval application which does not meet the high standards of planning and design required by the Town for a development outcome worthy of the site, the heritage building and the historic Plympton Precinct and which respects the character and appeal of the area that has been preserved by the Town.

It has been argued by some that the rear of the site should not be redeveloped but should be made available for parking for use by the Hotel tenants. However, it is considered a more realistic approach is to reach an acceptable compromise between: a building height that achieves the restoration of the Hotel; the activation of the eastern end of George Street; the community's expectations for redevelopment; an opportunity to provide some additional dwellings in the Town with a built form outcome that is not incompatible with the location.

The primary intent of the building height limit to a maximum of 6 storeys (top of the dome) is therefore considered to address these matters and to control the scale and mass of the building to ensure the following:

- appropriate height in relation to the unique character and suburban setting;
- addresses the heritage objectives for the site and the Precinct;
- does not dominate the surrounding suburban area or views from public vantage points;
- complements and does not overwhelm both physically and visually the built form context and streetscape of the George Street Precinct;
- addresses the interface with Stirling Highway, the Royal George Hotel and the Brush Factory building;
- does not result in a feature that significantly impacts the landscape;
- is appropriate in scale to the remaining developable area of the lot; and
- mitigates any potential overshadowing, wind tunnel, traffic, parking or noise impacts on existing residential dwellings.

The argument that a slender tall building of substantial height is a better design outcome is not considered to be a convincing argument in that a building of any significant height above the Hotel is viewed as being out of character and scale with all that surrounds it. The Town does not have any large scale industrial or commercial buildings and does not have an Activity Centre that overtime might be developed with buildings of this scale. In fact, it is unlikely that buildings of the scale proposed would be developed in the Fremantle CBD or the surrounding suburbs.

The modified provisions have been prepared foremost as a response to the built form of the surrounding context as well as the concerns of the local community. The negative impact that a development which has the potential to introduce significantly more activity, vehicles and traffic to the area would be contrary to the orderly and proper planning of the locality. The Town supports the residents' viewpoint that refurbishment of the Hotel should not come at the cost of significant loss of amenity resulting from the development of a high-rise building with intensified activity.

Consideration of the maximum building height and building setback provisions in finalising the Amendment has taken into account submissions received from the community, the urban design analysis of the site and is based on orderly and proper planning principles. Further advertising of the modified provision is not considered necessary. Further, it is considered that the modification is not so significant as to warrant advertising. In broad terms the extent of the modification would only be one storey lower than the Amendment as initiated. The modification would not represent a change of height that is completely different in magnitude from that introduced. As such no further advertising is recommended.

Modified provision

The overall maximum building height of development is not to exceed 36.0m Australian Height Datum (AHD) level with the following stipulations:

- (i) Ground floor to first floor height shall be a minimum of 3.2 metres and a maximum of 4.0 metres measured floor to floor, with a minimum floor to ceiling clearance of 3.0 metres. All other floors shall be a maximum height of 3.5 metres per floor measured floor to floor;***
- (ii) Projections and external services such as solar collectors, air conditioning units, mechanical plant rooms, lift overruns, antennae and communications masts may exceed maximum building height by up to 1.5 metres provided they are not visible from the street; and***
- (iii) No part of the building, any external services, solar collectors, air conditioning units, mechanical plant rooms, lift overruns, antennae and communication masts or the like shall exceed the maximum heights specified in 5.9.9.1. These fixtures must be screened from public view to the satisfaction of the Local Government.***

Building Setbacks

Original provision

Minimum Street Setbacks as follows:

Stirling Highway frontage:

Setback subject to Main Roads WA approval. A nil setback may be considered by the local government.

Duke Street frontage:

As determined by the local government and subject to requirements of the *Conservation Management Strategy* for the Royal George Hotel site.

Royal George Hotel building:

As determined by the local government and subject to the requirements of the *Conservation Management Strategy* for the Royal George Hotel site.

Modification comments

The built form review confirmed that building setbacks are a feasible option for redevelopment of the site so further to the above building height discussion the building setback provision has been modified to increase the building setbacks.

A nil building setback to Duke Street is not considered appropriate above a four storey height limit. A nil setback to that point will be in keeping with the nil setback of the Hotel building. However, after that level building setbacks will ensure visual interest and interaction at the streetscape level. This is still considered one of the most important outcomes for the Duke Street frontage along with maintaining residential amenity for the dwellings along Duke Street.

The argument for modifying the building setbacks is linked to building height and has been discussed in detail above, however, the following can be added. A number of Amendment provisions have been modified or supplemented to ensure that residential or commercial uses front the street other than car parking, and that once the building achieves a height greater than the Hotel it must be setback to reduce its physical and visual prominence. This will also allow for balconies to front the street and for those balconies to be further setback to increase privacy for surrounding residents. Likewise setbacks from the Hotel must be respectful of the heritage building and therefore the setback distance between these two buildings will be determined in consultation with the Heritage Council of WA. Main Roads WA will also be consulted in respect to setbacks from Stirling Highway for both safety and amenity considerations. The following provision has been modified to introduce the link between building height and setbacks and to ensure design input from the Heritage Council.

This modification is not considered so significant that further advertising of the modification is justified. The degree of change addresses the concerns raised by the community in the submissions, particularly where submitters were concerned with the protection of the Hotel building and the potential overbearing nature of a high-rise building immediately adjacent to the Hotel. It also addresses concerns regarding overshadowing and privacy as the building and balconies will be set back a greater distance from the adjacent residential area. Advertising of the proposed modifications is therefore not recommended.

Modified provision

- (i) In addition to 5.9.9.1 above, development is to be contained within the maximum building heights and minimum setbacks as specified in the table below:*

Maximum Building Height	Minimum Setbacks	
	Duke Street	Stirling Highway
Up to 29.0m AHD	Nil	Subject to Main Roads WA approval. A nil setback may be considered by the Local Government.
29.0m - 32.5m AHD	3m	
32.5m - 36.0m AHD	5m	

- (ii) Balconies shall not protrude forward of the building setback line.*

- (iii) Development shall be sufficiently setback from the existing Hotel building to the satisfaction of the Local Government in consultation with the Heritage Council of WA.*

Plot Ratio

Original provision

Maximum Plot Ratio*: 3.0:1.

Irrespective of the maximum building height permitted maximum plot ratio shall not be permitted to exceed 3.0:1.

*Maximum plot ratio excludes the floor space of the existing Royal George Hotel building.

Modification comments

A plot ratio of 3.0:1 is no longer required as a control in its own right. Plot ratio is a function of the combination of the building height, site coverage and setbacks. There are now other proposed provisions in the Amendment which establish height, site coverage and setbacks, so the resultant plot ratio is a product of these controls. Following the consultant's review of various built form scenarios the amount of floor space possible with a 3.0:1 plot ratio does not align with the revised height and setback provisions. However, the revised building heights and setbacks are considered to be based on sound heritage, planning and urban design principles and on balance address the Town's and community concerns expressed in the submissions regarding building scale and bulk. A built form that would be less than that permitted with a 3.0:1 plot ratio and more compatible with the Hotel, George Street and the surrounding suburban locality would be the outcome.

Furthermore, it is considered unnecessary to apply a plot ratio control to the site. Variation to the maximum building height and building setbacks will not be possible under other modifications to the Amendment provisions, so there is no possibility of the plot ratio being varied. The issue of project viability being tied to floor space, an argument put forward by the owner, is not considered a relevant planning consideration.

It is therefore recommended this provision of the Amendment be deleted. This modification is not so significant that it is considered to warrant advertising in that it was limited by building height in the advertised Amendment provisions.

Modified provision

Delete the plot ratio provision.

Residential Development

Original provision

With exception of building height and building setbacks residential development shall be in accordance with State Planning Policy 3.1 - Residential Design Codes - Part 6 for multiple dwellings and Part 5 for grouped and aged and dependent persons' dwellings (dependent on the form of dwelling type for aged and dependent persons' dwellings Part 6 may be applied).

Having regard to the Building Height, Building Setbacks and Plot Ratio provisions herein, clause 5.3.4 of the Scheme is disapplied in relation to development within the Special Zone – Royal George Hotel.

Modification comments

With the exception of building height and building setbacks residential development shall be in accordance with State Planning Policy 3.1 - Residential Design Codes - Part 6 for multiple dwellings and Part 5 for grouped and aged and dependent persons' dwellings (dependent on the form of dwelling type for aged and dependent persons' dwellings Part 6 may be applied).

The dwelling density on the site will be primarily controlled by the building envelope. The 60% mandatory residential floor space component, as well as other constraining development requirements such as the need to meet vehicle parking bay numbers and a minimum floor space for each dwelling will also constrain development potential. The remainder of the development standards for residential development will be required to be in accordance with State Planning Policy 3.1 – R-Codes - Part 6 for multiple dwellings, which in addition to specifying a requirement for diversity in dwellings types and sizes for buildings with more than 12 dwellings, also specifies that a residential development cannot contain any dwelling less than 40m² plot ratio area.

Similarly, for grouped and aged and dependent persons' dwellings Part 5 or Part 6 of the R-Codes would be applied to residential development. The R-Codes state that any application that involves a mix of both grouped and multiple dwellings is to be assessed against a combination of Parts 5 and 6 of the R-Codes with the land apportioned to each dwelling type. Given the above development standards that would be applied to the site are akin to Table 4 of the R-Codes a density control was not considered necessary. However, because the matter of dwelling density is not specified it is necessary to add an additional clause to ensure that Clause 5.3.4 of the Scheme that requires that a density of R40 be applied to all residential development in non-residential zones be disapplied.

Modified provisions

- (i) Clause 5.3.4 of the Scheme is disapplied in relation to development within the Special Zone – Royal George Hotel.***
- (ii) With exception of building height and building setbacks residential development shall be in accordance with State Planning Policy 3.1 - Residential Design Codes - Part 6 for multiple dwellings and Part 5 for grouped and aged and dependent persons' dwellings (dependent on the form of dwelling type for aged and dependent persons' dwellings Part 6 may be applied).***

Vehicle Parking

Original provision

- (i) Car parking for commercial uses shall be provided in accordance with the standards set out in Schedule 10 of the Scheme and the specifications in Schedule 11 of the Scheme. Where there are no standards for a particular use or development the local government is to determine what standards are to apply.
- (ii) Car parking for residential development shall be provided in accordance with State Planning Policy 3.1 - Residential Design Codes - Part 6.
- (iii) If the local government determines that demand for parking may be lessened due to alternative modes of transport, reciprocal or shared parking arrangements the local government may consider reducing the requirement for car parking spaces to a maximum of 20% of the requirements under Schedule 10 of the Scheme where the residential component accounts for at least 60% of the total plot ratio area, excluding the restored Royal George Hotel building, and it can be demonstrated to the satisfaction of the local government that:
 - a) The peak demand for parking by two or more uses will not occur at the same time;
 - b) The combined supply of car parking is sufficient to meet the estimated peak combined demand;

- c) The arrangements are secured and that any future change will not result in a shortfall; and
 - d) Parking arrangements are detailed in a parking management plan.
- (iv) If the local government determines upon submission of a development application that a more wide ranging and strategic traffic impact assessment is required encompassing the Plympton Precinct and this identifies that a maximum number of car parking bays is to be provided on the site then the number of bays to be provided will be capped at a number to be determined by the local government.

Modification comments

The above car parking provisions were based on the requirement for developments to supply parking in accordance with current Scheme and R-Code provisions for both residential and commercial uses. Initially it was thought car parking concessions could be considered for this site similar to the Town Centre so a more detailed set of provisions was proposed that addressed that situation. The provisions proposed reducing the requirement for car parking spaces to a maximum of 20% of the requirements under Schedule 10 of the Scheme, where certain conditions relating to reciprocal and shared parking, if proposed, would not result in a shortfall that would impact on the surrounding residential area and combined arrangements could meet peak demand.

However, in nearly every case the community submissions indicated significant concern with the parking concession provisions. The already high demand for on-street parking by residents in the Plympton Precinct and the parking shortage for tenants and patrons in the George Street mixed use commercial strip has been the basis of such concern. As a matter of orderly and proper planning the Town believed it necessary to reconsider the provision and degree of concessions permitted.

The potential impact on the surrounding residential area if parking concessions of this magnitude were granted was clearly an unacceptable situation for the residents in the area. It was therefore considered necessary for the provision to be amended to require that development fully comply with LPS 3 requirements and those of the R-Codes for both commercial and residential development. It then followed that deletion of the clause that referred to a 'cap' on parking was required as it would no longer be applicable in this situation. Council would still have the general discretions provided in the Planning Scheme in respect to commercial uses by considering varying the parking requirements by utilising the cash in lieu of parking provision and other parking concession options, but it would not be an 'as of right' situation for less parking to be provided. Compliance with the residential parking bay numbers, however, would still be required. This approach was considered the best option to achieve the right balance in regard to parking demand and supply in this constrained area. Parking must also be screened from the Duke and George Street frontages. The modified provision is outlined below.

The proposed cap (as advertised in a provision of the Amendment) on parking is unlikely to be triggered so this is not considered a significant change to warrant advertising. The remainder of the modifications counter-balance the advertised provisions. However, it could be considered they more favourably address the numerous and significant concerns expressed in the submissions. On the whole it is not considered that the modifications to this provision are so significant as to warrant advertising. Further advertising of the modifications in this regard is therefore not recommended.

Modified provision

Notwithstanding any other provision of this Scheme or of the Residential Design Codes the following applies:

- (i) Vehicle parking for commercial and other non-residential uses shall be provided in accordance with the provisions of the Scheme and the standards set out in Schedule 10 of the Scheme and the specifications in Schedule 11 of the Scheme.***
- (ii) Clauses 5.8.5, 5.8.6, 5.8.7 and 5.8.8 of the Scheme also apply to development within 'Special Zone – Royal George Hotel'.***
- (iii) Parking for residential development shall be provided in accordance with State Planning Policy 3.1 - Residential Design Codes.***
- (iv) Vehicle parking shall be located either behind street front tenancies or dwellings, below ground level when viewed from the street, or otherwise suitably screened from view from the street to the satisfaction of the Local Government.***
- (v) To the extent that vehicle parking is required for the residential component all vehicle parking for the residential component of the development shall be provided on-site in accordance with a traffic and parking management plan, to the Local Government's satisfaction, being submitted and approved at Development Approval application stage.***

Public Art

Original provision

Public art shall be incorporated in the development or on public land within the vicinity of the development (the location to be determined by the local government and the applicant) to the value of 1% of the construction value or another amount as cash in lieu of public art as agreed to by the local authority.

Since the initiation of Amendment No. 15 the Council has adopted a Percent for Public Art Policy (Policy 3.1.9) so the requirement for this provision in the Scheme Text is no longer required. Accordingly the provision has been deleted from the proposed Amendment.

This is not a modification that is considered to require advertising because in effect a public art contribution is still required by the Council under the provisions of the Percent for Public Art Policy.

Modified provision

Public Art provision deleted.

Landscaping and Public Plaza

Original provision

Landscaping and Public Spaces

Landscape and street furnishings in the public domain shall use signage, materials, plants and street furniture that have been agreed as acceptable by the local government.

For all mixed use developments with a commercial nett lettable area equivalent floor space of more than 5,000m² a publicly accessible open space* with a combined area of at least 150m² shall be provided.

* May include arcade type spaces that are partially open to the elements, but shall not include fully enclosed internal floor space.

Initially this provision was included to ensure these components of design were given adequate consideration in a development proposal. However, in the overall scheme of the development of this site and the long term development and rejuvenation of George Street, the Council endorsed Style Guide for the George Street Precinct, previously developed, apply to development on public land (e.g. if the pedestrian underpass was refurbished and redesigned Council's style guide would provide guidance) and would apply to the area surrounding the site. In any case further consultation with the Heritage Council may also be required if the installation of street furniture or signage was proposed.

The other aspect of this provision is the development of an area of publicly accessible open space. There is now a greater insight into the constraints of the site and a greater understanding of what is required from the point of view of refurbishment of the Hotel. It is not considered necessary to require that an area of publicly accessible open space be provided on this site. The restoration of the Hotel for uses which will be publicly accessible is considered to be sufficient from the point of view of that the public will have access to the site and the areas immediately adjacent to the site. This provision is considered to unnecessarily complicate redevelopment of the rear of the site given the physical constraints on this small triangular portion of land and the heritage constraints. Accordingly, the provision has been deleted from the Amendment so as not to further complicate refurbishment of the Hotel and the rear of the site.

This is not a modification which is considered to warrant advertising because it does not change the intent of the Amendment in respect to the impact of redevelopment on the site.

Modified provision

Landscaping and Public Spaces provision deleted.

General Planning Considerations

Original provision

In addition to the matters referred to in Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 the local government shall have regard to the objectives for the Special Zone – Royal George Hotel when:

- (i) determining an application for planning approval; and
- (ii) making a recommendation on an application for subdivision approval in relation to land within Special Zone – Royal George Hotel.

Under the *Local Planning Schemes Regulations 2015* matters for a local government to consider in determining development approval applications are listed in clause 67 of the Deemed Provisions. These matters refer to the broader policy objectives of the Town, State planning matters and numerous other factors which have the potential to impact the orderly and proper planning of a site. The following provision is therefore recommended for inclusion in the SCA schedule so that Council

has the capacity to comprehensively apply sound site specific and regional planning principles and objectives in its consideration and assessment of a development approval application for the site.

This provision has not been modified (as per provision above).

Variations to Site and Development Standards and Requirements

Original provision

If a development proposed within the Special Zone – Royal George Hotel is the subject of an application for planning approval and does not comply with a standard or requirement prescribed or adopted by this clause 5.9, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to

- (i) consult the affected parties by following one or more of the provisions for advertising uses under clause 64 of the Local Planning Schemes Regulations 2015; and
- (ii) have regard to any expressed views prior to making its determination to grant the variation.

The power conferred by this clause may only be exercised if the local government is satisfied that

- (i) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the Planning and Development (Local Schemes) Regulations 2015 Schedule 2 or the objectives of the Special Zone – Royal George Hotel; and
- (ii) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

Modification comments

The objective of allowing development standards to be varied through this provision was to provide the decision-maker with a degree of flexibility when assessing a development approval application. Principally, this was included to allow a building which did not comply with the height limit or other development controls to be approved if it was demonstrated that the height, scale and bulk of the development was not believed to have an adverse impact on the historic precinct, streetscape or amenity of the area in general and was only marginally higher than the prescribed limit. It should be noted there were no provisions in the advertised Amendment which determined or provided guidance as to the degree of variation from the height limit or other controls that could be considered.

On further deliberation this was not considered to be a provision that could suitably control a development outcome that is in keeping with the objectives of the Precinct or the scale of development that is appropriate in this development context. There are no further provisions or principles built into the Amendment to guide decision-makers as to the extent or upper limit that the development controls should be varied. In this case the very nature of the site with a landmark heritage building and numerous physical constraints means there is probably a greater need to be very specific in relation to the built form, access, parking and amenity controls that apply to the

site. It is therefore recommended that the provision be modified to prevent any variation of the height and setback controls. It should be noted Council would still have discretion to vary other controls such as vehicle parking.

The exclusion of building heights and setbacks from the variation power provisions is not considered so significant that it warrants advertising. The advertised provision for building height and setback introduced a maximum building height and minimum setbacks which could be varied under another provision. What has changed is that there remains a specified height maximum and certain setback minimums, but the power of variations that is specific to the Special Zone has been removed regards height and setbacks. The specified height maximum is now calculated in a different fashion, but it remains within the same order of magnitude. The linking of maximum heights with setbacks, whilst differing from the initial provision, is a reasonably standard planning practice to link these two controls in this fashion and in any case only applies to one setback not to all. It is therefore recommended that the modification not be advertised.

Modified provision

- (i) If a development proposed within the Special Zone – Royal George Hotel is the subject of an application for planning approval and does not comply with a standard or requirement prescribed or adopted by this clause 5.9.9, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit with the exception of the standards required by clause 5.9.9.1 and 5.9.9.2 which shall not be varied either under this clause or clause 5.6.1.**
- (ii) In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to –**
- a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64 of the Local Planning Schemes Regulations 2015; and**
 - b) have regard to any expressed views prior to making its determination to grant the variation.**
- (iii) The power conferred by this clause may only be exercised if the local government is satisfied that:**
- a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the Planning and Development (Local Schemes) Regulations 2015 Schedule 2 and the objectives of the Special Zone – Royal George Hotel; and**
 - b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.**

Additional provisions not advertised

A number of additional provisions have been included in the modified Scheme Amendment as a response to comments received by State government departments during the submission period and by residents in their submissions. The provisions proposed are self-explanatory and relate to urban design and vehicle access matters. They are intended to and are outlined below.

Street Facades

Building frontages and facades as they present to Duke Street and Stirling Highway are to be articulated, coloured and detailed to provide visual interest and positively contribute to the character of the neighbourhood to the satisfaction of the Local Government. Creation of expansive blank walls and featureless glazing is prohibited.

Access

- (i) No vehicular access is permitted to or from Stirling Highway or George Street.***
- (ii) Only one vehicular access point is permitted to or from Duke Street, unless otherwise approved by the Local Government.***

Heritage

The listing of the site in the State Heritage Register and in the Planning Scheme Heritage List will necessitate seeking advice from the Heritage Council of WA concerning any development approval application as required under the Planning and Development Act, 2005 and the Heritage Act of WA. The site has been subject to preliminary assessment by the State Heritage Office as part of the negotiations regarding sale of the land and development of the *Conservation Management Strategy*. If a development approval application is submitted referral to the Heritage Council of WA will be required under relevant legislation. The Heritage Agreement also requires approval of the Heritage Council. Clause 5.9.4 as outlined above will ensure compliance with the *Conservation Management Plan* and the Heritage Agreement prior to the buildings being occupied.

The submissions received during the Amendment process and the direct feedback to the Town by a number of residents following the owner's Open Day consultation has clearly indicated that members of the community support the restoration but are strongly opposed to any large scale redevelopment of the site and any form of building that is of an overbearing height in relation to the Hotel and the district. The heritage significance of the Precinct and the interest in preserving the heritage importance of the area are at the forefront of the Town's concerns.

It is also noted that the Heritage Council made a number of recommendations in regard to the Amendment. The matters raised by the Heritage Council have been addressed in the Schedule of Submissions (refer to Attachment 1).

Conclusion

Amendment No. 15 proposes to introduce further provisions and development controls to supplement the Scheme provisions relating to the Special Zone - Royal George Hotel. The current Scheme Amendment provisions required modification in order to achieve the built form outcome desired by the Town and the community as expressed through the submissions on the advertised Amendment.

The community submissions indicated significant concern with the scale of built form, parking, traffic and the degree and intensity of development which could eventuate at the rear of the site. A review of the Amendment provisions following advertising resulted in the Town engaging an urban design consultant to undertake a built form analysis of the site. The outcome of the built form analysis and the Town's consideration of the submissions has resulted in modifications to the Amendment for Council's consideration. Most notably the modifications introduce a lower building height and

increased setbacks, with no provision to allow these development controls to be varied by the decision-maker. Changes and additions have also been made to the land use, vehicle parking, noise and traffic management, access, building design and the residential development provisions to further address the amenity concerns of nearby residents and to supplement and strengthen these provisions in the Planning Scheme. The provisions relating to plot ratio, public art, landscaping and public open spaces have been deleted as they are no longer required or relevant; changes to other provisions and adoption of specific local planning policies has addressed these matters. There are also a number of minor wording changes, Scheme Text corrections and renumbering of clauses of an administrative nature that do not change the intent of the provisions.

The proposed modifications are based on sound planning principles and are aimed at ensuring orderly and proper planning for the locality and a better design outcome. Further advertising of the modified provisions is not considered necessary as they are not so significant as to warrant advertising. In broad terms the extent of the modifications do not vary the Amendment as initiated in that it is not completely different in its planning content, or intent and the degree of modification to the development controls does not differ significantly from that introduced. As such no further advertising is recommended.

In light of the above it is recommended the Council resolve to support complex Amendment No. 15 to LPS 3 with proposed modifications as outlined in the Officer's Recommendation (refer to Attachment 2 for the modified Scheme Text provisions) and no further advertising and forward the Amendment to the WAPC for its final consideration.

7.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 010618

Moved Cr Nardi, seconded Cr M McPhail

That Council:

1. pursuant to Section 75 of the Planning and Development Act 2005 and Regulation 41(3)(b) of the Local Planning Schemes Regulations 2015 resolves to support complex Amendment No. 15 to Local Planning Scheme No. 3 with proposed modifications to the Scheme Text as outlined below:

(i) deleting clause 5.9.1(a) and clause 5.9.1(b) in relation to a heritage plan; and re-numbering clause 5.9.1 (c) to clause 5.9.1 (a).

(ii) adding a fifth column entitled 'Special Zone – Royal George Hotel' to the Zoning Table after the 'Town Centre' column and inserting the following listed uses and the corresponding use class permissibility symbol:

- **Advertising Sign as 'A' ;**
- **Aged or Dependent Persons Dwelling as 'D';**
- **Amusement Parlour as 'X';**
- **Ancillary Accommodation as 'D';**
- **Bed and Breakfast as 'A';**
- **Caretaker's Dwelling as 'D';**
- **Child Care Premises as 'A';**
- **Cinema / Theatre as 'A';**
- **Club Premises as 'A';**
- **Community Purposes as 'D';**
- **Consulting Rooms as 'D';**
- **Convenience Store as 'A';**
- **Educational Establishment as 'A';**
- **Exhibition Centre as 'D';**

- Family Day Care as 'D';
- Fast Food Outlet (Refer 5.8.9) as 'A';
- Funeral Parlour as 'A';
- Grouped Dwelling as 'D';
- Home Business as 'D';
- Home Occupation as 'D';
- Home Office as 'P';
- Home Store as 'D';
- Hospital as 'X';
- Hotel A';
- Industry – Cottage as 'D';
- Industry – Service as 'D';
- Market as 'A';
- Medical Centre as 'A';
- Motel as 'A';
- Multiple Dwelling as 'A';
- Night Club as 'X';
- Office as 'A';
- Place of Worship as 'A';
- Pre-School / Kindergarten as 'D';
- Recreation – Private as 'A';
- Residential Building as 'A';
- Restaurant as 'A';
- Service Station as 'X';
- Shop as 'D';
- Showrooms as 'A';
- Single House as 'D';
- Small Bar as 'A';
- Tavern as 'A';
- Telecommunications Infrastructure as 'A'; and
- Veterinary Centre as 'A'; and

(iii) after clause 5.9.1 (a) inserting the following additional clauses:

5.9.2 *In respect of any part of the land other than the Royal George Hotel building itself, development shall not be solely for commercial purposes. A residential component is mandatory and developments shall incorporate a minimum of 60% net lettable area of residential floor space.*

5.9.3 *A mixed use development, comprising the restored Hotel building and small scale commercial activities with residential uses above, which suitably interfaces with the surrounding established residential area is considered an appropriate use of the site.*

5.9.4 *Any development which involves the use or physical alteration of the land or buildings is to be in accordance with a Conservation Management Strategy for Lot 303 (No. 34) Duke Street endorsed by the Heritage Council of Western Australia. Lot 303 is on the Council's Heritage List. Lot 303 is also included on the Register of Heritage Places under the Heritage of Western Australia Act. The use and development of the land will therefore be subject to control both under the Scheme and the Heritage of Western Australia Act.*

5.9.5 *Development of any part of the land will not be supported unless:*

- (i) *The Royal George Hotel building has already been restored to the satisfaction of Council; or*
- (ii) *The development is staged in such a manner as to secure, by staging conditions and/or by appropriate legal agreement with the Town of East Fremantle, legally enforceable means to the satisfaction of Council for achieving the restoration of the Royal George Hotel before commencement of occupation of the use(s) approved for any other areas of the land.*
- 5.9.6** *Prior to considering a development application, Council shall consult with the Heritage Council of WA and Main Roads WA.*
- 5.9.7** *Council shall have regard to the Fremantle Ports – Fremantle Inner Harbour Buffer Definition Study and the direct interface with Stirling Highway. The developer shall submit to the Local Government a Noise Management Plan for approval as an additional detail of a Development Approval Application. The Noise Management Plan required shall be implemented to the satisfaction of the Local Government, having regard to any advice from relevant State government authorities and Fremantle Ports.*
- 5.9.8** *All development is to comply with WAPC State Planning Policy 5.4 ‘Road and Rail Transport Noise and Freight Considerations in Land Use Planning’ and its implementation guidelines.*
- Note: The Local Government may consider requiring notifications on Certificates of Title as per Draft State Planning Policy 5.4 – Road and Rail Noise.*
- 5.9.9** *The following site and development standards apply to development:*
- 5.9.9.1 Building Height**
- The overall maximum building height of development is not to exceed 36.0m Australian Height Datum (AHD) level with the following stipulations:*
- (i) *Ground floor to first floor height shall be a minimum of 3.2 metres and a maximum of 4.0 metres measured floor to floor, with a minimum floor to ceiling clearance of 3.0 metres. All other floors shall be a maximum height of 3.5 metres per floor measured floor to floor;*
- (ii) *Projections and external services such as solar collectors, air conditioning units, mechanical plant rooms, lift overruns, antennae and communications masts may exceed maximum building height by up to 1.5 metres provided they are not visible from the street; and*
- (iii) *No part of the building, any external services, solar collectors, air conditioning units, mechanical plant rooms, lift overruns, antennae and communication masts or the like shall exceed the maximum heights specified in 5.9.9.1. These fixtures must be screened from public view to the satisfaction of the Local Government.*
- 5.9.9.2 Building Setbacks**
- (i) *In addition to 5.9.9.1 above, development is to be contained within the maximum building heights and minimum setbacks as specified in the table below:*

Maximum Building Height	Minimum Setbacks	
	Duke Street	Stirling Highway
Up to 29m AHD	Nil	Subject to Main Roads WA approval. A nil setback may be considered by the Local Government.
29.0m – 32.5m AHD	3m	
32.5m – 36.0m AHD	5m	

(ii) Balconies shall not protrude forward of the building setback line.

(iii) Development shall be sufficiently setback from the existing Hotel building to the satisfaction of the Local Government in consultation with the Heritage Council of WA.

5.9.9.3 Street Facades

Building frontages and facades as they present to Duke Street and Stirling Highway are to be articulated, coloured and detailed to provide visual interest and positively contribute to the character of the neighbourhood to the satisfaction of the Local Government. Creation of expansive blank walls and featureless glazing is prohibited.

5.9.9.4 Residential Development

(i) Clause 5.3.4 of the Scheme is disapplied in relation to development within the Special Zone – Royal George Hotel.

(ii) With exception of building height and building setbacks residential development shall be in accordance with State Planning Policy 3.1 - Residential Design Codes - Part 6 for multiple dwellings and Part 5 for grouped and aged and dependent persons' dwellings (dependent on the form of dwelling type for aged and dependent persons' dwellings Part 6 may be applied).

5.9.9.5 Vehicle Parking

Notwithstanding any other provision of this Scheme or of the Residential Design Codes the following applies:

(i) Vehicle parking for commercial and other non-residential uses shall be provided in accordance with the provisions of the Scheme and the standards set out in Schedule 10 of the Scheme and the specifications in Schedule 11 of the Scheme.

(ii) Clauses 5.8.5, 5.8.6, 5.8.7 and 5.8.8 of the Scheme also apply to development within 'Special Zone – Royal George Hotel'.

(iii) Parking for residential development shall be provided in accordance with State Planning Policy 3.1 - Residential Design Codes.

(iv) Vehicle parking shall be located either behind street front tenancies or dwellings, below ground level when viewed from the street, or otherwise suitably screened from view from the street to the satisfaction of the Local Government.

(v) To the extent that vehicle parking is required for the residential component all vehicle parking for the residential component of the development shall be provided on-site in accordance with a traffic and parking management plan, to the Local Government's satisfaction, being submitted and approved at Development Approval application stage.

5.9.9.6 Access

- (i) No vehicular access is permitted to or from Stirling Highway or George Street.*
- (ii) Only one vehicular access point is permitted to or from Duke Street, unless otherwise approved by the Local Government.*

5.9.10 Variations to Site and Development Standards and Requirements

- (i) If a development proposed within the Special Zone – Royal George Hotel is the subject of an application for planning approval and does not comply with a standard or requirement prescribed or adopted by this clause 5.9.9, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit with the exception of the standards required by clause 5.9.9.1 and 5.9.9.2 which shall not be varied either under this clause or clause 5.6.1.*
- (ii) In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to –*
 - a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64 of the Local Planning Schemes Regulations 2015; and*
 - b) have regard to any expressed views prior to making its determination to grant the variation.*
- (iii) The power conferred by this clause may only be exercised if the local government is satisfied that*
 - a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the Planning and Development (Local Schemes) Regulations 2015 Schedule 2 and the objectives of the Special Zone – Royal George Hotel; and*
 - b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.*

5.9.11 General

In addition to the matters referred to in Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 the local government shall have regard to the objectives for the Special Zone – Royal George Hotel when:

- (i) determining an application for planning approval; and*
- (ii) making a recommendation on an application for subdivision approval in relation to land within Special Zone – Royal George Hotel.*

- 2. resolve that the submissions made be received, Council's recommendation in respect to each submission noted and those who made a submission be notified of this decision.**

(CARRIED UNANIMOUSLY)

8. CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 7.44pm.

I hereby certify that the Minutes of the Special meeting of the Council of the Town of East Fremantle, held on 6 June 2018, Minute Book reference 1. to 8. were confirmed at the meeting of the Council on

17 JULY 2018



Presiding Member