TOWN OF
EAST FREMANTLE

AGENDA

Special Council Meeting

Wednesday, 6 June 2018 at 6.30pm

Disclaimer

The purpose of this Council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.
Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.
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Procedure for Deputations, Presentations and Public Question Time at Council Meetings

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

Deputations	**Presentations**
A formal process where members of the community request permission to address Council or Committee on an issue.	An occasion where awards or gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government.

Procedures for Deputations

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business.

Notice of deputations need to be received by **5pm on the day before the meeting** and agreed to by the Presiding Member. Please contact Executive Support Services via telephone on 9339 9339 or email admin@eastfremantle.wa.gov.au to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

(a) is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;

(b) is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and

(c) additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

Procedure for Presentations

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by **5pm on the day before the meeting** and agreed to by the Presiding Member. Please contact Executive Support Services via telephone on 9339 9339 or email admin@eastfremantle.wa.gov.au to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received/awarded by the Mayor or an appropriate Councillor.

Procedure for Public Question Time

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the *Local Government Act 1995*) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Mayor may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the *Town of East Fremantle Local Government (Council Meetings) Local Law 2016*:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to three (3) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by **5pm on the day before the meeting and be signed by the author**. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.

Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.

Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.

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NOTICE OF MEETING

Elected Members

A Special Meeting of the Council will be held on **Wednesday, 6 June 2018** in the Council Chamber, 135 Canning Highway East Fremantle commencing at 6.30pm and your attendance is requested.

GARY TUFFIN
Chief Executive Officer

AGENDA

1. OFFICIAL OPENING

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
3.2 Apologies
3.3 Approved Leave of Absence

4. DISCLOSURES OF INTEREST
4.1 Financial
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5. PUBLIC QUESTION TIME
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6. PRESENTATIONS/DEPUTATIONS
6.1 Presentations
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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:

<u>Built Environment</u>
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.

<u>Natural Environment</u>
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.
4.3.1Improve 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.

<u>Modifications to Amendment Provisions</u>

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'[4]; 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 a 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 a 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.***

<u>Additional provisions not advertised</u>
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

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'[4]; 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:

<u>5.9.9.1 Building Height</u>

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.

<u>5.9.9.2 Building Setbacks</u>

(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.

8. CLOSURE

TOWN OF EAST FREMANTLE

LOCAL PLANNING SCHEME NO. 3 – AMENDMENT NO. 15

SCHEDULE OF SUBMISSIONS

No.	Name/ Address	Description of Affected Property	Summary of Submission	Council's Recommendation
1	Heritage Council of WA	Amendment Site	The proposed scheme amendment detailing development controls for the existing Special Zone - Royal George Hotel has been assessed by the Heritage Council in the context of the State Registered Royal George Hotel as a referral under s.79 of the Planning and Development Act 2005. The Heritage Council acknowledges the Town of East Fremantle's efforts to identify a development outcome that will secure the long term care, use and conservation of the Royal George Hotel. The need to reflect the broader planning framework and community expectations is also noted. The Heritage Council is therefore supportive of the general intent of the scheme amendment, conditional on the Town's consideration of the following recommendations: 1. Assessment of a future development proposal for the site will require an informed consideration of building design, planning context and heritage impact. Use of a design advisory panel to assist in decision-making is a recognised practice that can provide independent expert advice on a proposal. In particular, the use of discretion to vary development controls as allowed for in the amendment should be guided by a clear	A number of Amendment provisions have been modified or supplemented in response to the issues raised. The State Heritage Office did not object to the Scheme Amendment, per se, but made a number of recommendations which have been addressed as follows: **Recommendation 1:** The proposal for the site has been referred to the Town's Community Design Advisory Panel (convened under the provisions of a local planning policy) and they have provided the following comments in respect to the proposal for the site: • 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.

No.	Name/ Address	Description of Affected Property	Summary of Submission	Council's Recommendation
			understanding of the benefits and disadvantages of any such variation. **Recommendation 1:** that the scheme amendment includes a clause requiring that a development application for the addition of any substantial new structure on the site is referred to a suitably-convened advisory panel. The local planning scheme should have existing provision for the establishment of a panel for a specified purpose. If this is found to be lacking, the amendment may be able to add such a provision. 2. While the Town's desire to deliver a long-term heritage outcome for the Royal George Hotel is shared, the proposed amendment introduces an approach that appears to duplicate the provisions of the existing heritage agreement. It also presents difficulties for the Town in executing the provisions as written. If the applicant were to propose to start with the restoration of the Hotel, as requested in cl.5.9.5, there is no apparent framework or benchmark for demonstrating that works have been completed. This leaves the applicant no guide as to what has to be achieved to meet the Council's 'satisfaction'. The alternative given is to enter into a legal agreement that would allow development and restoration works to be undertaken concurrently. The only form of legal agreement open to the Town in this situation is a Heritage Agreement, as defined under s.29 of the Heritage of Western Australia Act 1990. Given that such an agreement will already	It was not considered necessary that the Planning Scheme be amended to contain a clause to require the formation and referral to a Development Assessment Panel. The Town has adopted Local Planning Policy 3.1.6 - Community Design Advisory Committee under the provisions of Local Planning Scheme No. 3 which requires that development of this nature be referred to the Committee for its consideration and recommendation. It is therefore recommended that a clause of this nature not be included in the Scheme Amendment provisions. **Not recommended for modification:** **No change to the Amendment proposals or documentation recommended and justification noted.** **Recommendation 2:** The comment is noted, however, it is the Town's view that the restoration of the Hotel is an imperative and therefore this aspect of redevelopment of the site is a significant factor which must be ensured. The Town wishes to prevent development at the rear of the site being completed prior to the restoration of the Hotel. The Town is not a party to the Heritage Agreement and as such it is considered necessary to include the provisions in the Scheme Text to ensure refurbishment of the Hotel and to avoid unnecessary and prolonged disturbance to residents in the area and those that may be living on the site in the future. The Town can require a legal agreement, related to the completion of stages, other than a heritage agreement under this clause and the agreement would not prevent the concurrent development of the rear of the site and restoration of the Hotel. It is therefore

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			be in place through the sale of the site from State ownership, this requirement is unnecessary. **Recommendation 2:** that cl.5.9.5 is deleted. If the Town wishes to secure the restoration of the Royal George Hotel as a condition of a new development, it is possible to put this in place through the approval process. 3. While the special zone provisions call for the on-going reuse of the hotel building for a purpose consistent with its conservation, the proposed amendments link new development only with the 'restoration' of the heritage building. There is capacity within the development framework for an applicant to be asked to describe and deliver an overall outcome that prepares both existing buildings and new development for future use. **Recommendation 3:** that, as a substitute for cl.5.9.5, the Town seeks an alternative mechanism for approving an overall plan that delivers an appropriate development, adaptation and use of the whole site. Subject to confirmation from an appropriate planning professional, a local development plan may deliver such an outcome. 4. The use of a 'Conservation Management Strategy' (CMS) to define development controls appears to be an attempt to link with the existing wording of the special zone clause, which requires a 'heritage plan'. There are a number of concerns with this approach, in that: a. the CMS is not a recognised planning instrument and is not defined within either planning or heritage legislation;	recommended that this clause be retained in the Amendment provisions. **Not recommended for modification:** **No change to the Amendment proposals or documentation recommended and justification noted.** **Recommendation 3:** The comment is noted, however, it is not considered necessary to remove reference to the *Conservation Management Strategy* document given it is an annexure to the Heritage Agreement relevant to the site and it is not solely referred to for the purpose of providing site and development controls. These are provided in other clauses of the Amendment provisions. A local development plan as an alternative planning tool for development controls for the entire site is not considered appropriate because it can only be given *due regard* in respect to the assessment of a development approval application allows for the decision-maker to vary provisions. It is the Council's intention that certain development controls for the site not be varied. **Not recommended for modification:** **No change to the Amendment proposals or documentation recommended and justification noted.** **Recommendation 4:**

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			b. current guidelines for creation of a CMS do not cover inclusion of development controls or detailing of potential building envelopes; c. there is no prescribed process for the approval or endorsement of a CMS by local government or the Heritage Council. The reference to a Conservation Management Strategy and its use as a mechanism to define development controls is non-standard and may result in an unclear decision-making process and unenforceable controls. Provisions exist within the planning framework to define development parameters through a range of instruments, depending on the type and scale of the potential development. **Recommendation 4:** that the Town revises the Scheme amendment to include a change to the wording of cl.5.9.1 (a) and (b) to replace the term 'heritage plan' with a suitable recognised and defined planning mechanism. In line with Recommendation 3, an appropriate alternative could be a local development plan. **Recommendation 5:** that continuing the standardisation of planning controls, it is recommended that elements of the built form such as setbacks, building height and use are to be consistent with an approved local development plan, or other planning instrument as nominated. Recommendation 5: that cl.5.9.8 is reviewed such that development controls are set, to the extent possible, within an approved local development plan or other nominated mechanism.	The comment in respect to the current Scheme Text clauses which refer to the 'Heritage Plan' is acknowledged and the clauses have been proposed to be deleted from the Scheme Text as they are no longer considered relevant. **Recommendation for modification without advertising:** **Changes to the Amendment proposals and/or documentation recommended and planning basis noted.** **Recommendation 5:** The comment is noted, however, the preferred option for the Council is to have the development control provisions in the Scheme Text to strengthen the controls and prevent variation of the standards/controls. This would not be the case if they were incorporated in a local development plan as the decision-maker would only be required to have due regard to the provisions of the local development plan. **Not recommended for modification:** **No change to the Amendment proposals or documentation recommended and justification noted.** **Recommendation 6:** The comment is acknowledged and the use class permissibility in the Zoning Table in relation to 'single house' and 'ancillary dwelling' is proposed to be reclassified from 'X' use to 'D' use. **Recommendation for modification without advertising:**

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			6. Land use planning should allow any reasonable option that could deliver the conservation and adaptation of a heritage place. In this case, a project that respects and interprets the heritage values of the site could reasonably include some form of single residence. While it may seem an unlikely prospect from a financial perspective, the scheme should allow for this possibility as it may have the potential to deliver a suitable heritage outcome. **Recommendation 6:** that the 'single house' use is retained within the Zoning Table. 7. Inclusion of information repeating an existing process or listing a statutory requirement over-complicates the text and risks causing confusion. Planning provisions for heritage places already place additional requirements on owners and should avoid placing any further hurdles or barriers to the conservation of heritage places. **Recommendation 7:** that superfluous text such as statements of heritage listing status (cl. 5.9.4) and existing statutory requirement for referral or consultation (cl.5.9.6) are removed. Other mechanisms that are provided through general scheme provisions, such as the clauses relating to public art and landscaping, should be similarly reviewed to ensure that their inclusion is relevant and necessary within the given context. 8. Giving a maximum height for new development can be useful to guide owner and community expectations for the site. The Heritage Council has no specific objection to a limit of seven	**Changes to the Amendment proposals and/or documentation recommended and planning basis noted.** **Recommendation 7:** The comments are noted, however, it is Council's view that it is important to acknowledge the heritage status of the site in the Scheme Text so that any future prospective purchasers or developers of the site are aware of the classification. The public art and public space/landscaping provisions have been deleted as they are no longer required in light of Council's recent adoption of a *Percent for Public Art Policy*. On review of the development controls the provision of a public space for a site with many development constraints was considered to unnecessarily complicate the planning and design process, particularly as the restored heritage building will be open to the general public and will provide street activity and interest. **Recommendation for modification without advertising:** **Changes to the Amendment proposals and/or documentation recommended and planning basis noted.** The submissions received and the feedback to the Town following the owner's Open Day consultation has very clearly indicated that the East Fremantle community is 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 based on the heritage significance of the Precinct

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			storeys, given the potential to vary this provision to achieve an appropriate heritage outcome. It should be noted, however, that the Heritage Council will consider any development proposal for its overall impact on heritage values of the Royal George Hotel, with building height being just one of the factors that will be assessed. A development which meets this height requirement may not be supported if it has undue negative impact on heritage values. We hope that the above recommendations will be of benefit in developing appropriate scheme provisions for the Royal George Hotel site. Please note that under s.79 of the Planning and Development Act 2005 the local government is to have regard to this advice in amending the local planning scheme. Any future proposal for the development of the site, including the adoption of a local development plan, should be referred to the Heritage Council under s.11 of the Heritage of Western Australia Act 1990.	and in the interests of preserving the heritage importance of the area. It is the Council's view that it has given due regard to the advice provided by the Heritage Council and that the Scheme Amendment is aimed at preserving the heritage status and values of the Hotel building. Development proposals will be forwarded to the Heritage Council of WA as required by legislation.
2	Sally Stoneman 75 Duke Street	Various (115 signature petition)	I am submitting signatures of local residents in support of the Amendment to incorporate development controls on the redevelopment of the remainder of the site. We would like to see it contained to a small, high rise development no higher than 5 levels. The community is very concerned about the visual impact to the integrity of the Royal George site with any development higher than 5 levels. Also the impact of the development on traffic flow and parking. We already suffer a difficult parking	At 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.

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			situation in the precinct and are very concerned the development will cause greater problems.	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. <u>Building Height, Setbacks, Scale and Bulk</u> 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

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				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

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				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

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				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.

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				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 (Scheme Amendment No. 14). 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

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				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;

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				• 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

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				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. A maximum building height of 6 storeys (including basement parking) from natural ground level (maximum building height of 36.0 metres above AHD is not to be exceeded) and setbacks from Duke Street, as the building increases in height, are therefore recommended in line with the stipulations outlined in the modified provision. <u>Parking, Traffic and Access</u> 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 much concern. The Town also believed it necessary to reconsider the provision and the 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

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				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. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
3	Tony Jones 45 Bedford Street	45 Bedford Street, East Fremantle	I generally support the amendments as proposed. I am very keen to see a supportive approach to achieving a quality development and a positive outcome for the iconic building that is the Royal George Hotel. It would be great to see it active again with an appropriate use someway related to its past history. A boutique hotel with accommodation is something I	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. Comments in relation to heritage conservation and restoration are acknowledged. The owner of the site has entered into a

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			would support, especially as the clients would also enhance the viability of George Street. There are some great basement spaces that could be for community use. A small Gallery and a few rental studios that are artist run may be considered? Maybe a panel to assess proposals? I would like to see a parking policy for whole precinct discussed and enacted maybe 3hr limits and residents' permits (I believe there was a study done?) and produce a parking map? An architecturally excellent solution for the added component/apartments will be very important. If Michael Patroni is the preferred architect then it should be good. Whilst there may be some nervousness initially I am sure the right development will settle down and the treasure that is this site will stand as a tribute those who support its revival. Hopefully the new owners will get on with it so we can be around to see it happen. Clearly, I also support the opportunity for some special public art to enhance the project and the precinct.	Heritage Agreement with the Heritage Council of WA and the Amendment contains provisions which are aimed at ensuring preservation and protection of the heritage building. The Town envisages it will conduct a full parking and traffic management study for the Plympton Precinct in the near future. The study will also consider potential parking restrictions, traffic flow and access related issues. 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. **Recommendation for modification without advertising:** **Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
4	Kirsten Dahl- 44 King Street	44 King Street, East Fremantle	Our house is located 50m west of the Royal George Hotel, with the backyard closest to the hotel. The proposed development has the potential to be catastrophic for our family in terms of loss of privacy in our own home and backyard and therefore also property value, and loss of solar access. The resultant noise from the hotel, and traffic and parking issues will also cause us problems.	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. It is proposed to introduce a provision which does not give the decision–making authority the power to vary the building height and setback provisions. In this respect certainty for the

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			• We support the Council trying to regain some planning control over the Royal George Hotel and adjoining lot but do not support the inclusion of the "escape" clause which allows for the waiving of the proposed restrictions on development at the discretion of the Council. This leaves residents totally vulnerable to the wishes of the developer and Council. • We believe even a seven storey development is still unacceptable in its impact on our family. Any building which exceeds the height of the current Royal George Hotel building will have unacceptable impacts on us. No public art or public access to open space can possibly compensate for what we stand to lose if such a development goes ahead. It is disappointing that these things are included in the scheme amendment but issues such as solar access and privacy loss receive no specific mention. The scheme should restrict the number of storeys of any adjoining development to the hotel so that it does not exceed the height of the hotel. We do not agree with the Council that the site should be used as a way of offsetting infill targets as it is a completely inappropriate site for such a high density development and will result in unacceptable impacts on existing residents. There are more suitable sites in East Fremantle for high density development. Expecting the Plympton Ward to shoulder all the infill development is unfair and discriminatory. • A seven storey development is extremely likely to restrict solar access to our property particularly in the morning. We have	community in respect to the potential for scale and height of development on the rear of the site to be contained is increased. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.** In regard to comments regarding environmental concerns, sustainability, infill dwelling targets for Perth and property devaluation the following is noted: Environmental and sustainability construction requirements under the Building Code of Australia are addressed at Building Permit application stage and must meet relevant Australian Standards. It would be inappropriate for these standards to be included in Planning Scheme provisions, however, the Town will require the highest standards of building design in respect to sustainability and aesthetics. These are matters dealt with by planning policy at State government level and therefore are generally not viewed as being required to be included as planning scheme provisions by the WAPC. It should also be noted, however, that the provisions of a Planning Scheme do not specify development controls in respect to the architectural details of a building's design. This is given detailed consideration by the Town's Community Design Advisory Committee and at the planning assessment stage when a detailed development proposal is available to assess.

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			recently installed solar panels to provide us with a renewable source of energy. It is our view that all existing residents should have the right to maintain their current level of solar access and that no one should be able to build a development which will overshadow anyone's home and restrict sunlight, particularly with the current widespread trend towards using solar technology to power homes. Our garden could potentially also be harmed by solar restriction. The right of existing residents to maintain their solar access needs to be added into the scheme amendment. • A seven storey development will also cause the loss of all privacy in our backyard. As we have glass doors separating the interior of the house from the backyard, we will also lose our privacy in our kitchen and main living area, the areas in our house in which we spend the most time. We have two trees growing at the rear of the property to try to provide some privacy (other than in winter) but no tree will be able to maintain our privacy in the event of a seven storey development. This is of immense concern to us, given that we have young children who often play in the backyard and run around inside the house. How will a developer or the Council be able to safeguard the privacy of our young children if the Royal George Development scenario goes ahead? Realistically they will not. Keeping our children safe from prying eyes is of paramount importance to us and a child safety issue. Again, the scheme makes no mention of privacy impacts and needs to be specific about minimising loss of privacy for existing residents.	Landscaping of the perimeter of the site will be limited due to the proposed setbacks. However, communal open space for multiple dwellings must be provided under provisions of the R-Codes and retention of existing mature trees will be encouraged wherever possible. It is also noted that the proposed suite of State Planning Policies relating to 'Apartment Design' will require deep soil zones for the planting of mature trees/vegetation. A landscaping plan to the local government's satisfaction would be recommended as a condition of planning approval with any Development Approval application submitted. Achieving the residential dwelling target for the Town under Perth and Peel @3.5M will be assisted through the redevelopment of the site; at least 60% of floor space must be residential. Whilst the Town cannot control the type of apartment developed, a provision of the R-Codes requires that for multiple unit developments diversity in unit types is required (i.e. a minimum 20% 1 bedroom dwellings up to a maximum of 50% and a minimum of 40% 2 bedroom dwellings). In amending and reviewing a planning scheme the Town and the Council needs to make decisions based on planning grounds, while seeking to balance a range of competing objectives for the benefit of the broader public interest. The potential impact of the changes to a planning scheme on individual property values is not a consideration Council can take into account in progressing the review of the planning scheme and in the consideration of Amendment 15, however, it could be argued that reducing the intensity of development on the site through

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			Many local residents will be affected by this issue, and the higher the building goes, the more residents will be impacted. • Parking is already difficult and restrictive outside our house for any visitors. It is our view that a full traffic management plan is needed in the event of any development proposal on the Royal George Hotel site, with the opportunity for public comment. It is inevitable that a development of the scale proposed in the scheme amendment will cause massive traffic and parking problems in the area. The Council's clause restricting parking to Duke Street level and counting any parking above street level as a storey is critical and should not be waived at any time under the "escape" clause. • The resultant loss in property value we will experience due to the effects of the development is a form of governmental financial theft. It is extremely likely that there will be claims made by residents for financial compensation if a four storey or higher development is approved. • The Royal George Hotel is a valuable heritage building of historical significance in a wider heritage precinct. Protecting the heritage values of the whole precinct should feature in the scheme amendment. Our position is that any apartment building tightly crammed up the back of such an important heritage building is both unnecessary and totally incompatible with heritage values, and raises questions about how committed the Council and state planning authorities are to any values of sustainability and heritage protection. Protecting	the revised provisions is likely to have a less detrimental impact on property values. Property valuation will be dependent upon a range of factors external to the considerations of the planning framework. It is considered these factors cannot guide the planning process. The Town is unable to provide certainty that property values will be unaffected. The comments made in regard to the transaction and arrangements for the sale of the land to a private party have not been made available to the Town and are a matter for the State government to address. **Not recommended for modification:** **No change to the Amendment proposals or documentation recommended and justification noted in regard to comments relating to landscaping and environmental/sustainability matters, infill targets and property valuation.**

No.	Name/ Address	Description of Affected Property	Summary of Submission	Council's Recommendation
			just the hotel is not enough, the heritage value of the whole precinct can still be lost if even one building is allowed to be built in a completely unsympathetic modern style. • If development goes ahead, any apartment building adjoining the Royal George Hotel must be constructed in a sympathetic style and height to other heritage buildings, and in a way that does not result in a heavily concreted or glassed appearance. The current height allowances within the amendment will inevitably result in a feature that will dominate the skyline for miles, towering over and changing the atmosphere of a heritage precinct of mainly single storey buildings, especially given the location of the proposed development on top of a hill and well away from other high density developments in the area. Once the door is opened for seven storeys that is the minimum we can expect to be asked for by a developer. • In keeping with the adopted sustainability values of the East Fremantle Council, there needs to be clauses that require new developments to incorporate solar panels, grey water recycling, rainfall collection, extra glazing of windows and provision of green space to moderate street temperature in any new development. With current knowledge of the environmental benefits of and need for these technologies, there is no excuse for not incorporating them into planning schemes. • This apartment building is clearly intended as apartments for the wealthy, and does not meet the major purpose of infill – to provide access to established suburbs for those who normally	

No.	Name/ Address	Description of Affected Property	Summary of Submission	Council's Recommendation
			could only afford to live on the city fringes. Infill is not merely about providing a certain number of dwellings, but is supposed to be an economic equalizer to make cities more liveable and improve economic outcomes for those who are disadvantaged by the current system. If apartments are being built for rich investors who will charge high rents, this furthers economic inequality and pushes the intended beneficiaries of infill further out of the city centre. The Council and state planning authorities need to consider the broader outcomes of developments such as this one on wealth inequality. What is the purpose of such a development if no low or middle income groups can live there? It simply shifts economic wealth further into the hands of the few, by taking away the area amenity and lowering property values of existing residents. If the Council is serious about sustainability, there needs to be stipulation that a certain number of any apartments built will be reserved for and sold to or made accessible to applicants from these lower and middle income groups, for example as the Subiaco Council have done with their developments near Subiaco Oval. • If it transpires that the developer paid an extremely low price for this property, far lower than market value and far lower than the average house value in the same area, then serious questions need to be answered as to how that situation occurred and why the property was not openly advertised at that price to the public. Furthermore, this does not then mean that the Council are in any way beholden to a developer and should allow development at any cost to existing residents. If a developer has been able to purchase the property for a lower	

No.	Name/ Address	Description of Affected Property	Summary of Submission	Council's Recommendation
			than market value price, this should render any cries of needing a certain number of dwellings to make development viable null and void. Inevitably any developer will want to build any residential block upwards to maximise profit and maximise the potential for river and ocean views, and they will exert considerable pressure on the planning authorities and Council to allow them to do this. Maximising profit for the developer should not be the primary concern of the Council and state planning departments. Their focus should be on avoiding the resultant catastrophic impacts on existing residents and designing more thoughtful and responsible infill developments that are accessible to low and middle income demographics.	
5	Susanne Sperber & Graeme Wheaton- 42 King Street	42 King Street, East Fremantle	We are concerned about the height of the proposed development. It should not be higher than about 4 storeys. In the George Street precinct houses are 1 or 2 storeys high and therefore this development should not be higher than 4 storeys to be in keeping with the surrounding houses. Due to the history of the buildings in the precinct, a multi-storey development is inappropriate. This hotel is directly behind our house. A multi-storey development will significantly impact on us and will look over our backyard. Visually it would look overwhelming from our backyard and we will lose all privacy. There is a concern about parking. There is a lack of room here for parking and a multi-storey car park would look and be inappropriate.	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**

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			Traffic would be increased significantly in the whole area and particularly King, Duke and George Streets. This would significantly impact on our enjoyment of living in the area.	
6	Elizabeth Thompson- 38 Bedford Street	Amendment area	I have lived in East Fremantle for 32 years, renting first and then buying. I'm currently living in the second home I have bought and renovated. One of the reasons I loved the suburb was its lack of development. Past town planners were in favour of maintaining the character of the suburb and limiting the development and infill as much as possible. As a result the value of homes has steadily increased and the suburb has retained its beauty and ambience, unlike neighbouring suburbs of Palmyra, Melville and Attadale, where virtually every home has been subdivided. Recent developments are completely at odds with this character. The Richmond Quarter block of flats is ugly and incongruous, and basically a slum of the future. Yes there needs to be some high density development, but not to that height. The development of the George Hotel to seven storeys is a travesty. The beautiful old hotel will be dwarfed by yet another ugly block of flats. It is a disgrace that this has been suggested, especially as another enormous development has gone ahead on the neighbouring property in what was once a beautiful quiet street. Councillors beware; no one in East Fremantle is in favour of this reckless approval of ugly high rise buildings and will let their displeasure known at the next election.	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**

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			Please have some sense and limit all further buildings to a maximum of 3-4 storeys. The apartments in May Street are an excellent example of clever urban infill.	
7	Simon Doyle- 58 King Street	58 King Street, East Fremantle	Lest the Royal George becomes further dilapidated I would welcome the commercial development of site which retains its heritage aspects. I have no concern regarding apartments been proposed for rear of site as it is assumed that off street parking will be provided. However, in the event that the Saracen proposal includes a bar/restaurant, I would want to see some guarantee of adequate off-street parking for patrons. There is a low number of off-street parking for existing residents in the Plympton Ward and with the numerous pending, and completed, extensions of the workers' cottages into larger family homes (and associated two or more cars per household) parking is further compromised. Residents of Duke, George and King will be particularly affected. Will patrons to Royal George have access to parking on the corner of St Peter's Road and Silas Street? If not what is to happen to this site?	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
8	Martin Connolly & Joanne McKenzie- 40 King Street	40 King Street, East Fremantle	We commend the Town of East Fremantle for initiating amendments to the Local Planning Scheme to facilitate the redevelopment of the Royal George Hotel site. We support the proposition that development of the land would not be supported unless the Royal George Hotel building has already been restored (or at least substantially progressed).	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**

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			However, we would like to register concern about the Building Height Provisions of Amendment No. 15, as they relate to the redevelopment of the remainder of the Royal George Hotel site. Specifically, we are concerned that a maximum building height of seven storeys would significantly impact on our privacy, and the free use and enjoyment of our property. We acknowledge that building height will be a critical factor for the developer and financial viability of the project, however, it is difficult to envisage how a seven-storey building would complement the Royal George Hotel and would not detract from the Hotel or surrounding area. The rear of our house faces east, and our lifestyle is orientated towards the rear end of our house, with a large deck and swimming pool, and cathedral style windows in the master bedroom. We currently enjoy a high level of privacy at the rear of our house, enabling us to make considerable use of the pool and other facilities. Residents in the upper floors of the proposed building will be able to look directly into our primary living space- our kitchen and dining area, our outdoor living area, our swimming pool and our master bedroom. A building of seven storeys in height would also impact the privacy of other King Street residences in the vicinity of our property, with these properties also being orientated east. We strongly support the proposal to undertake a wide ranging and strategic traffic impact assessment in the Plympton Precinct. We note that the Town's proposal for Amendment	

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			No. 15 refers to traffic flow on both Sewell Street and St. Peters Road (page 14) but omits any mention of King Street. Since the completion of the Richmond Quarter complex, there has been a very significant increase in the volume of traffic through King Street. There will likely be a further significant increase when the Brush Factory apartments on Duke Street are completed, and if a residential development proceeds on the Royal George Hotel site. We would appreciate the Town continuing to keep us informed of the progress of development proposals for this site, and we would be pleased to meet with the Town's representatives or provide further comments, should these be required	
9	Jono Farmer 19 Sewell Street	Amendment area	I support the Scheme Amendment No. 15. The conditions required of a developer/restorer are unambiguous and reasonable. The caveat precluding any redevelopment of the rear of the site until the total restoration has been completed is essential and there should be no variation to this. The requirement for a maximum of seven storeys on any proposed building on the northern end of the property is, I believe, reasonable and should afford the developer a viable development without resorting to a higher development. I believe Council needs to exhibit some flexibility during their negotiations with a would-be developer regarding parking and proposed usage to ensure that any proposed project is viable.	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**

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			Restoration of the "Driver residence" on Riverside Road is an example of how Council can achieve a satisfactory outcome. At the end of the day we, the residents/stake holders, must have this building restored sooner than later.	
10	Karen Silverthorne 55 King Street	55 King Street, East Fremantle	1. I would like to support the planning scheme amendment to restrict the height of the development behind the Royal George Hotel. I love this building and would really like to see it restored as it is the most unique and striking building in the area. The dome on the roof of the Royal George should be kept as feature and not dwarfed by the proposed development; an additional 7 storey building would need to fit in with the heritage aspects of the hotel in front of it so we can maintain the appeal of the Royal George Hotel. 2. I am concerned about the increased traffic to the area, especially considering the other developments on Duke Street and on St Peters Road. I currently see a lot of cars using King Street as a through road. I would like to see the local traffic flow in the area looked into to support extra vehicles brought in by these new developments. Perhaps opening up Sewell St or Hubble Street to allow two-way traffic onto Canning Hwy or improvements to the intersection at the end of King Street and St Peters Road. 3. Similar to the last comment, parking would also be an issue which so many extra cars coming into a 7 storey building with commercial space. I see the planning Scheme Amendment shows that allowances are made for car spaces within the building. I have often had cars parked in front of	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.** Comments are noted in relation to trees. The trees referred to are located on private property and cannot be protected under the provisions of the Planning Scheme, however, it may be possible to require retention of the trees in the assessment of a Development Approval application for the site depending on the building footprint design. The Town's approach to tree removal on private property is to endeavour to retain as many mature plants on the site as possible. **No change to Scheme Amendment proposed.**

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			my driveway, being close to George St, which is very frustrating, so I would like to make sure there are adequate parking spots for this development. It would be great to see some planning to encourage more cyclists, perhaps a place to park bikes near the building or along George Street? 4. I would like to see as many mature trees as possible kept within the development site. I know this will be difficult in this situation given a small parcel of land, but perhaps the developer could commit to adding more trees to the front facade along Duke Street to keep the nature element to the location. 5. I would also like to make a comment that the building be a suitable design to fit in with the heritage of the area so we don't lose the appeal of the Plympton Ward with the introduction of these new developments.	
11	Maureen Flynn 62 Allen Street	62 Allen Street, East Fremantle	I consider the Royal George Hotel is one of the premier heritage buildings in the Town. It is certainly the most visible heritage building. For me, the stand out feature of the building is the dome with the spire standing out above the dome. I hope that any new building to be constructed on the car park immediately to the north of the Hotel building will not overshadow the dome. I understand that the proposed 7 storey maximum will be slightly lower than the roofline of the Brush Factory redevelopment, and would leave the dome as a significant	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. It is proposed to introduce a provision which does not give the decision–making authority the power to vary the standards/controls related to building height and setbacks. In this regard certainty for the community in respect to the potential for scale and height of development on the rear of the site to be contained is increased. It should be noted the advertised provision did allow for the building height and

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			feature in the skyline. I therefore support a maximum of 7 storey development for the site. In relation to Clause 5.9.9 Variations to site and development standards and requirements, I am concerned that there is the option for the local government to approve a building application unconditionally, in spite of non-compliance. I do not support this. It is important that residents and ratepayers are provided with certainty, especially in relation to approved usage and height restrictions, and that these matters cannot be subject to change without considerable scrutiny, transparency and accountability. Residents and ratepayers should be confident that height restrictions set out in the scheme amendment should be enforceable. I do not have a direct interest in this matter, that is, my property will not be directly affected, however, I consider this is a matter of concern for our Town as a whole.	setbacks to be varied by the decision-making authority, however, these provisions have been removed. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
12	Tim Chambers 69 King Street	69 King Street, East Fremantle	I support the Council's move to amend the Local Planning Scheme with amendment No. 15, or any other amendment it deems necessary, to protect the heritage nature of the Royal George Hotel, the amenity of the Plympton Ward and the comfort of local residents. In particular, I assert that the development proposal should: 1. Comply with all heritage requirements both inside and outside the building. 2. Be no taller than the height of the current building.	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**

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			3. Be required to provide sufficient parking that no impact is made upon street parking in the local area.	
13	Carmen Elrick - Barr 9 King Street	9 King Street, East Fremantle	I strongly commend the Council for initiating this proposed Scheme Amendment. It is vital that a degree of control is placed on the development of the land directly adjacent to the Royal George Hotel. I believe the controls outlined within this proposed scheme amendment will provide the developer with the ability to offset the costs of the refurbishment of the Hotel; however, I have concerns regarding the allowable height limit. The site is located in a residential area and therefore any development should be sensitive to the residential properties adjacent to and surrounding the site. The Scheme Amendment allows for a seven storey development 'from ground level'. It is unclear whether ground level is 'road level' or the paved area at the base of the site. In keeping with other developments in the area and to preserve the valuable attributes of the Royal George Hotel, any development in the site adjacent should not exceed that of the other developments in the proximity. For example, the Brush Factory Apartments located next to the site should be the maximum allowable height for development in this area.	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
14	Trefor Jones 81 Duke Street	Amendment area and immediate locality	Current development ongoing for the past 4 plus years was granted public parking spaces in George street to meet minimum parking! This is yet to be proven effective in the longer term. This new development with the refurbishment of the Royal George must be self-contained with parking and no further concession granted for parking outside the property. I	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising:**

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			have noted that there are vehicles parking on Marmion Street for several weeks at a time as an overflow from Duke and King streets, and Wednesdays (rubbish day) with the reduced parking space, parking is very tight any place in Duke Street. This makes the Councils collection services more difficult in the reduced space.	**Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
15	Peter & Janet Jackson 45 Duke Street	45 Duke Street, East Fremantle	We are generally supportive of the Council's proposed Amendment No.15 to LPS No.3 which aims to guide any development of the Royal George Hotel site. The developable parcel of the Royal George site is tightly constrained, physically and particularly by vehicular access as Duke and George Streets are both no through roads. Traffic flow, management, safety and parking are therefore critical issues within the Plympton Precinct. A majority of properties require on street parking. Any development should be sympathetic to the heritage character of the precinct and not overbear the surrounding predominately single storey residential cottage properties. Height, bulk and scale must therefore be controlled. The current LPS seeks to locate multi and high-rise developments over three storeys within the Town Centre Zone with easy access to public transport and key vehicular distributors. We continue to support this objective.	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without modification: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
16	Deanne Jackson 72 King Street	72 King Street, East Fremantle	Whilst I agree that the Royal George is an important iconic building for the area of East Fremantle, I would argue that due to fundamental changes in the roads and access points to the	In regard to comments related to building height and scale, and building design/architecture, land use, parking and traffic

No.	Name/ Address	Description of Affected Property	Summary of Submission	Council's Recommendation
			building post construction, it can never be returned to its former glory of a hub for the community. A small scale 100% residential development is the only appropriate development for the site. With the recent addition of a commercial area and high-density development directly opposite the site and in nearby George street, a further high density development would be too much for the local infrastructure and be an unreasonable burden on local residents. Traffic congestion, parking, waste disposal, noise, poor water flow and access to the internet and schooling are already major issues for an area built for horse and carts and (largely) single dwelling residential properties. My view is that further pushes to increase the density will result in reduced amenity for current ratepayers in the area, safety issues for the many young families in the area and an increased cost to Council for the management of these issues and upgrading of infrastructure that will far outweigh the additional rates revenue received. Unfortunately, this is one development where any profit obtained will be to the direct detriment of the local area.	management refer to response and Council recommendation for Submission No. 2 above. **Recommendation for modification without advertising: Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
17	Atco Gas	Amendment site	No objection subject to existing gas mains and gas infrastructure being recognised by the developers and factored into any future designs for the areas where the Atco Gas assets may be impacted.	**All servicing authorities to be advised of the outcome of Amendment 15.**

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18	Department of Health	Amendment site	No objection provided all developments are required to connect to Scheme water and reticulated sewerage. The Town should also use the opportunity to minimise potential negative impacts of the mixed use development such as noise, odour, light and other lifestyle activities. Public health impacts draw attention to those issues and they should be appropriately and adequately addressed at this stage. To minimise adverse impacts on the residential component, the Town could consider incorporation of additional sound proofing/insulation, double glazing on windows, or design aspects related to air conditioning units and other appropriate building / construction measures.	**Comments noted.** **All servicing authorities to be advised of the outcome of Amendment 15.**
19	Telstra Corporation Limited	Amendment site	At present, Telstra Corporation Limited has no objection. I have recorded this in our Development database and look forward to further correspondence in the future.	**All servicing authorities to be advised of the outcome of Amendment 15.**
20	Fremantle Ports	Fremantle Port Buffer Zone	No comment on the proposed Amendment. However, once the Amendment is finalised and the site is further developed, it is requested that due to the site being within the Buffer Area 2 and its proximity to Stirling Highway, that the Town's Buffer Guidelines and the WAPC's State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning be applied (SPP 5.4).	Noted and comments acknowledged. Should a Development Approval application be submitted the Fremantle Port Buffer Zone Guidelines will be given due consideration and the Development Approval application referred to Fremantle Ports and Main Roads WA for comment as part of the Scheme and DAP referral and advertising obligations. The Council Report on the Scheme Amendment notes the proximity to the working Port and the need for referrals to the Port authority and Main Roads WA. A provision has also been introduced which requires compliance with SPP 5.4.

No.	Name/ Address	Description of Affected Property	Summary of Submission	Council's Recommendation
				All servicing authorities to be advised of the outcome of Amendment 15.
21	Department of Education	Amendment site	No objection to the proposed Amendment.	**Comments noted.** **All servicing authorities to be advised of the outcome of Amendment 15.**
22	Water Corporation	Amendment site	**Water and Wastewater** Reticulated water and sewerage is currently available to the subject site. The proposed Amendment to the Scheme does not appear to impact on the Water Corporation's assets or operations. **General Comments** Any major building additions or alterations will require approval by our Building Services section prior to commencement of works. Infrastructure contributions and fees may be required to be paid prior to approval being issued. Please provide the above comments to the land owner, developer and/or their representative.	**Comments noted.** **All servicing authorities to be advised of the outcome of Amendment 15.**

<table>
<tr>
<td>23</td>
<td>Kris Nolan - Urbis
(On behalf of Saracen Properties P/L)</td>
<td>Amendment site</td>
<td>
<table>
<tr><th>Provision No.</th><th>Provision</th><th>Proposed Amendment</th><th>Justification</th></tr>
<tr><td>5.9.8.1 Building Height</td><td>Maximum building height of 7 storeys above natural ground level.</td><td>Maximum building height of 9 storeys above natural ground level.</td><td>The provision of additional height but with the same plot ratio, will facilitate a leaner building structure, affording greater opportunity for architectural statement and excellence.</td></tr>
<tr><td>5.9.8.1 (i) Building Height</td><td>Ground floor will not exceed a maximum height of 4.0m measured from floor to floor…..</td><td>Ground floor will not exceed a maximum height of 4.0m measured from floor to floor…..The ground floor maximum height may be varied for lobbies, entrances and other architectural features.</td><td>This will allow for architectural statement in appropriate locations, particularly in the Royal George Hotel.</td></tr>
<tr><td>5.9.8.1 (iii) Building Height</td><td>Basement car park will be counted as a storey if the basement sits more than 1.5m higher than Duke Street.</td><td>Basement car park will be counted as a storey if the basement sits more than 1.5m higher than Duke Street…This storey may be removed from height calculations if the façade to the</td><td>The sloping nature of Duke Street means that at least some of the basement will exceed 1.5m in height. It is intended, however, that this face will be articulated so as to present as an active frontage and not a blank wall. In this context, we don’t believe this component of the building should be counted for height purposes.</td></tr>
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<td>Submission noted, however, in regard to comments related to building height, plot ratio and parking requirements and other provisions. The submitter’s proposed amendments are not considered justified in light of the response and Council recommendation outlined in Submission No. 2 above.

Not recommended for modification:
No change to the Amendment proposals or documentation recommended and justification noted.

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.

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 has endorsed style guides which would apply to development on public land (e.g. if the pedestrian underpass was refurbished and redesigned Council’s</td>
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</table>

					basement is deemed to be suitably articulated.		style guides would provide guidance). In any case further consultation with the Heritage Council will be sought if the installation of street furniture or signage was proposed. The comment related to the provision which required the development of an area of publicly accessible open space is noted. 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. This cannot be considered as part of the development assessment. On review of the development controls the provision of a public space for a site with many development constraints was considered to unnecessarily complicate the planning and design process, particularly as the restored heritage building will be open to the general public and will provide street activity and interest. 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
				5.9.8.2 Building Height Variation	N/A	Maximum building height may be varied in the following circumstances: -Improvements made to the George St underpass; and/or -Provision of community use(s); and/or -Provision of short-stay accommodation; and/or -Contribution to on-street parking; and/or: -Expansion component to achieve One Planet Living Certification. Development above 9 storeys, a podium of up to 5 storeys is to be provided with height above 5 storeys	The restricting of height potentially has a limiting effect on the site from an architectural perspective; this potentially will result in a large monolithic block like structure. Whilst context is important, some additional height should be permissible in appropriate circumstances. Accordingly, we have suggested a performance-based approach to additional height, outlining a number of specific provisions or circumstances where additional height could be provided. Again these provisions do not seek to vary plot ratio, therefore facilitating a leaner, more elegant building structure.	

					differentiated successfully through architectural outcome. Development above the 9 storey height maximum must be to the satisfaction of the Town's Community Design Advisory Committee and shall not exceed the maximum plot ratio.			so as not too complicate refurbishment of the Hotel and the rear of the site. **Recommendation for modification without advertising:** **Changes to the Amendment proposals and/or documentation recommended and planning basis noted.**
				5.9.8.6 (iv) Car Parking	N/A	A discount of up to 50% of the requirements of Schedule 10 of the Scheme may be applied for commercial and civic uses within the restored Royal George Hotel building.	The restoration of a nationally recognised heritage building does not afford considerable opportunity to provide additional on-site parking. Accordingly, we seek a reduction in the standard parking requirements, acknowledging this and our client's likely contribution to off-site parking arrangements.	
				5.9.8.6 (vi) Car Parking	N/A	Non-residential parking requirements may be varied beyond that permitted in Clause 5.9.8.6(iii)	Saracen Properties are working with multiple surrounding land owners in the bid to facilitate an alternative parking option due to the constraints of the site and the constraints of the	

					with the construction or contribution towards an off-site parking facility, subject to a parking management plan.	heritage building in providing on-site parking.	
				5.9.8.7 Public Art	Public art shall be incorporated into or near the site to the value of 1% of the development cost.	This clause is proposed to be deleted.	The restoration of this locally and nationally significant heritage building is considered to be a sufficient contribution to the broader amenity of the Plympton Precinct. Further, the provision of a modern piece of "public art" is unlikely to be in-keeping with the architectural vernacular of the hotel.
				The future proposed development subject to LPS No. 3 Amendment No. 15 will be a flagship development for the area. Upon review of the provisions and considering these as a design outcome, we believe the proposed amendments will enable a development the Town and the community will celebrate. The proposed modifications do not increase plot ratio, rather potentially facilitate greater community outcomes for the site and the Town and afford greater opportunity for architectural expression.			

Local Planning Scheme No. 3 - Amendment No. 15 - Modified Provisions

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'[4]; 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	

(iii) 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.