



TOWN *of*  
**EAST FREMANTLE**

# **Local Planning Scheme No. 3 Report of Review**

**September 2018**



## Table of Contents

Introduction .....	1
Background .....	2
Gazettal of Local Planning Scheme No.3 .....	3
Amendments to Local Planning Scheme No.3 .....	3
When Local Planning Scheme No. 3 was last consolidated .....	5
Relationship between draft Local Planning Strategy (2013/2016) and Amendment No. 10 .....	5
Overview of the population and subdivision changes in the scheme area since LPS3 was gazetted ....	6
Population .....	6
Subdivision and Development activity.....	7
Extent to which LPS3 has been updated to conform to any relevant legislation, region planning scheme or State planning policy .....	7
Comment and Recommendations .....	9
Recommendations .....	10



## Introduction

Part 5, Division 5 of the *Planning and Development Act 2005* (PD Act) requires the regular consolidation of local planning schemes incorporating all amendments that have been previously made. A local government is not required to prepare a consolidated scheme if it instead resolves to prepare a new scheme in substitution.

This report of review for *Local Planning Scheme No.3* (LPS3) has been prepared in accordance with Part 6 - Review and consolidation of local planning schemes requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

The Regulations require a five year interim review of all Western Australian local planning schemes, aiming to create more consistent and uniform schemes across the diverse local government areas and to enable future scheme reviews to be timely and more cost effective.

According to the Regulations, a local planning scheme comprises of a scheme map; scheme text; provisions set out in Schedule 2 of the Regulations (Deemed provisions for local planning schemes); and any other supporting plans, maps, diagrams, illustrations and other material. In addition, the Regulations require preparation of a local planning strategy for each local planning scheme that is approved within a local government area.

The local planning strategy component which outlines the key strategic directions for future land use, growth and development of the Town of East Fremantle was adopted in 2003 and LPS3 was gazetted on 3 December 2004. Notwithstanding this, the Town of East Fremantle does not have a current local planning strategy. The 2003 strategy has been the subject of review since 2012.

The development of a relevant local planning strategy has been somewhat stymied by delays that have occurred during the statutory planning process, complicated further by the State Government's now defunct proposals for Local Government reform (including amalgamation), changes to the State government planning framework and guidelines, as well as further studies being undertaken by the Town of East Fremantle and others over that timeframe.

The Town of East Fremantle had also proposed a number of changes to LPS3 (through omnibus Amendment No. 10) to support the initial drafts of the local planning strategy, however, these were significantly rejected by the then Minister for Planning indicating a need to make further adjustments.

A number of years have passed since the inception of the initial draft local planning strategy, and although modifications have been made over that time, full confidence is not forthcoming with regard to the draft strategy which was advertised in April/May 2016 in terms of it representing best planning practice and desired strategic community outcomes. Subsequently, a number of elements within the previous draft strategy require modification and review of the local planning strategy is currently being undertaken.

## Background

The Town of East Fremantle is a compact municipality measuring 3.2 square kilometres in area and is bound by the Swan River East Street, Marmion Street and Petra Street.

The Town of East Fremantle is located approximately 12 kilometres south west of the Perth CBD. It is recognised as part of, and contributing to that portion of the south-west metropolitan region which has the Fremantle Strategic Centre as its main service centre.

The Town was established in 1897 and is one of the region's historic suburbs developed around early mansions and inner harbour workers' cottages. The locality is significant as a remnant of the early development of the Perth Metropolitan Region and this is reflected in the recognition given to the area in both local and State heritage registers. Fortunately, much of the original urban fabric has been preserved and there is now widespread recognition of the need to protect the area from the indiscriminate redevelopment often associated with the pressures for urban consolidation.

The major regional commercial and industrial facilities to which the community has access include the Fremantle City Centre, the Fremantle Port, Booragoon Activity Centre and a number of industrial estates located in adjacent local government areas.

At the time of the 2016 Census there were 7,376 residents within the local government area of the Town of East Fremantle. The median age was 43 years, which is high compared to the median age of Greater Perth of 36 years. Analysis of the service age groups in 2016 compared to Greater Perth reveals a lower proportion of people in the younger age groups of 0 to 17 years (21.9% versus 22.7%) and a higher proportion of people in the older age groups of 60+ years (23.1% versus 19.0%).

Regional recreational facilities include the East Fremantle Oval, the Swan River and associated foreshore reserves. The river not only provides for a wide range of recreational activities, but is also the venue of an important transport hub in the form of the Fremantle Port.

The Town of East Fremantle in its local and regional context has close proximity to the Strategic Centre of Fremantle and a range of other regional employment, educational and recreational facilities in surrounding areas. A relationship with these facilities is significant in the planning of the Town, which is not able to support the full range of services available in larger municipalities.

The Town is traversed by two primary regional roads, being the Canning and Stirling Highways which provide road access to other parts of the region on which the area relies for many of its services.

## Gazettal of Local Planning Scheme No.3

The Town of East Fremantle Local Planning Scheme No.3 (LPS3) was gazetted on 3 December 2004 in accordance with section 87(3) of the PD Act and comprises of the scheme text and the scheme maps.

Schedule 2 of the Regulations (Deemed provisions for local planning schemes) automatically made the following changes to LPS3:

- Supersedes provisions contained within Part 2: Local Planning Framework; Part 7: Heritage Protection; Part 9: Applications for Development Approval; Part 10: Procedure for Dealing with Applications; Part 11: Administration and Enforcement; and
- Includes additional provisions relating to Terms used; Structure Plans; Activity Centre Plans; Local Development Plans; and Bushfire Risk Management.

LPS3 divides the Town into various local zones and reserves as follows:

- Zones – Residential, Mixed Use, Special Business, Special Zone-Royal George Hotel and Town Centre.
- Local Reserves – Local road, Open space and Public purposes.

In addition, Metropolitan Region Scheme (MRS) Reserves are depicted as follows:

- MRS Reserves – Primary regional roads, Other regional roads, Waterways, Public Purposes and Parks and recreation.

The Town of East Fremantle local planning framework also includes a number of local planning policies made under the provisions of LPS3.

## Amendments to Local Planning Scheme No.3

Following its gazettal, LPS3 has maintained its effectiveness through the statutory amendment process as and when required. As of July 2018, thirteen (13) separate amendments have been finalised since gazettal of LPS3 and three amendments which are currently being assessed by the Department of Planning.

Several stand-alone amendments have been undertaken to ensure LPS3 has remained up to date, current and effective. One large omnibus amendment (Amendment No. 10) was formally initiated in September 2014 however, this was not gazetted for final approval until October 2016.

All Amendments were published in the Government Gazette in accordance with section 87(3) of the PD Act as listed below:

### Amendments Incorporated into Consolidation of Local Planning Scheme No. 3

Amendment No	Gazettal Date	Details
	15/12/06	Schedule 2 - additional use area "15. Lot 5 (No. 238) Canning Highway, East Fremantle" together with additional uses and special conditions.
4	9/2/07	Schedule 2 - adding Additional Use site "15. Lot 630 (No 169 Canning Highway, East Fremantle". <i>Note: An additional use area 15.is already in existence.</i>

Amendment No	Gazettal Date	Details
9	31/8/12	<p>Replaced 'and' with 'or' after 'only the interior of a building' of clause 8.2(a).            Inserted subclause (v) into clause 8.2(c).            Deleted subclause (f) from clause 8.2.            Deleted schedule 5 and renumbered schedules 6-13 accordingly.            Inserted subclauses (f) – (j) into clause 8.2.</p>
10	11/10/16	<p>Amend the Scheme Maps by excluding 34 George Street from the Mixed Use zone and including into a new zone "Special Zone – Royal George Hotel".            Amend the Scheme Maps by including a new zone in the legend "Special Zone – Royal George Hotel".            Inserted in Clause 4.2 Objectives of Zones:  <u>Special Zone – Royal George Hotel</u>            Amended the Zoning Table            Inserted New Note 1 to the Zoning table            Insert New clause 5.9 Special Zone – Royal George Hotel.            Amended definitions for "hotel", "natural ground level" and "tavern" in Schedule 1            Amended the Dictionary of Defined Words and Expressions.            Replaced sub-clause 1.5(g).            Deleted the words "Town Planning Act" in Clause 1.7.1(a) and replaced with "Planning and Development Act".            Deleted the words "Metropolitan Region Town Planning Scheme Act 1959/WA Planning Commission Act 1985" and replaced with "Planning and Development Act" in Clause 3.2.1.            Clause 4.11 modified by deleting "Section 13 of the Town Planning Act" in the footnote and replacing with "Sections 190 and 191 of the Planning and Development Act".            Modified Clause 5.5.2 by deleting "Schedule 11" and "Schedule 12" and replacing with "Schedule 10" and "Schedule 11".            Modified Clause 5.5.2 by deleting "Car Parking Standards" and replacing with "Required car parking in respect of any non-residential development in the Residential Zone".            Modified Clause 5.7.1 by deleting "Schedule 10" and replacing with "Schedule 9".            Modified Clause 5.8.5 by deleting "Schedule 11" and replacing with "Schedule 10" and by replacing Schedule 4 with Schedule 11.            Clause 5.9 to 5.9.3 deleted.            The Note following Clause 8.2 (j) modified by deleting the words "20D of the Town Planning Act" and replacing with "section 157 of the Planning and Development Act".            Inserted new clause 8.4.3:            Clause 9.1.1 (h) modified by deleting "5.5" and replacing with "5.6".            Clause 9.1.1 modified by deleted "Schedule 6" and replacing with "Schedule 5".            Clause 9.1.2 modified by deleting "Schedule 7" and replacing with "Schedule 6".            Modified note 2 following sub-clause 9.1.2 by replacing "management area" with "development control area", and <i>Swan River Trust Act 1988</i> with <i>Swan and Canning Rivers Management Act 2006</i>.            Replaced note 3(b) following sub-clause 9.1.2            Clause 9.4.2 deleted and replaced.            Clause 9.4.4 modified by deleting "Schedule 8" and replacing with "Schedule 7".            Clause 10.4.1 modified by deleting "Schedule 9" and replacing with "Schedule 8".            The heading to Clause 10.10 modified by deleting "APPEALS" and replacing with "REVIEWS".            Clause 10.10 modified .            Modified Part 11.            Modified Clause 11.2.4 .            Modified Clause 11.4(b) .            Deleted Clauses 11.5, 11.6 and 11.7.            Amend Schedule 1 General Definitions.            Modified Schedule 10 by replacing "clause 5.8" with "clause 5.6" and by replacing "5.4.2 and 5.7.5" with "clauses 5.5.2 and 5.8.2" respectively.            Modified Schedule 11 by replacing "clause 5.4.2" with "clause 5.5.2" and by replacing "clause 5.5.5" with "clause 5.5.3" wherever they appear.            Modified Schedule 11 by replacing "Clause 5.8" with "Clause 5.6".</p>
12	08/11/16	<p>Rezone Lot 250 (no. 18) Dalgety Street, East Fremantle from 'Public Purposes - Hospital' to 'Residential' with a corresponding density coding of 'R15'.            Amend Scheme Maps accordingly.</p>
13	08/11/16	<p>Deleted entry numbers 1 and 2 in Schedule 4: Special Use Zones.</p>
11	13/06/17	<p>Amending the density code for a portion of Richmond Precinct and Richmond Hill Precinct from R12.5 to R17.5.            Amending the Scheme Maps to change zoning from R12.5 to R17.5 where marked on the attached Scheme Map.</p>

There are two complex amendments to LPS3 currently in progress (with the WAPC/Minster for Planning for final approval):

- Amendment No. 14 – Introduction of Special Control Area 1 – No. 91-93 (Lots 418 and 419) Canning Highway, Lot 81 St Peters Road and Lot 423 King Street, East Fremantle; and
- Amendment No. 15 – To Supplement Special Zone – Royal George Hotel Provisions – No. 34 (Lot 303) Duke Street, East Fremantle.

## When Local Planning Scheme No. 3 was last consolidated

The Town has made an updated and current version of LPS3 available to the public at all times since gazettal. All previous amendments have been consolidated into an accurate single set of Scheme Maps and a Scheme Text, together with a full suite of current policies. LPS3 has therefore effectively been kept under constant review and consolidation since gazettal in 2004.

LPS3 was last consolidated by Amendment No. 10, which was gazetted in October 2016. There is a considerable amount of background and commentary to this amendment, which was substantially modified between its initiation and final approval (further details discussed in later section of this report).

### Relationship between draft Local Planning Strategy (2013/2016) and Amendment No. 10

In early 2012, the Town of East Fremantle engaged a planning consultant to undertake a projected population analysis and survey of the existing housing density and development pattern throughout the Town to inform revisions of the 2003 local planning strategy and LPS3.

Based on this analysis and in response to relevant State planning strategies at that time, potential infill development locations were proposed to be zoned as dual R-coded areas, whereby subdivision and development could be considered at a higher density provided subject to certain performance criteria being met. This approach was to encourage housing diversity since not all lots in the area would be able to satisfy the criteria necessary for redevelopment and heritage and streetscape values would be protected.

The findings and analysis resulted in the development of a draft local planning strategy (2013) which was endorsed by Council's Town Planning Committee as the basis for the review of LPS3.

At its Ordinary meeting held on 21 May 2013, Council resolved to:

1. Forward the 2013 local planning strategy to the Western Australian Planning Commission (WAPC) seeking approval to advertise.
2. Endorse the proposed Amendment No. 10 to LPS3 for the purposes of public notification and:
  - a) Agrees that the amendment should be advertised concurrently with the 2013 local planning strategy once the WAPC has granted approval to the advertising of the Local Planning Strategy.
  - b) Forward a copy of the draft amendment to the WAPC in support of the 2013 Strategy.
  - c) Develop a Community Engagement Program to explain the local planning strategy and proposed Amendment No. 10 prior to the statutory public advertising of the documents.

Following analysis of issues identified during the community engagement program, changes to draft Amendment No. 10 were made (in consultation with officers from the then Department of Planning) and considered by Council at its meeting held on 16 September 2014 where it was resolved to:

1. Initiate proposed Amendment No. 10.
2. Refer the proposed scheme amendment to the Environmental Protection Authority (EPA) and other relevant agencies as required.
3. Subsequently advertise the proposed amendment for public comment.

In September 2014, the EPA advised that it did not require Amendment No. 10 to be formally assessed and public advertising commenced in November 2014. Four submissions were received and in March 2015, and as a consequence Council resolved to:

- Endorse modification of Amendment No. 10 by deletion of the proposed R-Code density change of R12.5 to R20 in respect of the Richmond and Richmond Hill Precincts.
- Adopt modified Amendment No. 10 and submit it to the Minister for Planning for final approval.
- Endorse the public notification of Amendment No. 11 to change the R-Code density zone for the Richmond and Richmond Hill Precincts from 12.5 to R17.5 (A fresh amendment, Amendment No. 11, was considered a better option than progressing the same outcome through a modification to Amendment No. 10 in the interests of expediency and simplicity).

In March 2016, the WAPC advised of a number of further modifications required to Amendment No.10 prior to final approval. These were carried out and forwarded to the WAPC in April 2016. Final approval was granted by the Minister for Planning which was gazetted on 11 October 2016. Amendment No. 11 was gazetted on 13 June 2017.

Amendment No. 10 was initiated by the Town of East Fremantle based on its draft Local Planning Strategy (2013). This draft strategy provided the background and rationale to Amendment No. 10 as initially proposed by the Town and both documents were envisaged to be read and considered together.

The draft local planning strategy was forwarded to the WAPC in May 2013 for consent to advertise, however, the Town was not advised until October 2015 that modifications were required prior to consent to advertise being granted. Modifications were made accordingly and the revised strategy (2016) was forwarded to the WAPC in January 2016. Consent to advertise was granted in March 2016 (almost three years from its initial submission to the WAPC).

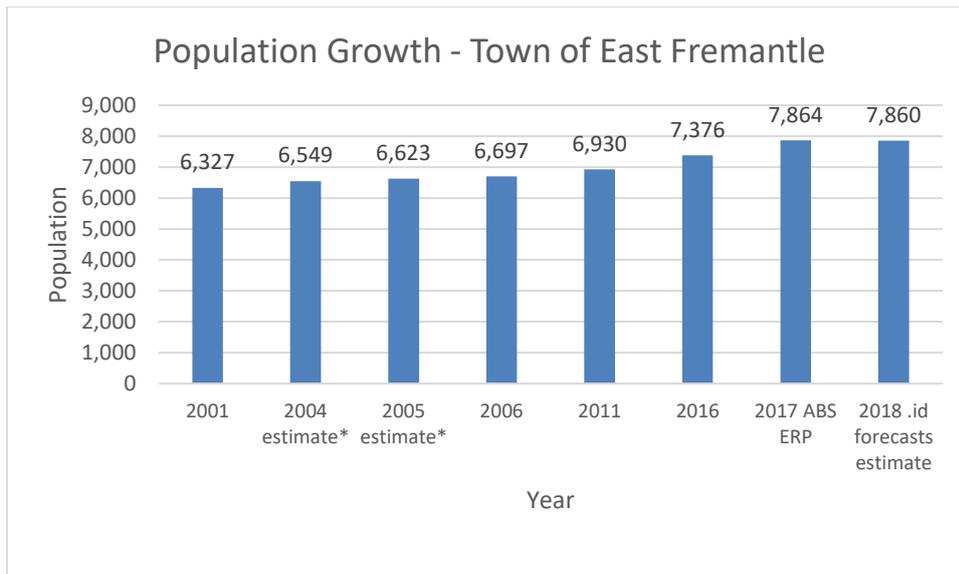
The revised draft strategy (2016) was advertised for public comment, however, this has not been considered for adoption by the Town. The Town of East Fremantle has instead commenced a fresh review of the Local Planning Strategy.

The new strategy will foreshadow the further updates required to LPS3 and related planning policy instruments. It will propose to undertake further amendments to ensure that LPS3 continues to meet the strategic objectives of the community and accurately reflect State and regional strategies and policies.

## **Overview of the population and subdivision changes in the scheme area since LPS3 was gazetted**

### **Population**

Assuming a consistent growth between the 2001 and 2006 Census, it is estimated that the population of the Town of East Fremantle in December 2004 was approximately 6,580 residents. The Australian Bureau of Statistics Estimated Resident population for the Town of East Fremantle in 2017 is 7,864, which is similar to the 2018 population estimated by .id forecasts of 7,860 persons.



(\*Estimate based on consistent population growth of 74 persons per year between 2001 and 2006 Census)

Based on this information, it is estimated that the Town of East Fremantle has experienced a population growth of approximately 1,300 persons from the gazettal of LPS3 in December 2004 to present day.

#### Subdivision and Development activity

According to the State Lot Activity data available on the Department of Planning, Lands and Heritage website, a total of 161 residential lots have been created (received final approval) since the gazettal of LPS3 in December 2004.

In the March quarter of 2018, there were a further 7 residential lots proposed (recently lodged and/or under assessment) and a stock of 23 proposed lots with conditional approval. Should these proposed lots receive final approval in the near future, just less than 200 residential lots would have been created over the past fourteen and a half years or so.

Over the same time period, 7 non-residential lots received final approval and there is no current stock of proposed lots being assessed or with conditional approval.

This demonstrates a low level of subdivision activity (approximately 13 residential lots per year and 1 non-residential lot every two years).

The total number of dwellings in the Town of East Fremantle increased by 192 between 2011 and 2016 to 3,283 (average household size of 2.45). Although separate houses dominated dwellings structure (approximately 62% of all dwellings), the Town of East Fremantle has a significantly higher proportion of medium and high density housing (approximately 38%) compared to Greater Perth (25%).

### Extent to which LPS3 has been updated to conform to any relevant legislation, region planning scheme or State planning policy

The State overarching planning framework has changed significantly since 2004 mainly with respect the following:

- Introduction of the *Planning and Development Act 2005* (gazetted April 2006); and
- Commencement of a two-phase planning reform process in 2009.

Key components of the most-recent planning reform that have an impact of the local planning framework relevant to the Town of East Fremantle include:

- Directions 2031 and Beyond (2010) which identifies long term land use planning objectives for the Perth and Peel Region, including the Central sub-regional Planning Framework;
- State Planning Policy 4.2 – Activity Centres for Perth and Peel (2010) – portion of the Petra Street District Centre;
- Perth and Peel @ 3.5 million suite of planning documents (draft 2015 and final 2018), including the Central Sub-regional Planning Framework. Additional dwelling target of 890 required by the year 2050. The Spatial Plan for the Central Sub-regional Planning Framework (2018) shows no station precincts or industrial centres within the Town of East Fremantle, however, it does include part of a District level activity centre (on Petra Street, with part within the City of Melville) and urban corridors along Canning Highway and Marmion Street (with part within the City of Fremantle) which may provide for urban consolidation; and
- *Planning and Development (Local Planning Schemes) Regulations 2015.*

#### Planning and Development Act 2005

Amendments were undertaken to bring LPS3 scheme text into line with terminology relating to the *Planning and Development Act* and other referenced legislation through Amendment No 10.

#### Directions 2031 and Beyond and Perth and Peel @ 3.5 million

Amongst other things, Amendment No. 10 as initiated by Council also included proposals to address State planning policy requirements by redefining the extent of the Town Centre, Mixed Use and Special Business zones and increasing residential density within those areas; identifying future development sites by way of Special Control Areas with requirements for structure plans to guide development (including Leeuwin Barracks, former Woodside Hospital site, former Kaleeya Hospital site, Town Centre redevelopment area and the Royal George Hotel site); and increasing R code densities in certain residential areas, including the introduction of dual R codes to balance the provisions of additional dwellings whilst maintaining heritage values.

Amendment No. 10 as initiated by Council, however, was not fully supported by the then Minister for Planning who directed the Town of East Fremantle to make modifications to exclude any changes that were supported by the draft Local Planning Strategy (2013).

Generally, this resulted in:

- Dual coding provisions which would allow for the infill development of certain lots and subdivision bonuses for heritage retention were not approved, thus inhibiting the Town's ability to meet its residential infill targets and reduced the inducements for owners to retain heritage properties.
- No Special Control Area provisions for the Town Centre being approved so that the Town must continue to rely on the Town Centre Design Guidelines Policy to encourage redevelopment, which is not adequately supported by current statutory scheme provisions.
- No Special Control Area provisions being approved for the strategic sites of Leeuwin Barracks, the former Woodside Hospital site, or the former Kaleeya Hospital site so that specific rezoning proposals would then need to be considered for each site, rather than facilitating a more flexible and integrated approach (which could have been achieved using adopted structure planning to set the development standards for each site). These Structure Plans were also considered important for the establishment of Developer Contribution Plans for each of the sites if required.

Amendment No. 10 was significantly modified and granted final approval accordingly (gazetted October 2016).

The Minister's determination was somewhat disheartening given the extensive research and consultation that supported the preparation of the draft Local Planning Strategy (2013) and Amendment No. 10 and further given the delay (approaching 3 years) by the WAPC in granting its conditional consent to advertise the draft strategy. Due to the confidential nature of reporting to the WAPC, details of the reasoning behind the direction to modify Amendment No. 10 are unknown. It is understood, however, that officers within the then Department of Planning were reticent to progress Amendment No. 10 in advance of the formal advertising and final approval of the draft strategy (2013).

This commentary demonstrates that the Town of East Fremantle has been constantly pro-active in attempting to update LPS3 to conform to State planning policy, particularly in relation to accommodating additional dwelling targets, however, its attempts have had varying degrees of success.

Following the failure of Amendment No. 10 to fully embrace Council's intentions for increased residential density, Amendment No. 11 was initiated and approved (gazetted June 2017) to increase the density from R12.5 to R17.5 for a portion of the Richmond Precinct and the Richmond Hill Precinct. This has allowed for some increase in residential dwelling numbers.

#### Planning and Development (Local Planning Schemes) Regulations 2015

Upon gazettal, Schedule 2 of the Regulations (Deemed provisions for local planning schemes) automatically made the following changes to LPS3:

- Superseded provisions contained within Part 2: Local Planning Framework; Part 7: Heritage Protection; Part 9: Applications for Development Approval; Part 10: Procedure for Dealing with Applications; Part 11: Administration and Enforcement; and
- Included additional provisions relating to Terms used; Structure Plans; Activity Centre Plans; Local Development Plans; and Bushfire Risk Management.

LPS3 was based on the Model Scheme Text associated with the former Town Planning Regulations 1967 which have been superseded by the new Regulations. As such, the scheme provisions (other than the Schedule 2 - Deemed provisions for local planning schemes) do not exactly match up with the Schedule 1 - Model Provisions for local planning schemes. However, the basic intent is similar.

## **Comment and Recommendations**

Although the Town East Fremantle local planning strategy is not current, LPS3 is largely consistent with State and regional planning.

In the absence of an updated local planning strategy that has the confidence of the Town of East Fremantle and the WAPC, a review process has already commenced and is significantly progressed in draft. The new strategy will foreshadow the further updates required to LPS3 and related planning policy instruments.

In order to more closely reflect the Schedule 1 - Model provisions for local planning schemes (of the regulations), to include Schedule 2 – Deemed provisions for local planning schemes (of the regulations) and to implement actions recommended in the new local planning strategy a full review of LPS3 is anticipated.

## Recommendations

It is therefore recommended to advise the WAPC that Pursuant to Regulation 66 (3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, that:

1. The Town of East Fremantle *Local Planning Scheme No. 3* requires review, a new Local Planning Scheme No. 4 should be prepared, and *Local Planning Scheme No. 3* be repealed upon gazettal of the new local planning scheme; and
2. The Town of East Fremantle Local Planning Strategy (2003) is not satisfactory in its present form and is currently in the process of review, it should be repealed and a new strategy prepared in its place.