

**13. REPORTS**

**13.1 PLANNING**

**13.1 Proposed Standard Amendment No. 18 to Local Planning Scheme No. 3 – No. 31 (Lot 253) View Terrace, East Fremantle – Reclassify a portion of No. 31 (Lot 253) View Terrace, East Fremantle from Local Scheme Reserve (Public Purposes - WAWA) to Residential R17.5**

<b>Owner</b>	CF Gregory
<b>Applicant</b>	Element WA on behalf of Water Corporation
<b>File ref</b>	B/TPS3,A18; P/VIE31
<b>Prepared by</b>	Christine Catchpole, Senior Planner
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting Date:</b>	21 September 2021
<b>Voting requirements:</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Letter from Element WA on behalf of Water Corporation – dated 28 July 2021.</li><li>2. Scheme Amendment No. 18 – Location Plan and Zoning Map</li><li>3. Community Engagement Checklist</li></ol>

**Purpose and Executive Summary**

The proposed Scheme Amendment has been prepared by planning consultants (Element WA) on behalf of the Water Corporation (WC). Amendment No. 18 proposes to reclassify a portion of Lot 253 (No. 31) View Terrace from a Local Scheme Reserve (water tower) to a Residential R17.5 zone to rectify an anomaly that has occurred because the WC is selling a portion of the water tower site to the adjoining residential land owner. As a result of the land transfer a subdivision/amalgamation application (WAPC Ref: 161001) is currently being processed by the Department of Planning. The subdivision/amalgamation of the land will formalise the existing and continued use of a 228m<sup>2</sup> area of land used as garden space by re-positioning the boundary between No. 43 (water tower) and No. 31 View Terrace (dwelling). The Amendment will not result in any change to the use of the land, or the development potential and is only required to reflect the existing and ongoing use of the subject land.

Under the *Planning and Development (LPS) Regulations, 2015* the Amendment is classified as a 'standard' Amendment, so the WAPC will require a 42 day advertising period. The WAPC's and the EPA's formal endorsement to advertise is required before the Town can commence advertising procedures. The outcome of advertising and consideration of submissions is then reported to Council. Council will then determine to support the Amendment, either with or without modification. The Amendment is then forwarded to the WAPC for its endorsement and recommendation to the Minister for Planning who makes the final decision.

The proposed Amendment is simply a formalisation of the current and intended future use of the land and will result in the appropriate zoning being applied to the land (as it is no longer part of the WC site). It is therefore recommended the Council adopt (initiate) the Amendment for the purposes of advertising.

### Background

The 228m<sup>2</sup> portion of land that is the subject of this Amendment previously formed part of the north western portion of Lot 311 (No. 43) View Terrace which is owned by the WC and was part of a much larger land holding that contains essential water supply infrastructure serving the wider area. The subject land immediately abuts Lot 253 (No. 31) View Terrace which is held in private ownership and is zoned Residential R17.5. Attachment 2 shows the location of the subject land.

### Consultation

No public consultation is required at this stage of the Amendment process. However, should Council resolve to proceed to initiate to advertise the proposed Amendment and the WAPC subsequently consent to advertising proceeding, the Amendment will be advertised for a minimum period of 42 days (standard amendment timeframe) as outlined in Attachment 3 (community engagement checklist).

The period in which submissions can be made will be published on the Town's website, in a local newspaper and will be made available at the Town Hall. Letters will be sent to those land owners and occupiers considered by the Town to have an interest in or be directly impacted by the Amendment. Also, a sign advertising the Amendment will be placed on the site.

### Statutory Environment

*Planning and Development Act, 2005*  
*Planning and Development (Local Planning Schemes) Regulations, 2015*  
*Metropolitan Region Scheme (MRS) – Urban*  
*State Planning Policy 7.3 – Residential Design Codes Vol. 1 (R-Codes)*  
*Local Planning Scheme No. 3 (LPS 3)*

### Policy Implications

*Draft Local Planning Strategy (LPS)*

### Strategic Implications

The Town of East Fremantle Strategic Community Plan 2020 – 2030 states as follows:

#### Built Environment

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

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

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

*3.1.2 Plan for a mix of inclusive diversified housing options.*

*3.1.3 Plan for improved streetscapes.*

*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 within resource capabilities.*

*3.3.2 Plan and advocate for improved access and connectivity.*

#### Natural Environment

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

### Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not adopt the proposed Recommendation and rezoning of the land is undertaken by alternate provisions of the Planning and Development Act.	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Statutory impact of non-compliance with State planning legislation.	Accept Officer Recommendation

### Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	6
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

### Site Inspection

August 2021

### Details

This proposed Scheme Amendment seeks to formalise the existing and ongoing use of the subject land as garden area by the single residential dwelling at Lot 253 (No. 31) View Terrace. To facilitate this, a subdivision application (WAPC Ref: 161001) is currently being finalised by the WAPC which

will result in the amalgamation of the 228m<sup>2</sup> portion of the Water Corporation's Lot 311 with the adjoining privately owned landholding, being Lot 253.

To ensure that the subject land is zoned appropriately for its ongoing use as garden space, the initiation of an Amendment to rezone the subject land from its existing 'Public Purposes: Water Authority of Western Australia' reservation to a 'Residential' zoning with a prescribed density of R17.5 is required to align with the existing zoning that applies to Lot 253 and the locality generally (refer to Attachment 1 for full details of the Amendment proposal).

The proposed Amendment will result in Lot 253 having a larger land area of 1,055m<sup>2</sup>. Notwithstanding, the resultant lot size is not large enough to meet the average lot size of 571m<sup>2</sup> which is required for consideration of subdivision under the current R17.5 density coding. Additionally, even with the maximum 5% dispensation to average lot size that may be granted by the WAPC, the minimum parent lot size required to facilitate subdivision would be 1,084.9m<sup>2</sup>; 29.9m<sup>2</sup> larger than the proposed amended lot area of 1,055m<sup>2</sup>. On this basis, any potential future subdivision application would not meet the requirements of State Planning Policy 7.3. R-Codes Volume 1, and specifically the minimum and average lot size requirements of Table 1 of the R-Codes. Notwithstanding, in the Council's response to the WAPC in respect to the subdivision/amalgamation application, it was recommended that the applicant be advised that the Town would not support a future subdivision of Lot 253 under the R17.5 coding should it be contemplated.

#### **Comment**

The subject land has been utilised on an informal basis as an extension of the garden space by Lot 253 for a considerable length of time and broadly consists of lawn, a path, a small shed, and a collection of terraced garden beds. Its ongoing use for these purposes is consistent with the objectives of the 'Residential' zone under LPS 3.

The subdivision/amalgamation application (WAPC Ref: 161001) which is currently being considered by the WAPC has been initiated to formalise the existing and continued use of the 228m<sup>2</sup> area of land as garden space by repositioning the boundary between Lot 311 (No. 43) and Lot 253 (No.31) View Terrace. The Town has recommended support for this application to the WAPC with an advice note stating that further subdivision of the land into the future under the current zoning will not be supported.

Under the provisions of the MRS, the subject land is zoned 'Urban', which is appropriate to facilitate the Amendment. The proposed 'Residential R17.5' zoning will correct an anomaly that has resulted from the sale and amalgamation of the land and will ensure that the appropriate land use controls are applied to the land into the future.

The Amendment is for the purpose of rezoning the land from its current 'Public Purpose: Water Authority of Western Australia' reservation to a more appropriate 'Residential' zone with a coding of R17.5 now that the land will be amalgamated with the residential lot. This zoning reflects the existing low density residential context and the use of the land as a residential garden. It is also noted that at this density, the additional land area will not add to the subdivision potential of the lot.

It is therefore recommended Council adopts (initiates) Scheme Amendment No. 18 for the purpose of advertising.



**13.1.1. OFFICER RECOMMENDATION/COUNCIL RESOLUTION 030921**

Moved Cr Collinson, seconded Cr Nardi

That Council in accordance with:

1. Section 75 of the Planning and Development Act 2005, resolves to:
  - (i) adopt (initiate) Amendment No. 18 to the Town of East Fremantle Local Planning Scheme No. 3 in order to reclassify a portion of Lot 253 (No. 31) View Terrace, East Fremantle from Local Scheme Reserve (WAWA) to Residential R17.5; and
  - (ii) amend the Scheme Map accordingly; and
2. Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. 18 to the Town of East Fremantle Local Planning Scheme No. 3 is a standard amendment for the following reasons as listed in the Regulations:
  - (i) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
  - (ii) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
  - (iii) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
  - (iv) any other amendment that is not a complex or basic amendment.

(CARRIED UNANIMOUSLY)

UNCONFERMED

