



TOWN *of*
EAST FREMANTLE

Town of East Fremantle Local Planning Scheme No. 3 Amendment No. 21

Summary of Amendment Details

Modifying the Scheme Text and Scheme Map to change the permissibility classification for a Single House in the Town Centre zone to permit consideration of approval for a Single House.

**Planning and Development Act 2005
RESOLUTION TO PREPARE AMENDMENT
TO LOCAL PLANNING SCHEME**

**Town of East Fremantle Local Planning Scheme No. 3
Amendment No. 21**

1. Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act, 2005*, and Regulation 35 of the Planning and Development (LPS) Regulations, 2015 amend the above Local Planning Scheme:

(a) Insert the following item into Schedule 2: Additional Use Sites and Requirements in the Scheme text:

No.	Description of land	Additional use and/or Development	Special Conditions
A16	Lots 66 – 69 and Lot 622 May Street, East Fremantle	Single House (A)	N/A

(b) To amend the Scheme map to designate Lots 66-69 and Lot 622 May Street, East Fremantle as A16.

2. Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. 21 to the Town of East Fremantle Local Planning Scheme No. 3 is a 'standard' amendment for the following reasons as listed in the Regulations:
- (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
 - (b) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
 - (c) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
 - (d) any other amendment that is not a complex or basic amendment.
3. Advise the Western Australian Planning Commission that under Section 33C of the Environmental Protection Amendment Regulations 2024 that the amendment is considered to be of the prescribed class (as listed below) that does not require referral to the Environmental Protection Authority, and accordingly that Section 81(2) of the Planning and Development Act, 2005 will apply:
- a) an amendment to include a new provision or alter an existing provision regarding the administration and enforcement of the planning scheme.

Dated this 16th day of SEPTEMBER 2025


 Jonathan Throssell
 (Chief Executive Officer)

Scheme Amendment No. 21 Report

1. Introduction

The purpose of this Amendment is to modify the Zoning Table to modify the 'Single House' permissibility classification in relation to the Town Centre zone.

The current Local Planning Scheme No. 3 (LPS 3) provisions do not permit the local government to approve of a change of use from a non-residential use to a Single House because it is classified as a 'X' (not permitted) use under the Town Centre zone. The proposed modification would allow Single Houses in the Town Centre zone to be used for that purpose only where the building was originally constructed for residential purposes. This use would only be applicable where a non-residential use is proposed to revert to a Single House use, provided there is no further use or development of the land for other than that purpose.

The proposed amendment is considered to be a 'standard' amendment in accordance with the descriptions set out under Regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations, 2015* on the basis that it is consistent with the following criteria:

- 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 an 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.

2. Background

The proposal to prepare this Amendment has been prompted by the landowners of a May Street property in the Town Centre zone who wish to restore and use the original heritage listed residence for a Single House on the existing green title (freehold) lot. Some commercial component may be proposed to be included, for example a home business/home office, as part of the renovation for a Single House or at a later stage. However, this has no bearing on the proposed modification to LPS 3.

Under the provisions of the Residential Design Codes of WA a *Single House* is defined as *a dwelling standing wholly on its own green title or survey-strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property.*

The original residence was approved to be occupied by a commercial use in 1999. Since that time, the property has been used solely for an office and therefore no longer has development (planning) approval to be used for a Single House. The Council cannot approve a change of use application because a Single House is classified as a 'X' use (i.e., not permitted) in the Town Centre zone under the Zoning Table of LPS 3. The owners are unable to seek Council approval for a combined commercial use with a Single House as this does not meet the definition of 'Mixed Use' under the R-Codes (multiple dwelling(s) above commercial use), so approval of this use type cannot be considered.

The only other means of permitting use of the building for a residence is for the landowners to pursue other more costly and time consuming options which may result in an undesirable outcome for the original residence and requires the need to develop grouped and/or multiple dwellings and strata title the lot. This is considered an unreasonable constraint on using the property for its original purpose, particularly when the landowners are prepared to restore and maintain the heritage property and provide a dwelling and potentially a small scale commercial use.

There are three other remaining Single Houses in the Town Centre on green title lots, all are heritage protected with the exception of one property, and all have been converted to commercial uses some time ago. These properties are all within May Street.

3. State Planning Framework

Consistent with the Activity Centre hierarchy of State Planning Policy 4.2, the Town's main commercial centre is the Town Centre and Canning Highway Mixed Use area. This area continues to provide a focus of activity for the community, particularly as it also includes an important civic function in that the Town Hall administration building is located in this centre. The Town Centre also has many residents.

The State government Central Sub-regional Planning Framework supports the intensification of residential and commercial growth in activity centre hubs and urban corridors with access to high frequency public transport. Consistent with the State planning framework, the Town's Local Planning Strategy 2022 (LPS 2022) identifies a number of Planning Areas located within activity centres, urban corridors, urban consolidation precincts and their catchments to support development, including additional residential dwellings.

The *Perth and Peel at 3.5 Million* housing target for the Town is 890 dwellings; required to accommodate population growth. It is expected that a high proportion of the residential dwelling target will be accommodated in the Town Centre. The use of heritage protected dwellings in the Town Centre for residential purposes is therefore considered in alignment with the State planning framework.

4. Local Planning Context

Town Centre

The Town Centre is the most diverse urban area within the Town. It is expected it will evolve over time to become part of a neighbourhood activity centre which accommodates further medium and high density mixed use development to improve economic viability and it is currently commensurate with a small town centre. The Town Centre has a strong core area which connects to the mixed use areas of the Canning Highway urban corridor and nearby George Street local centre.

The LPS 2022 supported a range of apartment styles and densities, terrace style housing and stand-alone mixed use developments in a defined Town Centre core area and in a defined Town Centre frame area on both sides of Canning Highway. It also supported the retention of heritage listed buildings.

Development in the Town Centre for the most part is contiguous with pedestrian friendly street frontages that include some activation. New development is expected to contribute to the public realm by enhancing and activating the streetscape, supporting social interaction and creating a distinct and appealing character for the centre.

When LPS 3 was gazetted in 2004 a 'X' permissibility symbol was assigned to the Single House use class in the Town Centre Zone. The intention of not permitting new development of single houses was aimed at facilitating a higher density of development in the Town Centre to maximise dwelling yields and diversity of housing types and not undermine strategic opportunities to consolidate development and activate the Town Centre. This approach ensured alignment with the State government planning framework.

The proposed Scheme Amendment does not pose a change that is considered would conflict with the above planning context.

Proposed New Local Planning Scheme No. 4

In June 2025, the Council resolved to prepare LPS 4 to replace LPS 3. Although the new Scheme Text will be drafted to address this matter, the process of preparing LPS 4 has only just commenced and gazettal of a new Scheme is still some way off. The proposed Amendment, ahead of LPS 4 is considered to be appropriate in this circumstance to

facilitate the preservation and continued maintenance of a heritage protected dwelling and use of property for a residential purpose. This approach does not prejudice the planning framework for LPS 4.

5. Proposed Amendment No. 21

Local Planning Scheme No. 3

The proposed Amendment is considered to be in alignment in relation to the general objectives of LPS 3 which state, in part, the following:

- to recognise the historical development of East Fremantle and its contribution to the identity of the Town; and
- to conserve significant places of heritage value, and to preserve the existing character of the Town.

Local Planning Policy 3.1.3 – Town Centre Redevelopment Guidelines

Also, the Amendment is considered not to be in conflict with the objectives of Local Planning Policy 3.1.3 – Town Centre Redevelopment Guidelines which, amongst other things state as follows:

- encourage and stimulate renewal of the Town Centre and transform it into a desirable urban village that is the focal point for the local community; and
- establish an active and attractive street experience.

Modification to Local Planning Scheme No. 3

While town centres mostly accommodate commercial activities and mixed-use development, they can also include residential components where single dwellings can be built, subject to appropriate density codes, lot sizes and other planning policies. Zoning regulations and specific requirements will vary by local government area and the particular the type of town centre.

In the East Fremantle Town Centre is it considered unreasonable to prevent the building from being used for its original purpose. Reverting to a Single House use in this circumstance is considered to have very little, if any impact on the Town Centre, nor undermine strategic opportunities to increase the dwelling density of the site or to accommodate commercial uses (if desired). In fact, this site retains the potential to be developed further for residential development in the same manner as the property to the north which has a heritage protected residence at the front of the site and is developed with grouped dwellings to the rear. In any event, the building is to retain its heritage listing and therefore demolition would not be supported to allow for wholesale development of the lot.

This Amendment is therefore not believed to be a restraint to facilitating the development of lots in the Town Centre for higher dwelling density development. This has already occurred and includes heritage protected single residential dwellings remaining in the Town Centre. Notwithstanding, for three of the properties potentially impacted by the Amendment, any works or development is subject to the provisions of LPS 3 and will most likely require the submission of development application for Council's consideration due to the heritage listing or planning controls already in place.

Options to Amend Local Planning Scheme No. 3

Before proceeding to prepare the Amendment, the circumstances were discussed with Department of Planning, Lands and Heritage (DPLH) Officers. In addition to commenting on Option 1 (proposed by the administration), the DPLH suggested the consideration of two other possible options to amend LPS 3 to allow for a Single House use. All three options are discussed below.

Option 1

Amend the Zoning Table (clause 4.3) as detailed below (in italics) by inserting the superscript 5 after the 'X' permissibility symbol and inserting the corresponding footnote below the Zoning Table.

	<i>Residential</i>	<i>Mixed Use</i>	<i>Special Business</i>	<i>Town Centre</i>	<i>Special Zone – Royal George Hotel</i>
<i>Single House</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>X⁵</i>	<i>X</i>

Footnote

5. In the Town Centre zone, a single house has a permissibility classification of 'P' only where the original building was used for a Single House purpose as defined under the Residential Design Codes of WA and a change of use is for a Single House with no further use or development of the site other than for this purpose.

This is considered the simplest means of making the change as it only requires modification to one clause in the Scheme Text (cl 4.3) and no Scheme Map change. This minor change will permit works required to modify the building for a Single House use (if required), subject to compliance with LPS 3 and the Building Code. However, a change of use is permitted only where the building was originally constructed for residential purposes, and there is no further use or development of the lot, other than for the Single House use. It should be noted that a heritage listed property requires that any works or other proposed uses are subject to submission of a development application in any case. The 'P' designation (under Footnote 5) legally allows the change of use and only exempts an applicant from obtaining development approval for the change of use to a 'Single House' as defined under the R-Codes.

Option 2

Propose a scheme amendment to more broadly amend the permissibility designation for a Single House from 'X' to 'D' (discretionary) or 'A' (advertising plus discretionary) instead of the 'X⁵' designation (permitted subject to Footnote 5 above). In this case, any proposal for a Single House on any lot, within the Town Centre zone, would require sound justification and broader analysis as to potential impacts of contemplating such a use on the full extent of the Town Centre zone. This step is not considered necessary for the East Fremantle Town Centre. The situations in which conversion to a Single House use is considered only applicable to four sites, three of which are heritage protected so require a development application for any commercial or other residential change of use, and which are constrained in their development potential in any case. The remaining residential property has been substantially altered for conversion to a dental surgery and not on the heritage list. A modification to LPS 3 to this extent is therefore considered unwarranted and is unlikely to be applied under LPS 4.

Option 3

Propose a scheme amendment to designate an 'Additional Use' classification for the subject site (and potentially include a neighbouring property in the same situation). The approach would constitute a site-specific response to the matter of how the Scheme deals with a heritage protected Single House within the Town Centre zone. However, the properties constrained by the current classification are not all adjoining and therefore this approach would result in 'spot' rezonings in the Town Centre zone if an equitable response was to be applied to all impacted properties. So, it is considered this approach would require further unnecessary amendments to the Scheme Text (clauses and Schedule 2) and the Scheme Map (Additional Use indicated lot by lot) and would probably be unnecessary given the type of commercial uses in existing Single Houses and nature and length of time these businesses have been operating. Also, it may not achieve a desired outcome in the longer term, should the current or future landowners wish to further develop the sites for dwellings or add a commercial use. Again, it is unlikely to be applied under LPS 4.

All things considered, including the preparation of LPS 4 which will also address the issue, the preferable pathway to amend LPS 3 is considered to be Option 1, to modify clause 4.3 (i.e., the Zoning Table with the insertion of Footnote 5).

6. Conclusion

This Scheme Amendment Report considers the preparation of a Scheme Amendment to modify a permissibility symbol in the Zoning Table (refers to clause 4.3) and insert an additional explanatory Footnote 5 which will permit a change of use to a Single House if the building was originally constructed for residential purposes and no further use or development other than for a Single House is proposed.

The Town is of the view that the inability to allow a building to revert to a Single House use, as opposed to the development of a new Single House under LPS 3 provisions, is an unintended consequence of classifying a Single House as a 'X' use (without exception) in the Town Centre zone. The existing provision prevents a number of original residential properties which are heritage protected from being used for this purpose if they have previously been approved for another use. It is not possible for Council to legally approve a reversal to a Single House use because of the 'X' classification (i.e., not permitted). At the time the approval was granted, the longer term consequences of eliminating the residential use were not anticipated.

Town centres are designed to provide a mix of commercial, community, and retail activities, and the integration of residential uses, including single houses is often part of enhancing the character and servicing the local community by providing housing options. The Amendment will permit only a few existing residences to revert to a Single House should they choose to so and will not inhibit their use as a commercial premises and/or for further development of residential dwelling units (subject to compliance with LPS 3 provisions).

The Town has a strong stance on preservation of heritage housing stock, hence there is no correlation to suggest that the Amendment will prevent the impacted properties from being developed for higher density residential purposes. These sites are heavily constrained by the required retention of the heritage protected property in any case.

The Amendment is not considered to undermine the overall aims of the Town Centre under LPS 3, therefore the preparation of Amendment No. 21 (for advertising) to correct what the Town considers an anomaly in LPS 3 is recommended.

The remaining parts of the Amendment resolution address the requirement for the local government to formally acknowledge the Amendment classification type and advise the WAPC that referral of the amendment to the Environmental Protection Authority is not required in this case and therefore what section of the Planning and Development Act will apply. This is required before the Commission can make a recommendation to the Minister for Planning to determine the Amendment under section 81(2) of the Planning and Development Act, 2005.

7. Modification to Amendment No. 21 required by DPLH – 22 January 2026

On 22 January 2026 the DPLH advised the Town that pursuant to section 83A of the *Planning and Development Act, 2005*, the DPLH resolved to require the local government to modify the Amendment pursuant to section 83A(2)(b) of the *Planning and Development Act, 2005* in the manner as outlined below (in italics).

(a) Insert the following item into Schedule 2: Additional Use Sites and Requirements in the Scheme text:

<i>No.</i>	<i>Description of land</i>	<i>Additional use and/or Development</i>	<i>Special Conditions</i>
A16	<i>Lots 66 – 69 and Lot 622 May Street, East Fremantle</i>	<i>Single House (A)</i>	<i>N/A</i>

(b) To amend the Scheme map to designate Lots 66-69 and Lot 622 May Street, East Fremantle as A16.

The local government is now required to resubmit the modified Amendment for consent to advertise pursuant to section 83A(2)(a) of the *Planning and Development Act, 2005*, once the documents have been re-executed.

The Amendment documents and Scheme Amendment Report have been modified accordingly and an amended Scheme map has been prepared as this is now required to supplement the modifications.

Planning and Development Act 2005
RESOLUTION TO AMEND LOCAL PLANNING SCHEME

Town of East Fremantle Local Planning Scheme No. 3
Amendment No. 21

1. Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act, 2005*, and Regulation 35 of the Planning and Development (LPS) Regulations, 2015 amend the above Local Planning Scheme:

(a) Insert the following item into Schedule 2: Additional Use Sites and Requirements in the Scheme text:

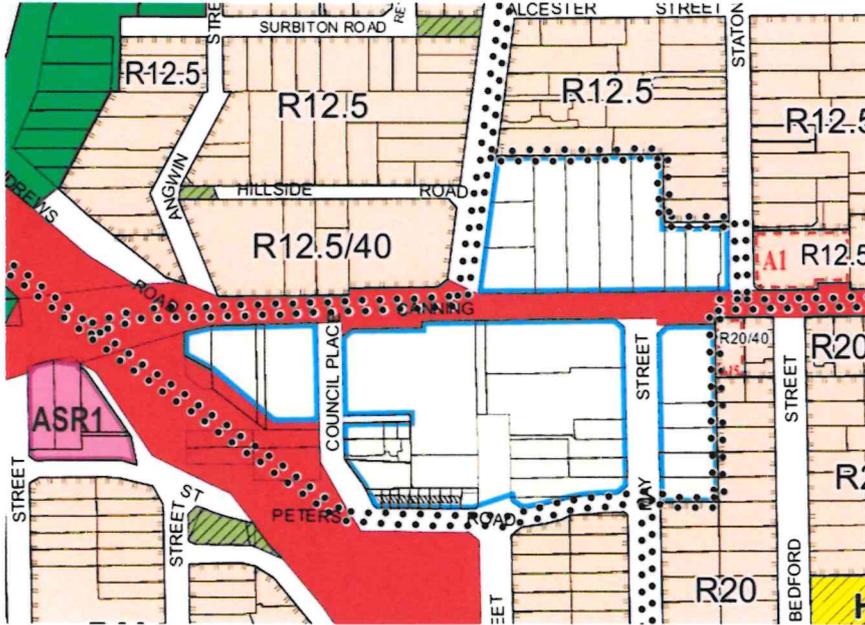
No.	Description of land	Additional use and/or Development	Special Conditions
<i>A16</i>	Lots 66 – 69 and Lot 622 May Street, East Fremantle	Single House (A)	N/A

(b) To amend the Scheme map to designate Lots 66-69 and Lot 622 May Street, East Fremantle as A16.

2. Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. 20 to the Town of East Fremantle Local Planning Scheme No. 3 is a 'standard' amendment for the following reasons as listed in the Regulations:
- a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
 - b) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
 - c) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
 - d) any other amendment that is not a complex or basic amendment.
3. Advise the Western Australian Planning Commission that under Section 33C of the Environmental Protection Amendment Regulations 2024 that the amendment is considered to be of the prescribed classes (as listed below) that does not require referral to the Environmental Protection Authority, and accordingly that Section 81(2) of the Planning and Development Act, 2005 will apply:
- a) an amendment to include a new provision or alter an existing provision regarding the administration and enforcement of the planning scheme.

Town of East Fremantle Local Planning Scheme No. 3 Amendment No. 21

Existing LPS 3 Scheme Map



Legend

LOCAL SCHEME RESERVES

		Public Purposes : Hospital
		Public Purposes : School
		Public Purposes : Water Authority of Western A

LOCAL SCHEME ZONES

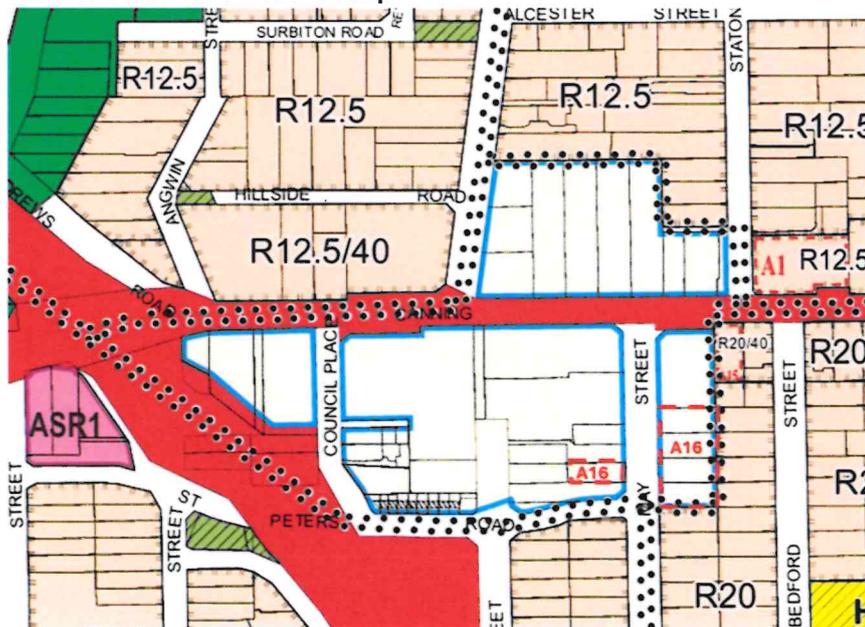
		Special Zone - Royal George Hotel
		Town Centre

OTHER CATEGORIES

(see scheme text for additional information)

	Scheme Area Boundary
	Local Government Boundary
	R20 R Codes
	Additional Uses
	Additional Site Requirements
	Precinct
	No Zone
	Waterbodies

Amended LPS 3 Scheme Map



Legend

LOCAL SCHEME RESERVES

		Public Purposes : Hospital
		Public Purposes : School
		Public Purposes : Water Authority of Western A

LOCAL SCHEME ZONES

		Special Zone - Royal George Hotel
		Town Centre

OTHER CATEGORIES

(see scheme text for additional information)

	Scheme Area Boundary
	Local Government Boundary
	R20 R Codes
	Additional Uses
	Additional Site Requirements
	Precinct
	No Zone
	Waterbodies

COUNCIL ADOPTION

This standard Amendment was prepared by resolution of the Council of the Town of East Fremantle at the Ordinary Meeting of the Council held on the 16th day of SEPTEMBER, 2025.



.....
MAYOR



.....
CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

by resolution of the Council of the Town of East Fremantle at the Ordinary Meeting of the Council held on the 16th day of SEPTEMBER 2025, proceed to advertise this Amendment.



.....
MAYOR



.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended for by resolution of the Town of East Fremantle at the Ordinary Meeting of the Council held on the [number] day of [month], 2026 and the Common Seal of the Town of East Fremantle was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

.....
DELEGATED UNDER S.16 OF
THE P&D ACT 2005

DATE.....
FORM 6A - CONTINUED

APPROVAL GRANTED

.....
MINISTER FOR PLANNING

DATE.....