TOWN OF
EAST FREMANTLE

MINUTES

Special Council Meeting

Wednesday, 7 June 2017 at 6.05pm

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MINUTES OF A SPECIAL MEETING OF COUNCIL HELD AT THE TRADEWINDS HOTEL (SOUTH PLYMPTON ROOM), 59 CANNING HIGHWAY EAST FREMANTLE ON WEDNESDAY, 7 JUNE 2017.

1. OFFICIAL OPENING

The Presiding Member opened the meeting at 6.05pm.

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

Mayor J O'Neill	Presiding Member
Cr C Collinson	
Cr J Harrington	
Cr L Nicholson	
Cr T Watkins	
Cr A White	

The following staff were in attendance:

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

There were members of the public in attendance.

3.2 Apologies

Cr M McPhail
Cr A McPhail

3.3 Approved Leave of Absence

Cr D Nardi

4. DISCLOSURES OF INTEREST

4.1 Financial

Nil.

4.2 Proximity

Nil.

4.3 Impartiality

Nil.

5. PUBLIC QUESTION TIME

5.1 Responses to previous questions from members of the public taken on notice

Nil.

5.2 Public Question Time
Nil.

6. PRESENTATIONS/DEPUTATIONS

6.1 Presentations

6.1.1 Mr J Saraceni, Saracen Properties Pty Ltd
Mr Saraceni advised the meeting that although his company supported the establishment of development controls for the Royal George Hotel site, he requested that Council defer consideration of this matter until Saracen Properties had the opportunity to present their concepts for the site to the July Council Forum meeting. He assured Council that they had no intention of exploiting the current lack of development control on the site and reassured Council Saracen Properties was intending to work closely with Council on the redevelopment of the site.

6.2 Deputations
Ni.

7. BUSINESS

7.1 Standard Amendment No. 15 to Local Planning Scheme No. 3 to Supplement Special Zone - Royal George Hotel Provisions, including Development Controls for the Royal George Hotel Site

Owner	National Trust of Australia
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:	7 June 2017
Voting requirements:	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose and Executive Summary
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 Royal George Hotel building occupies approximately 750m² of the lot and the balance of the lot is vacant.

The Hotel site (being all of Lot 303 (No. 34) Duke Street, East Fremantle) is a permanent entry in the State Heritage Register, classified by the National Trust, is listed in the Scheme's Heritage List and a Category A classified property in the Municipal Heritage Inventory. The site is currently owned by the National Trust (as per Certificate of Title details obtained 30 May 2017) but negotiations are underway in regard to the long term lease of the site to a private developer. The leasing arrangements have been coordinated by the Department of Lands.

The proposed Scheme Amendment has been prepared by the Town to incorporate planning provisions into the Scheme Text for the Royal George Hotel site. The Amendment is required as Scheme Amendment No. 10, which rezoned the site from 'Mixed Use' zone to 'Special Zone – Royal George Hotel', (gazetted 11 October 2016) did not incorporate development controls into the Scheme Text. Clause 4.2 (Special Zone objectives) and clause 5.9.1 (requirement to comply with development standards) only specify objectives and procedural requirements related to the aims of conserving/restoring the Hotel and encouraging redevelopment of the remainder of the site to be in harmony with the George Street Mixed Use zone.

During initial discussions with the developer and the Department of Lands it was the Town's understanding that the Conservation Management Strategy would address issues of ensuring that development on the vacant part of the lot would be compatible with the character and heritage qualities of the Royal George Hotel building. The Town has not had any involvement in any preceding discussions or drafting of the Conservation Management Strategy. It was aware negotiations were underway in regard to the preparation of the document but was unaware it had been commenced by the State Heritage Office having had no advice from that office that preparation of the document was underway. Despite attempting 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 has not seen a copy of the Heritage Agreement despite having requested a copy of that document and the Conservation Management Strategy.

The Town has now been informed that the Conservation Management Strategy addresses literally only the Royal George Hotel building itself and it is the Town's understanding that negotiations are almost complete in respect to finalisation of the lease and transfer of the land to the developer. The intent of the Scheme Amendment is therefore to formulate a set of planning controls to guide the future redevelopment of the site for conservation/restoration of the Hotel and for redevelopment of the remainder of the land. Without specific development controls incorporated in the Scheme Text the Town will have limited technical input into the development application assessment process in respect to built form, parking, access and amenity matters and the uses that may be approved for the site through a DAP proposal.

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 provisions will relate to land use, building height, building setbacks, plot ratio, noise management, car parking, traffic management, residential development, public art, landscaping and public spaces. It is also proposed that there would be a 'relaxation-of-standards' provision as a final sub-clause within clause 5.9. It would be specific to the 'Special Zone – Royal George Hotel'. This approach is considered to strike a fair balance between on one hand having a degree of flexibility to approve development which addresses the Zone objectives, and on the other hand establishing what is considered compatible with the Royal George Hotel building as regards to scale and intensity of development, in preference to the current open-textured position.

Within existing Planning Scheme provisions, there is a clause 5.3.4 which provides that residential development within a non-residential zone is to be at a maximum density of R40. However, that sort of density 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 is of serious concern to the Town because a DAP application will be lodged once the Heritage Agreement and the lease are finalised. The prospective purchaser of the site has met with the Town's officers to discuss the development of a multi-storey building on the site. It should be noted that a development application for this site would be realistically be determined by a DAP due to the cost of construction exceeding $10M.

If the Amendment is adopted by Council for advertising as a standard Amendment the Town is then required to refer the Amendment to the WAPC within 21 days of the Council resolution for its consideration and consent to formally advertise the Amendment. The outcome of advertising is then reported to Council and Council will then determine to support the Amendment either with or without modification. The Amendment will also need to be referred to the Heritage Council of WA for its advice, as the site contains a State Heritage listed building and the Environmental Protection Authority, to determine whether an environmental review is required before advertising can proceed. As the site directly abuts a 'Primary Regional Road' reservation under the MRS and is

within the Fremantle Port Buffer Zone Area 2 referral to Main Roads WA and the Port Authority is also required.

In light of the above it is considered the Amendment be progressed as a matter of urgency and Council resolve to proceed to formally advertise the Amendment as a standard Amendment because it meets the criteria set down in the *Local Planning Schemes Regulations 2015*, which states that a standard amendment is one that is '*relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve'*.

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 is listed in the Scheme's Heritage List and a Category A classified property in the Municipal Heritage Inventory. The site is currently owned by the National Trust (as per Certificate of Title details obtained 30 May 2017) but negotiations are underway in regard to the long term lease of the site to a private developer. The terms of the lease are not known to the Town. The leasing arrangements have been coordinated by the Department of Lands.

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 prospective developer and the Department of Lands it was the Town's understanding that development standards were to be included in the Conservation Management Strategy which would address issues of ensuring that development on the vacant part of the lot would be compatible with the character and heritage qualities of the Royal George Hotel building. The Town has not had 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. The Town now understands that the Conservation Management Strategy addresses literally only the Royal George Hotel building

itself and it is the Town's understanding that negotiations are almost complete in respect to finalisation of the lease and transfer of the land to the developer.

The Town has been advised by the Department of Lands that sale of the land to a private developer will be subject to a Heritage Agreement being registered on the Title in the form of a Memorial. The Heritage Agreement will be a statutory binding agreement between the State of WA (State Heritage Office) and the developer and will specify that the restoration works undertaken on the Hotel are to be completed within three years of the effective date. The Agreement has been prepared by the State Heritage Office in conjunction with input from the Department of Lands. The Conservation Management Strategy is annexed to the Agreement and specifies the works to be undertaken to restore the Hotel. The Town has also been 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 will also register 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 to the Town is that the Heritage Agreement and Conservation Management Strategy specifically deal with the restoration of the Hotel and as advised by the Department of Lands '*does not touch on*' the proposed development. It was the Department's view that the developer will engage with the Town regarding the proposal and the development application process. It should be noted the Town was not contacted by the State Heritage Office during the preparation of the Conservation Management Strategy and is not aware of the contents of the document. The State Heritage Office has been contacted 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."*

Whilst a formal DAP application has not been submitted to the Town the developer recently met with the CEO and Executive Manager Regulatory Services to discuss a redevelopment proposal encompassing a mixed use development which would include the refurbishment of the Hotel for accommodation and commercial purposes (e.g. café, restaurant, retail) as well as a multi-storey mixed use (residential and office) development with parking for all uses incorporated within the

tower building. It should be noted that a development application for this site would be realistically determined by a DAP due to the cost of construction exceeding $10M.

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 provisions will relate to building height, building setbacks, plot ratio, noise management, car parking, traffic management, residential development, public art, landscaping and public spaces. It is also proposed that there would be a 'relaxation-of-standards' provision as a final sub-clause within clause 5.9. It would be specific to the 'Special Zone – Royal George Hotel'. This approach is considered to strike a fair balance between on one hand having a degree of flexibility to approve development which addresses the Zone objectives, and on the other hand establishing what is considered compatible with the Royal George Hotel building as regards to scale and intensity of development, in preference to the current open-textured position.

Within existing Planning Scheme provisions, there is a clause 5.3.4 which provides that residential development within a non-residential zone is to be at a maximum density of R40. However, that sort of density 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 is of serious concern to the Town because it is highly likely a DAP application will be lodged once the Heritage Agreement and the lease are finalised. The prospective purchaser of the site has met with the Town's officers to discuss the development of a multi-storey building on the site.

Consultation

No public consultation is required at this stage of the Amendment process, however, should Council resolve to proceed to advertise the proposed Amendment and the WAPC subsequently consent to advertising of the Amendment (further modified or unmodified), the Amendment will be advertised for a minimum period of 42 days. It may transpire that the WAPC determines modifications are required to the Amendment and if this is the case the commencement of the advertising period will be delayed pending modifications being made to the satisfaction of the WAPC. The WAPC may also resolve that the Amendment can be advertised as a *complex*, rather than *standard* amendment, in which case the statutory advertising period will be 60 days.

The period in which submissions can be made will be published on the Town's website and in the local newspapers, displayed at the Town's office, and letters will be sent to those landowners and occupiers considered by the Town to have an interest in the Amendment. Signs advertising the Amendment will also be placed on the frontages of the site.

In this case the 'Special Zone' does not cross lot boundaries, however, the site abuts a 'Primary Regional Road' reservation under the Metropolitan Region Scheme and is also within the Fremantle Port Buffer Zone – Area 2 so referral to these authorities for comment on the Amendment is required. The Scheme Amendment will be referred to the Heritage Council and the EPA as required under the *Planning and Development Act 2005*.

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 in line with the recommendations for the site as outlined in the Town's draft Local Planning Strategy 2016 and with State strategic planning policies such as *Directions 2031* 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 limited commercial floor space 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 Amendment is also in accordance with Town's Strategic Community Plan 2015 – 2025 which outlines the following:

> ***Aspiration:*** *Our town is developing in harmony with our unique character within the fabric of the region's built and natural environment.*
>
> *Outcomes:*
>
> *3.1 Facilitating sustainable growth whilst maintaining urban and natural character*
> *Strategic Land Use Planning:*
> - *Development Applications*
> - *Develop Strategic Sites (identified as Special Control Areas in the Local Planning Strategy) to achieve sustainable and strategic objectives for economic prosperity and urban amenity:*
>   - *Town Centre (includes the Town Hall and ancillary buildings)*
>   - *Former Kaleeya Hospital*
>   - *Woodside Hospital*
>   - *Leeuwin Barracks*
>
> *3.2 Maintain a safe and healthy built and natural environment*
> - *Building control*

- *Heritage planning*
- *Identify and protect significant heritage buildings*
- *Undertake projects to preserve the Town Hall precinct*

3.3 Community values and protects its built heritage
- *Heritage planning*
- *Identify and protect significant heritage buildings*
- *Undertake projects to preserve the Town Hall precinct*

Site Inspection
May 2017.

Environmental Implications
There are no known significant environmental implications associated with this proposal. The application, however, will be forwarded to the EPA for comment.

Comment
It is the Town's understanding that negotiations are almost complete in respect to finalisation of the lease and transfer of the land to the developer. Given the Town has not been involved in the formulation of the Conservation Management Strategy or the Heritage Agreement and has no information in respect to the contents of either document there are now, given the course of events, very serious reservations regarding the open-textured nature of the current provisions in the Scheme Text. An Amendment to the Scheme to rectify the situation is therefore considered an urgent matter.

At this point in time development approval can be sought via a DAP for development of the land in a context where it would be very problematic for Council to safeguard the character and heritage qualities of the Royal George Hotel building and the amenity and efficient and safe functioning of the George Street mixed use area. This is the case if the land remains classified 'Special Zone' without any corresponding development control provisions. It is therefore considered crucial to afford the Town as much control and input into the development approval process as possible. This can only be done by incorporating a set of planning controls to guide the future redevelopment of the remaining developable area of land behind the Hotel building. Without specific planning, site and development controls incorporated in the Scheme Text the Town has limited ability to assess and comment on built form, or the type of and intensity of uses on the site through the development assessment 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 in regard to residential development by providing a presumptive maximum R-Code of R40 on the site where residential development is proposed in a non-residential zone. It is reasonable to expect that a mixed use apartment development in excess of the R40 development standards for multiple dwellings would be supported by a DAP and hence despite the possible maximum of R40 there needs to be further controls specified by way of a Scheme Amendment.

There are, however, no *specific* development control provisions for the Royal George Hotel site because none were formulated for inclusion in Amendment No. 10. The Conservation Management

Strategy was expected to have a greater emphasis that it in fact has, on ensuring that any development on the balance of the site is compatible with the heritage values of the Royal George Hotel. This is considered to have been a reasonable expectation having regard to conventional heritage preservation principles and practices, as reflected for example in the Burra Charter. Under the Burra Charter, heritage protection is concerned not literally with just the fabric of a particular heritage building, but also with its context. Burra Charter 2013 version, provisions 1.2, 1.12 and 8 for example support that general observation.

Proposed Scheme Text Provisions

Amendment No. 15 proposes to supplement Scheme provisions that, in addition to the Conservation Management Strategy, will apply to the remaining developable area of the site, excluding the Royal George Hotel building and its curtilage (as defined by the Conservation Management Strategy). The proposed provisions are required to:

- specify the specific uses and permissibility classification of the uses listed in the Planning Scheme in the 'Special Zone – Royal George Hotel' through an additional column in the Zoning Table; and
- introduce planning, site and development controls and other planning requirements that must be satisfied in respect to any development on the remaining developable area of the site.

The changes to the Scheme Text recommended to be inserted after clause 5.9.1 in Part 5 – General Development Requirements of the Scheme Text will address the following matters:

- the proportion of commercial and residential uses permitted in a mixed use development;
- compliance with the heritage Conservation Management Strategy and other legal agreements;
- consultation with other government authorities as required;
- noise management;
- site and development standards;
- variations to site and development standards;
- variation of standards requiring consultation; and
- power to approve a development is appropriate after having regard to clause 67 (former clause 10.2) and the objectives of the zone.

With the exception of the site and development standards to be inserted (which are discussed further on in the Report) all other proposed provisions are considered necessary to address the specific heritage, locational and procedural planning matters relevant to the entire site. The provisions which supplement existing provisions and are to be inserted after clause 5.9.1 are noted below:

> *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 approved by the Council and 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:

(a) The Royal George Hotel building has already been restored to the satisfaction of Council; or

(b) 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 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.

5.9.8 The following site and development standards apply to all development:

<u>5.9.8.1 Building Height</u>

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.

5.9.8.2 Building Setbacks

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.

5.9.8.3 Plot Ratio

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.*

5.9.8.4 Residential Density

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.

5.9.8.5 Car Parking

(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.

5.9.8.6 Residential Development

With exception of plot ratio, 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).

5.9.8.7 Public Art

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.

5.9.8.8 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.*

5.9.8.9 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; or

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

5.9.9 Variations to site and development standards and requirements

5.9.9.1 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.

5.9.9.2 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.

5.9.9.3 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.

The justification for the specific site and development standards as outlined above in clause 5.9.8 is discussed below.

Land Use Provisions

Appropriate land uses for the site are generally considered to be those listed under the Mixed Use zone of the Zoning Table. However, under the specialised zoning 'Special Zone – Royal George Hotel' for this particular site, it is considered necessary to clearly specify the use class permissibility which would otherwise be considered appropriate in a Mixed Use zone, but may not be viewed in the same light in this 'Special Zone' and would not allow for the objectives of the zone to be met. An amendment to the Zoning Table is therefore considered necessary to incorporate a specific column for the 'Special Zone' which varies the uses. This column and the corresponding permissibility classification for each use listed in the Scheme are outlined below. Where the use class permissibility symbol differs from that applied in the Mixed Use zone it is highlighted in red.

USE CLASS	SPECIAL ZONE – ROYAL GEORGE HOTEL
Advertising Sign	A
Aged or Dependent Persons Dwelling	D
Amusement Parlour	X
Ancillary Accommodation	X
Bed and Breakfast	A
Caretaker's Dwelling	D
Child Care Premises	A
Cinema / Theatre	A
Civic Use	D
Club Premises	A
Community Purposes	D
Consulting Rooms	D
Convenience Store	A
Educational Establishment	A
Exhibition Centre	D
Family Day Care	D
Fast Food Outlet (Refer 5.8.9)	A
Funeral Parlour	A
Grouped Dwelling	D
Home Business	D
Home Occupation	D
Home Office	P
Home Store	D
Hospital	X
Hotel	A
Industry – Cottage	D
Industry – Service	D
Market	A
Medical Centre	A
Motel	A
Multiple Dwelling	A
Night Club	X
Office	A
Place of Worship	A
Pre-School / Kindergarten	D
Recreation – Private	A
Residential Building	A
Restaurant	A
Service Station	X
Shop	D
Showrooms	A
Single House	X
Small Bar	A
Tavern	A
Telecommunications Infrastructure	A[4]
Veterinary Centre	A

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.*

Single houses are not considered a suitable development option for the site. The opportunity to accommodate residential development would be lost if the site was developed for a small number of single dwellings. Logically, it follows that ancillary dwellings would not be considered appropriate as they cannot be developed on strata lots with more than a single dwelling. It is important that the Town take advantage of all opportunities for re-developable land to contribute towards meeting the dwelling targets set by the State government. Therefore, both single houses and ancillary accommodation are proposed to be 'X' uses (i.e. not permitted) under the Special Zone provisions. Grouped and Aged and Dependent Persons' Dwellings are viewed slightly differently in that they may be considered appropriate dependent on the density of the development and design outcome and are therefore proposed to be classified as a 'D' or a discretionary use subject to Council approval. Although advertising would not be compulsory Council would still have the option to advertise the proposal should it think it necessary. Multiple dwellings are classified as 'A' to enable Council to advertise the proposal. Given this will be the use that is most likely to eventuate on the site, and in a multi-storey built form that is likely to have the greatest impact on the amenity of the surrounding area, community consultation is considered necessary. Restaurant, Hotel and Motel are classified as 'A' for the obvious reason that the Hotel is more than likely to be restored for its original use as a licenced premises containing eateries and accommodation. The introduction of these two uses in the locality is considered to warrant community notification and comment. Likewise an Office use on this constrained site is also considered to warrant community notification due to potential parking and access issues and is therefore an 'A' classification is proposed.

It is also considered necessary to require that at least 60% of the net lettable area of floor space is developed for residential purposes for the section of the site to be redeveloped. This is to ensure that any new development on the site is not solely developed for commercial purposes which would diminish the opportunity for this site to contribute to the Town's dwelling targets and result in a lost opportunity for not only more dwellings within the Town but of also providing greater housing diversity within the Town. This cannot be achieved without a substantial residential component. It is therefore considered necessary to reflect the provisions of the Local Planning Strategy and require that residential dwellings be a mandatory component of any mixed use development. Furthermore, and subject to a traffic impact assessment, it may be necessary for a purely commercial development on the site to be restricted in regard to floor space and car parking based on traffic, parking and access issues that may be identified.

Building Height

Development of this site should result in the construction of a building which complements and respects the Royal George Hotel and does not detract from the building or the surrounding area. The building must also integrate as seamlessly as possible 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 approving authority have the discretion to refuse a development approval application which does not meet the high standards of planning and design required for a development outcome worthy of the site, the heritage building and the historic Plympton Precinct.

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 Brush Factory redevelopment. It is also acknowledged that the determination of building height will be a critical factor for the developer in regard to the financial viability of the project. Given the significant costs to restore the Hotel and overcome the amenity shortcomings of the site, achieving additional building height to obtain

significant views will be a critical factor in the financial return on the project. Reaching an acceptable compromise between a building height that achieves restoration/conservation of the Hotel and activation of the eastern end of George Street, the community's expectation for redevelopment, with an ideal built form outcome is the most challenging planning consideration.

The primary intent of the building height limit is therefore to control the scale and mass of the building in conjunction with plot ratio to ensure the building:

- is appropriate to the 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 the built form context of the George Street Precinct;
- addresses the interface with Stirling Highway, the Royal George Hotel and the Brush Factory building;
- is appropriate in scale to the remaining developable area of the lot; and
- will mitigate any potential overshadowing or wind tunnel impact on existing residential dwellings.

Aside from the heritage considerations the suburban context in which this site is situated is a principal factor in determining an 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, unless it is located on Canning Highway. Further afield in the Fremantle CBD buildings are still below 8 storeys, with the Port Authority building being about 12 storeys (including the observation tower/communications dish). Amendment No. 14 to the Planning Scheme (91 – 93 Canning Highway) restricts building height to approximately 9 storeys. A multi-storey building on such a small building footprint (~750m² of land area in a triangle shape remaining) is therefore considered to be of a height and scale that is irreconcilable with its context and location and unjustifiable from an urban design viewpoint, other than to provide an increased number of apartments and views that could not be obtained from a building of lesser height.

A maximum building height of 7 storeys from natural ground level is therefore considered appropriate with the stipulations outlined above in clause 5.9.8.1.

Undoubtedly building height will be one of, if not the main factor of interest to the community and it is expected that in inviting public comment on the proposal that a significant number of submissions will address this issue. Final endorsement of the building height provision will, however, take into account submissions received from the community and other government agencies and authorities in respect to the proposed building envelope (i.e. building height, setbacks and plot ratio) and this matter will be further discussed in any subsequent report to Council following close of a submission period.

Building Setbacks

Nil building setbacks to all streets are considered appropriate in keeping with the George Street Mixed Use zone, although a greater setback may be considered if it will ensure buildings provide a strong definition to the edges of the redevelopment site and an attractive and interesting streetscape. A greater setback to Duke Street may also be required from an amenity and access standpoint, although it is likely, due to the width and length of the developable remaining land area that nil setbacks will most likely be the only feasible option. Ensuring visual interest and interaction at the streetscape level 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. Street setbacks must not conflict with or be contrary to the Conservation Management Strategy for the Royal George Hotel and will be subject to consultation with Main Roads WA and the State Heritage Office.

Plot Ratio

A plot ratio of 3.0:1 has been proposed to be transitional in respect to the plot ratio considered appropriate for development in the George Street Mixed Use zone and the plot ratio approved for the Brush Factory (i.e. 1.5:1). This amount of floor space is considered to result in a built form that would be compatible with George Street and an urban village and one that would maintain an appropriate scale to the surrounding residential streets and suburban locality. Establishing a reasonable transition between the domestic scale buildings of the Plympton Precinct and keeping in mind the site is a considerable distance from the Town Centre and the Fremantle CBD the development of a larger scale or mass on a site of this size would be considered demonstrably out of context in the surrounding landscape and in sharp contrast to all other surrounding development and the suburban built form. It is therefore considered this plot ratio, in conjunction with the height limits, should be applied to the site. It is also important to include provisions in the relevant sections which specify that approval of maximum plot ratio does not permit maximum building height to be exceeded and approval of maximum building height does not permit maximum plot ratio to be exceeded.

Car Parking

The car parking provisions proposed require developments to supply parking in accordance with current Scheme and R-Code provisions for both residential and commercial uses. However, in balancing the objectives of the George Street Mixed Use zone and requests by applicants in general for parking concessions to be considered with mixed use developments a more comprehensive set of provisions is proposed. This allows Council to 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 and it can be demonstrated to the satisfaction of the local government that:

- The peak demand for parking by two or more uses will not occur at the same time;
- The combined supply of car parking is sufficient to meet the estimated peak combined demand;
- The arrangements are secured and that any future change will not result in a shortfall; and
- Parking arrangements are detailed in a parking management plan.

By considering parking concessions for reciprocal or shared parking, on-street parking demand, the visual impact of parking on the street and conflict between residential and commercial parking can hopefully be minimised. However, as noted above these arrangements need to be carefully considered and enforceable by the adoption of a parking management plan as part of any development approval for the site.

Notwithstanding the above, current trends in apartment development of providing one bay per apartment has not resulted in strong sales. Developers are now wishing to provide least two bays per apartment and this often results in an oversupply of parking on a site. In areas where street parking is at a premium and the streets were not designed for high traffic volumes and free flowing access to major arterials, as is the case at this end of George Street, an oversupply of parking can result in traffic, safety and access issues. It may therefore be necessary subject to a wider more strategic traffic impact assessment of the precinct (on submission of a DAP application) that a cap or a maximum number of parking bays for the site may need to be determined.

The R-Codes will also be applicable in respect to the provision of parking bays. The variations will only apply to commercial parking and residential visitor parking. Reciprocal parking can also be considered. It allows for Council to take into account the proximity of public transport.

Residential Development

It will be noted that the Amendment does not propose applying a dwelling density control to the site. An R-AC code as per Table 4 of the R-Codes which sets out the general site requirements for multiple dwellings in areas coded R40 or greater within mixed use zones or activity centres could be applied, however, it is not considered applicable because these codes stipulate specific plot ratio, open space, setback and height controls which would be contrary to the overall built form outcome considered appropriate for this site and as set out above in clause 5.9.8.

The dwelling density will be controlled by the plot ratio, setbacks, and building height and the 60% mandatory residential floor space component as well as other constraining development standards such as the need to comply with parking bay numbers and standards (whether they be maximum or minimum) and the minimum (size) dwelling floor space. 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 (conditional on the type of dwelling for aged and dependent persons) 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 to calculate the minimum site area per dwelling and plot ratio. Given the above development standards which would be applied to the site which are akin to Table 4 of the R-Codes a density control was not considered necessary in this circumstance.

Public Art

A public art provision similar to that required under the Town Centre Redevelopment Guidelines is also considered an important provision for the site. The aim of this provision, being amongst other things to enhance a sense of place, enrich the visual amenity of public places and improve the functionality of the public domain. It is also considered that the significant heritage status of the site warrants the addition of an element that would enhance its landmark and historical appeal whether this is on-site or in another location in the area.

To ensure an equitable approach to the provision of public art as part of the development process it is proposed the Scheme Text will include a requirement that public art is to be incorporated in the development (Lot 303) 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. This will reflect the aims and development requirements applicable to other sites in the Town Centre.

Landscaping and Public Plaza

Landscaping and street furnishings in the public domain must also be given adequate consideration in a development site with this heritage status. The additional provision will require that all signage, materials, plants and street furniture in any development on the site must be acceptable to the local government.

Also, 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. This provision is also applicable to developments in the Town Centre.

Heritage

The listing of the site in the State Heritage Register and in the Planning Scheme Heritage List will necessitate seeking and consideration of advice from the Heritage Council of WA concerning the proposed Amendment, as required under the *Planning and Development Act, 2005*. The site has been subject to assessment by the State Heritage Office as part of the negotiations regarding lease of the land to a private developer and a Conservation Management Strategy has been drafted and will form an annexure to the Heritage Agreement which must be signed before the lease can be finalised. The Council will be advised of the details of the Heritage Agreement and the Conservation Management Strategy once they are available to the Town. Clause 5.9.5 as outlined above will ensure compliance with the Conservation Management Plan and the heritage Agreement prior to the buildings being occupied.

Variation to Site and Development Standards

Clause 5.9.9 gives the local government the power to approve an application despite non-compliance with the site and development standards outlined in the Planning Scheme. This discretion to vary standards in the assessment and determination of a development application is viewed as necessary to achieve the best possible planning and design outcome for the site. It should be noted that it also provides a DAP with the same power and discretion to approve a development application that does not comply with the site and development controls as specified in clause 5.9.

Community Consultation

Should the WAPC give approval for advertising to proceed the Town will organise for advertising with signs on street frontages, information on the Town's website, advertisements in the local papers and direct consultation with those landowners considered impacted in the Plympton, Town Centre, Raceway, and Woodside Precincts. All land owners considered to have a potential interest in the Amendment will be invited to comment. Depending on when the Amendment is advertised it may be necessary for the advertising periods to be longer than the statutory timeframes to take into account public and school holiday periods. At a minimum it will be 42 days should the WAPC consider the Amendment to fall into the standard classification and a maximum of 60 days will apply if it is characterised as a complex Amendment. The outcomes of advertising will be reported to Council and given due consideration in the final recommendation to Council regarding the Amendment proposal.

In this case the site abuts a 'Primary Regional Road' reservation under the Metropolitan Region Scheme and is also within the Fremantle Port Buffer Zone – Area 2 so referral to these authorities for comment on the Amendment is required. The Scheme Amendment will be referred to the Heritage Council and the EPA as required under the *Planning and Development Act 2005*.

Conclusion

This Scheme Amendment supplements existing Scheme provisions by introducing planning, site and development controls to guide future redevelopment of the site in line with the Council's broader vision for preservation of this heritage building of State significance and activation of this end of George Street.

Despite the Town's willingness to be consulted in respect to the preparation of the Conservation Management Strategy and the Heritage Agreement, the events of the past few weeks have indicated

that these documents and the lease for the sale of the land are nearing finalisation and the documents do not contain any provisions in the nature of development controls for the remaining developable area of the site.

It is considered paramount that further planning controls with greater strength are incorporated in the Scheme Text. This is required to safeguard the Town's interests in achieving redevelopment of this site in keeping with Council's high expectations for this landmark historic building and development of the site in a manner which complements the George Street mixed use area and respects the surrounding residential amenity.

The Scheme Amendment therefore proposes that the 'Special Zone – Royal George Hotel' be incorporated as a separate column in the Part 3 - 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. Site and development controls will be added and will address building height, building setbacks, plot ratio, noise management, car parking, traffic management, residential development, public art, landscaping and public spaces. It is also proposed that there would be a 'relaxation-of-standards' provision to strike a fair balance between having a degree of flexibility to approve development which addresses the Zone objectives, and to establish what development is considered compatible with the Royal George Hotel building as regards scale and intensity of development.

The outcomes of the public comment period and the submissions from other government authorities and service agencies may result in further modifications to the proposed Amendment, as may changes requested by the WAPC prior to advertising. The outcomes of consultation would be considered by Council in a further report when the Amendment is considered for adoption by Council.

In light of the above it is recommended the Council resolve to proceed to advertise the Amendment as a *standard* Amendment outlined in the Officer's recommendation. A Scheme Amendment Report in line with the Officer's recommendation and contents of the Officer's report will be prepared for referral to the WAPC seeking its endorsement of the Amendment for advertising.

7.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 010617

Moved Cr Collinson, seconded Cr Harrington

That:

1. the Town of East Fremantle prepares an Amendment to Local Planning Scheme No. 3, being Amendment No. 15. Specifically the Council resolves that the Town of East Fremantle pursuant to section 75 of the Planning and Development Act 2005, amend Local Planning Scheme No. 3 by:

Amending the Scheme Text as follows:

(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**

(ii) After clause 5.9.1 (c) 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 approved by the Council and 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 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.

5.9.8 The following site and development standards apply to all development:

5.9.8.1 Building Height

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.***

5.9.8.2 Building Setbacks

Minimum Street Setbacks as follows:

<u>Stirling Highway frontage</u>:
Setback subject to Main Roads WA approval. A nil setback may be considered by the local government.

<u>Duke Street frontage</u>:
As determined by the local government and subject to requirements of the Conservation Management Strategy for the Royal George Hotel site.

<u>Royal George Hotel building</u>:
As determined by the local government and subject to the requirements of the Conservation Management Strategy for the Royal George Hotel site.

<u>5.9.8.3 Plot Ratio</u>
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.

<u>5.9.8.4 Residential Density</u>
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.

<u>5.9.8.5 Car Parking</u>

(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.

5.9.8.6 Residential Development

With exception of plot ratio, 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).

5.9.8.7 Public Art

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.

5.9.8.8 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.***

5.9.8.9 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; or

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

5.9.9 Variations to site and development standards and requirements

5.9.9.1 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.

5.9.9.2 ***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.***

5.9.9.3 ***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.***

2. Pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, the Council resolves that Amendment No. 15 is 'standard' for the reason that the Amendment is relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve;

3. Pursuant to section 79 and 81 of the Planning and Development Act, 2005, Council resolves to refer Amendment No. 15 to the Heritage Council of Western Australia and the Environmental Protection Authority; and

4. Pursuant to Regulation 37 (1) the Council resolves to proceed to advertise the amendment to the local planning scheme.

(CARRIED 6:0)

8. CLOSURE

There being no further business, the Presiding member declared the meeting closed at 6.21pm.

*I hereby certify that the Minutes of the special meeting of the **Council** of the Town of East Fremantle, held on **7 June 2017**, Minute Book reference **1.** to **8.** were confirmed at the meeting of the Council on*

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Presiding Member