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PLANNING AND DEVELOPMENT ACT 2005

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**SHIRE OF DERBY/WEST  
KIMBERLEY**

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**SHIRE OF DERBY/WEST  
KIMBERLEY SCHEME NO.9**



**PLANNING AND DEVELOPMENT ACT 2005****SHIRE OF DERBY/WEST KIMBERLEY****SHIRE OF DERBY/WEST KIMBERLEY SCHEME NO.9****TABLE OF CONTENTS****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Schemes Revoked
- 1.4 Notes Do Not Form Part of Scheme
- 1.5 Responsibility for Scheme
- 1.6 Scheme Area
- 1.7 Contents of Scheme
- 1.8 Purposes of Scheme
- 1.9 Aims of Scheme
- 1.10 Relationship with Local Laws
- 1.11 Relationship with Other Local Planning Schemes
- 1.12 Relationship with Region Planning Scheme

**PART 2—RESERVES**

- 2.1 Regional Reserves
- 2.2 Local Reserves
- Table 1—Reserve Objectives
- 2.3 Additional Uses for Local Reserves

**PART 3—ZONES AND THE USE OF LAND**

- 3.1 Zones
- Table 2—Zone Objectives
- 3.2 Zoning Table
- Table 3—Zoning Table
- 3.3 Interpreting Zoning Table
- 3.4 Additional Uses
- Table 4—Specified Additional Uses for Zoned Land in Scheme Area
- 3.5 Restricted Uses
- Table 5—Restricted Uses for Land in Scheme Area
- 3.6 Special Use Zones
- Table 6—Special Use Zones in Scheme Area
- 3.7 Non-Conforming Uses
- 3.8 Changes to Non-Conforming Use
- 3.9 Register of Non-Conforming Uses

**PART 4—GENERAL DEVELOPMENT REQUIREMENTS**

- 4.1 R-Codes
- 4.2 Modification of R-Codes
- 4.3 Other Planning Codes to Be Read as Part of Scheme
- 4.4 Modification of Planning Codes
- 4.5 Environmental Conditions
- 4.6 Additional Development Standards and Requirements
- 4.7 Site Specific Development Standards and Requirements
- 4.8 Variations to Site and Development Requirements
- 4.9 Restrictive Covenants

**PART 5—SPECIAL CONTROL AREAS**

- 5.1 Special Control Areas
- Table 7—Special Control Areas in Scheme Area

**PART 6—TERMS REFERRED TO IN SCHEME**

Division 1—General Definitions Used in Scheme

6.1 Terms Used

Division 2—Land Use Terms Used in Scheme

6.2 Land Use Terms Used

**SCHEDULES**

**Schedule A—Supplemental Provisions to the Deemed Provisions**

**Schedule 1—Car Parking Requirements**

**Schedule 2— Signage and Advertisements for Which Development Approval Not Required**

**Schedule 3—General Development Standards and Requirements**

Table 8—Zone Development Requirements

**Schedule 4—Minimum Setback Requirements from Boundaries**

**Adoption Page**

## PLANNING AND DEVELOPMENT ACT 2005

## SHIRE OF DERBY/WEST KIMBERLEY

## SHIRE OF DERBY/WEST KIMBERLEY SCHEME NO.9

## PART 1—PRELIMINARY

**1.1 Citation**

This local planning scheme is the Shire of Derby/West Kimberley Scheme No.9

**1.2 Commencement**

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

**1.3 Schemes revoked**

The following local planning schemes are revoked—

Shire of Derby/West Kimberley Town Planning Scheme No.5—Derby

Gazettal date 25 September 2001

Shire of Derby/West Kimberley Town Planning Scheme No.7—for a Special Rural Zone: Birdwood Rise & A Rural Zone

Gazettal date 14 July 1998

Shire of Derby/West Kimberley Interim Development Order No.9

Gazettal date 17 November 2020

**1.4 Notes do not form part of Scheme**

Notes, and instructions printed in italics, do not form part of this Scheme.

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law.

**1.5 Responsibility for Scheme**

The Shire of Derby/West Kimberley is the local government responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

**1.6 Scheme area**

This Scheme applies to the area shown on the Scheme Maps.

**1.7 Contents of Scheme**

1.7.1 In addition to the provisions set out in this document (the **scheme text**), this Scheme includes the following—

(a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2);

(b) the supplemental provisions to the deemed provisions contained in Schedule A of the scheme (if any);

(c) the Scheme Maps (sheets 1 to 15); and

1.7.2 This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

**1.8 Purposes of Scheme**

The purposes of this Scheme are to—

(a) set out the local government's planning aims and intentions for the Scheme area; and

(b) set aside land as local reserves for public purposes; and

(c) zone land within the Scheme area for the purposes defined in this Scheme; and

(d) control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans; and

(e) set out procedures for the assessment and determination of development applications; and

(f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and

(g) make provision for the administration and enforcement of this Scheme; and

(h) address other matters referred to in Schedule 7 of the Act.

**1.9 Aims of Scheme**

The aims of this Scheme are—

(a) To encourage an appropriate balance between economic and social development, conservation of the natural environment, provision of infrastructure and services, and improvements in lifestyle and amenity;

- (b) To recognise and provide for the cultural practices and traditions of the traditional owners in the Shire;
- (c) To provide sufficient zoned land for residential, commercial, retail, industrial, rural and civic uses, suitable to service the long term growth of the Shire;
- (d) To implement strategic planning for the municipality, including the recommendations of the Shire's Local Planning Strategy, Fitzroy Futures Town Plan, WAPC adopted Aboriginal Layout plans, relevant regional plans and policies including the State Planning Strategy;
- (e) To reserve certain portions of land required for public purposes;
- (f) To zone the balance of the land within the Scheme Area for purposes described in the Scheme as recommended by the Shire's local planning strategy;
- (g) define the uses and types of development to be permitted on land within the Scheme Area; and
- (h) control and regulate the development and use of land throughout the Shire.

### 1.10 Relationship with local laws

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

### 1.11 Relationship with other local planning schemes

There are no other local planning schemes of the Shire of Derby/West Kimberley which apply to the Scheme area.

### 1.12 Relationship with region planning scheme

There are no region planning schemes which apply to the Scheme area.

## PART 2—RESERVES

### 2.1. Regional Reserves

There are no regional reserves in the Scheme area.

Note: The process of reserving land under a regional planning scheme is separate from the process of reserving land under the *Land Administration Act 1997* section 41.

### 2.2 Local reserves

2.2.1 In this clause—

**Department of Main Roads** means the department principally assisting in the administration of the *Main Roads Act 1930*;

**Western Australian Road Hierarchy** means the document of that name available on the website maintained by the Department of Main Roads.

2.2.2 Local reserves are shown on the Scheme Map according to the legend on the Scheme Map.

2.2.3 The objectives of each local reserve are as follows—

**Table 1—Reserve objectives**

Reserve name	Objectives
Public Open Space	<ul style="list-style-type: none"> <li>• To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152.</li> <li>• To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.</li> </ul>
Environmental conservation	<ul style="list-style-type: none"> <li>• To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision.</li> <li>• To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves.</li> </ul>
Civic and Community	<ul style="list-style-type: none"> <li>• To provide for a range of community facilities which are compatible with surrounding development.</li> <li>• To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.</li> </ul>
Social Care Facilities	<ul style="list-style-type: none"> <li>• Civic and Community which specifically provide for a range of essential social care facilities.</li> </ul>
Cultural Facilities	<ul style="list-style-type: none"> <li>• Civic and Community which specifically provide for a range of essential cultural facilities.</li> </ul>
Public Purposes	<ul style="list-style-type: none"> <li>• To provide for a range of essential physical and community infrastructure.</li> </ul>
Medical Services	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of essential medical services.</li> </ul>

<b>Reserve name</b>	<b>Objectives</b>
Infrastructure Services	<ul style="list-style-type: none"> <li>Public Purposes which specifically provide for a range of essential infrastructure services.</li> </ul>
Education	<ul style="list-style-type: none"> <li>Public Purposes which specifically provide for a range of essential education facilities.</li> </ul>
Emergency Services	<ul style="list-style-type: none"> <li>Public Purposes which specifically provide for a range of essential emergency services.</li> </ul>
Heritage	<ul style="list-style-type: none"> <li>Public Purposes which specifically provide for a range of heritage purposes.</li> </ul>
Government Services	<ul style="list-style-type: none"> <li>Public Purposes which specifically provide for a range of government services.</li> </ul>
Recreational	<ul style="list-style-type: none"> <li>Public Purposes which specifically provide for a range of public recreational facilities.</li> </ul>
Cemetery	<ul style="list-style-type: none"> <li>To set aside land required for a cemetery.</li> </ul>
Drainage / Waterway	<ul style="list-style-type: none"> <li>To set aside land required for significant waterways and drainage.</li> </ul>
Primary Distributor Road	<ul style="list-style-type: none"> <li>To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.</li> </ul>
Local Distributor Road	<ul style="list-style-type: none"> <li>To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.</li> </ul>
Local Road	<ul style="list-style-type: none"> <li>To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.</li> </ul>
Strategic infrastructure	<ul style="list-style-type: none"> <li>To set aside land required for port or airport facilities.</li> </ul>
Special Purpose	<ul style="list-style-type: none"> <li>To set aside land for a special purpose.</li> <li>Purposes that do not comfortably fit in any other reserve classification.</li> </ul>

### 2.3 Additional uses for local reserves

2.3.1 There are no additional uses for land in local reserves that apply to this Scheme.

## PART 3—ZONES AND USE OF LAND

### 3.1 Zones

3.1.1 Zones are shown on the Scheme Map according to the legend on the Scheme Map.

3.1.2 The objectives of each zone are as follows—

**Table 2 Zone objectives**

<b>Zone name</b>	<b>Objectives</b>
Residential	<ul style="list-style-type: none"> <li>To provide for a range of housing and a choice of residential densities to meet the needs of the community.</li> <li>To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</li> <li>To provide for a range of non-residential uses, which are compatible with and complementary to residential development.</li> </ul>
Urban Development	<ul style="list-style-type: none"> <li>To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme.</li> <li>To provide for a range of residential densities to encourage a variety of residential accommodation.</li> <li>To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.</li> <li>To provide an intermediate transitional zone following the lifting of an urban deferred zoning.</li> </ul>
Settlement	<ul style="list-style-type: none"> <li>To identify existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places by— <ul style="list-style-type: none"> <li>(a) requiring preparation and endorsement of a layout plan in accordance with State Planning Policy 3.2; and</li> <li>(b) ensuring that development accords with a layout plan.</li> </ul> </li> </ul>

<b>Zone name</b>	<b>Objectives</b>
Rural	<ul style="list-style-type: none"> <li>• To provide for the maintenance or enhancement of specific local rural character.</li> <li>• To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.</li> <li>• To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.</li> <li>• To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.</li> <li>• To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.</li> </ul>
Rural Residential	<ul style="list-style-type: none"> <li>• To provide for lot sizes in the range of 1 ha to 4 ha.</li> <li>• To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.</li> <li>• To set aside areas for the retention of vegetation and landform or other features which distinguish the land.</li> </ul>
Rural Smallholdings	<ul style="list-style-type: none"> <li>• To provide for lot sizes in the range of 4 ha to 40 ha.</li> <li>• To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.</li> <li>• To set aside areas for the retention of vegetation and landform or other features which distinguish the land.</li> </ul>
Rural Townsite	<ul style="list-style-type: none"> <li>• To provide for a range of land uses that would typically be found in a small country town.</li> </ul>
Cultural and Natural Resource Use	<ul style="list-style-type: none"> <li>• Provide for development associated with the extraction of mineral and natural resources.</li> <li>• Ensure the preservation of Aboriginal heritage and culturally significant areas.</li> <li>• Provide for the conservation of significant landscape and environmental areas and values.</li> <li>• Allow for low impact tourism development including limited tourist accommodation and camping areas.</li> <li>• Allow land uses associated with Aboriginal heritage, traditional law and culture.</li> </ul>
Light Industry	<ul style="list-style-type: none"> <li>• To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones.</li> <li>• To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.</li> </ul>
General Industry	<ul style="list-style-type: none"> <li>• To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.</li> <li>• To accommodate industry that would not otherwise comply with the performance standards of light industry.</li> <li>• Seek to manage impacts such as noise, dust and odour within the zone.</li> </ul>
Commercial	<ul style="list-style-type: none"> <li>• To provide for a range of shops, offices, restaurants and other commercial outlets in defined townsites or activity centres.</li> <li>• To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.</li> <li>• To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.</li> </ul>



Zone name	Objectives
Mixed Use	<ul style="list-style-type: none"> <li>To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.</li> <li>To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.</li> </ul>
Tourism	<ul style="list-style-type: none"> <li>To promote and provide for tourism opportunities.</li> <li>To provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area.</li> <li>To allow limited residential uses where appropriate.</li> <li>To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.</li> </ul>
Service Commercial	<ul style="list-style-type: none"> <li>To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.</li> <li>To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones.</li> </ul>
Special Use	<ul style="list-style-type: none"> <li>To facilitate special categories of land uses which do not sit comfortably within any other zone.</li> <li>To enable the Council to impose specific conditions associated with the special use.</li> </ul>

### 3.2 Zoning table

The zoning table for this Scheme is as follows—

**Table 3—Zoning Table**

USE AND DEVELOPMENT CLASS	ZONE														
	Residential	Urban Development	Settlement	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Cultural and Natural Resource Use	Light Industry	General Industry	Commercial	Mixed Use	Service Commercial	Tourism	
abattoir	X	Refer to Clause 3.3.6.	In the event that an approved Layout Plan has not been prepared in accordance with State Planning Policy No. 3.2—Aboriginal Settlements, assessment and consideration is to be carried out based upon the objectives and intentions of this scheme.	A	X	X	X	D	X	X	X	X	X	X	
agriculture—extensive	X			P	X	X	X	P	X	X	X	X	X	X	X
agriculture—intensive	X			P	X	A	X	D	X	X	X	X	X	X	X
amusement parlour	X			X	X	X	A	X	X	X	X	A	A	X	D
animal establishment	X			D	D	D	X	A	X	X	X	X	X	X	X
animal husbandry—intensive	X			A	X	X	X	A	X	X	X	X	X	X	X
art gallery	X			D	X	X	D	D	D	X	D	D	D	D	D
betting agency	X			X	X	X	D	D	X	X	D	D	D	X	D
brewery	X			D	X	X	D	D	D	D	D	A	D	D	D
bulky goods showroom	X			X	X	X	D	X	P	X	D	X	P	X	X
camping ground	X			A	X	X	A	A	X	X	X	X	X	X	A

USE AND DEVELOPMENT CLASS	ZONE															
	Residential	Urban Development	Settlement	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Cultural and Natural Resource Use	Light Industry	General Industry	Commercial	Mixed Use	Service Commercial	Tourism		
caravan park	X	Refer to Clause 3.3.6.	In the event that an approved Layout Plan has not been prepared in accordance with State Planning Policy No. 3.2—Aboriginal Settlements, assessment and consideration is to be carried out based upon the objectives and intentions of this scheme.	A	X	X	A	P	X	X	X	X	X	P		
caretaker's dwelling	X			D	X	D	D	D	D	D	D	D	D	D	D	D
car park	I			X	X	X	P	X	P	P	P	P	D	P	D	D
child care premises	A			A	A	A	A	A	X	X	D	D	A	D	D	D
cinema/theatre	X			X	X	D	D	D	X	P	D	X	P	D	X	P
civic use	D			D	X	X	P	D	A	A	P	P	A	P	A	P
club premises	X			X	A	A	P	D	A	X	D	D	D	D	D	D
commercial vehicle parking	A			P	D	D	A	D	P	P	P	P	D	P	D	D
community purpose	D			D	A	A	A	D	D	X	P	D	D	D	D	D
consulting rooms	X			X	X	X	P	D	X	X	P	P	P	X	X	X
convenience store	A			D	X	X	P	D	D	X	P	P	P	P	P	P
corrective institution	X			A	X	X	X	X	X	X	X	X	X	X	X	X
educational establishment	A			A	X	X	A	A	X	X	A	A	A	A	X	X
exhibition centre	X			D	X	X	D	D	D	X	D	D	D	D	D	D
family day care	A			A	A	X	A	A	A	X	D	D	D	A	D	D
fast food outlet	X			X	X	X	A	A	D	D	D	D	D	D	D	D
fuel depot	X			A	X	X	A	X	A	A	X	X	X	X	X	X
funeral parlour	X			X	X	X	A	X	A	A	A	A	A	A	A	X
garden centre	X			P	A	A	D	D	D	D	A	A	D	A	A	A
grouped dwelling	D			X	X	X	D	D	X	X	D	D	X	X	X	X
home business	A			P	A	D	A	A	X	X	A	A	X	A	A	A
home occupation	D			P	D	D	D	D	X	X	A	D	X	X	X	X
home office	P			P	P	P	P	P	X	X	A	P	X	A	A	A
home store	A			A	A	A	A	A	X	X	X	A	X	X	X	X
hospital	X			D	X	X	D	D	X	X	P	D	X	X	X	X
hosted short-term rental accommodation	P			P	P	P	P	P	X	X	X	P	X	P	X	P
hotel	X			X	X	X	A	A	X	X	A	A	X	P	X	P
industry	X			X	X	X	A	X	A	P	X	X	X	X	X	X
industry—extractive	X			A	X	X	X	A	A	A	X	X	X	X	X	X
industry—light	X			X	X	X	A	A	P	P	X	X	A	X	X	X
industry—primary production	X			P	X	X	A	D	D	D	X	X	X	X	X	X
liquor store—large	X			X	X	X	D	X	X	X	D	D	D	D	D	X
liquor store—small	X	X	X	X	D	X	X	X	D	D	X	D	D	D		
lunch bar	A	X	X	X	D	X	D	X	P	D	A	P	A	P		
market	X	D	X	D	D	A	D	X	A	X	D	D	D	D		
medical centre	X	X	X	X	D	X	X	X	P	D	A	X	X	X		
mining operations	X	D	X	X	X	D	X	X	X	X	X	X	X	X		
motor vehicle, boat or caravan sales	X	X	X	X	D	X	P	X	A	X	P	X	X	X		



USE AND DEVELOPMENT CLASS	ZONE														
	Residential	Urban Development	Settlement	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Cultural and Natural Resource Use	Light Industry	General Industry	Commercial	Mixed Use	Service Commercial	Tourism	
waste storage facility	X	Refer to Clause 3.3.6.	In the event that an approved Layout Plan has not been prepared in accordance with State Planning Policy No. 3.2—Aboriginal Settlements, assessment and consideration is to be carried out based upon the objectives and intentions of this scheme.	A	X	X	X	X	A	A	X	X	X	X	
winery	X			A	X	A	X	X	X	X	X	X	X	X	A
workforce accommodation	A			A	X	A	A	X	A	X	A	A	A	A	A

### 3.3 Interpreting zoning table

3.3.1 The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.

3.3.2 The symbols used in the zoning table have the following meanings—

P means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme;

I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions;

X means that the use is not permitted by this Scheme.

*Notes for this clause—*

- The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances 1 application is made for both the carrying out of works on, and the use of, land.
- Under clause 61 of the deemed provisions, certain works and uses are exempt from the requirement for development approval.
- Clause 67 of the deemed provisions deals with the consideration of applications for development approval by the local government. Under that clause, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.

3.3.3 A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.

3.3.4 The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table—

- determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
- determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or
- determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.

3.3.5 If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.

3.3.6 If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land—

- (a) a structure plan;
- (b) a local development plan.

### 3.4 Additional uses

3.4.1 Table 4 sets out—

- (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
- (b) the conditions that apply to that additional use.

**Table 4—Specified additional uses for zoned land in Scheme area**

No.	Description of land	Additional use	Conditions
A1	Lot 1 (No. 34) Derby Highway, Derby	Restaurant/Café and Nursery	As determined by the local government
A2	Lot 170 (No. 11) Windjana Road, Derby	Animal Establishment	As determined by the local government
A3	Pt Lot 24 (No. 41) Fitzroy Street, Derby	Transport Depot	As determined by the local government
A4	Lot 399 (No. 116) Clarendon Street, Derby	Nursery	As determined by the local government
A5	Lots 1393, 1394 and 1395 (No. 14) Nevil Street, Derby	Single house, grouped dwelling, and multiple dwelling	As determined by the local government

3.4.2 Despite anything contained in the zoning table, land that is specified in Table 4 to subclause 3.4.1 may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

### 3.5 Restricted uses

3.5.1 Table 5 sets out—

- (a) restricted classes of use for specified land that apply instead of the classes of use that are permissible in the zone in which the land is located; and
- (b) the conditions that apply to that restricted use.

**Table 5—Restricted uses for land in Scheme area**

No.	Description of land	Restricted use	Conditions
R1	Lots 1 to 27 Savannah Way, Meda (Birdwood Rise Estate)	<p>As a 'P' use—</p> <ul style="list-style-type: none"> <li>• Agriculture—Intensive</li> <li>• Caretaker's Dwelling</li> <li>• Home Occupation</li> <li>• Industry-Primary Production</li> <li>• Industry- Rural</li> <li>• Rural Home Business</li> <li>• Rural Pursuit/Hobby Farm</li> <li>• Single House</li> <li>• Veterinary Centre</li> </ul> <p>Any uses not listed above are prohibited within this zone</p>	<p><b>Objective</b></p> <p>To allow the closer subdivision of land in a rural setting that may be used for rural residential living with limited rural pursuits and retention of rural landscape.</p> <p><b>Provisions</b></p> <ol style="list-style-type: none"> <li>1. Within the zone no building may be erected closer than— <ol style="list-style-type: none"> <li>(a) 20m (twenty metres) to the road frontage of the lot; and</li> <li>(b) 15m (fifteen metres) to the side and rear boundaries of the lot.</li> </ol> </li> <li>2. Not more than one private dwelling house and a caretaker's house will be permitted to be erected on a lot.</li> <li>3. Within the zone a building may not be occupied as a residence unless the building has been approved by the local government in conformity with the Building Code of Australia and the provisions of this Scheme and is connected to an adequate supply of potable water.</li> </ol>

No.	Description of land	Restricted use	Conditions
			<ol style="list-style-type: none"> <li data-bbox="850 259 1318 488">4. Noise emitted from electricity generators and engine driven bore pumps shall comply with maximum noise levels set by the <i>Environmental Protection (Noise) Regulations 1997</i>. Noise attenuation shall be achieved through the use of acoustic enclosures, earth mounds and separation from dwellings.</li> <li data-bbox="850 488 1318 566">5. Biodegradable waste may be composted onsite in a manner approved by the local government.</li> <li data-bbox="850 566 1318 622">6. No dumping or burning of waste materials permitted.</li> <li data-bbox="850 622 1318 851">7. Fire breaks are to be maintained in accordance with the directions of the Fire Control officer and the Bush Fires Board. These include observing prohibited burning times, obtaining permits for burning and immediate notification of any wildfires to the Fire Control Officer and Bush Fires Board.</li> <li data-bbox="850 851 1318 1057">8. Any agricultural use must be in keeping with the principles of sound agricultural practice and in this respect the Council may request the advice of the Department of Primary Industries and Regional Development before determining any application.</li> <li data-bbox="850 1057 1318 1344">9. No person shall use or permit to be used any lot for the grazing of animals at an intensity which would adversely affect the pastures of and other vegetation on the lot concerned, the neighbouring lots or be likely to result in soil erosion. Stocking rates shall be in accordance with those specified by the Department of Primary Industries and Regional Development.</li> <li data-bbox="850 1344 1318 1572">10. In order to conserve the natural beauty of the locality, native trees including White Gums and Boabs are to be left standing. Bauhenia, Woollybutts, and Bloodwood trees can be removed only for direct home and outbuilding construction and are otherwise to be retained. The Wattle Scrub tree may be removed.</li> <li data-bbox="850 1572 1318 1628">11. No subdivision of lots shall be permitted.</li> <li data-bbox="850 1628 1318 2114">12. The land contained within the Scheme area is within the Canning-Kimberley Groundwater Area proclaimed under the <i>Rights in Water and Irrigation Act 1914</i> (RIWI Act). Property owners require a licence to construct / alter a well and a licence to take groundwater, unless it is for water uses exempt under the RIWI Act (e.g. household use, small gardens or watering stock). The Department of Water and Environmental Regulation can be contacted to find out if the exemptions apply. Bores and water abstraction exempt from licensing under the RIWI Act are still subject to the Shire's <i>Health Local Laws 1998</i>.</li> </ol>

No.	Description of land	Restricted use	Conditions
			<p>13. The total water draw for each lot shall be subject to the approval of the Department of Water and Environmental Regulation and shall not in any case exceed a maximum of 40,000 litres per day.</p> <p>14. On-site effluent disposal shall be by a method approved by the Department of Health, Western Australia.</p> <p>15. Domestic water supply methods shall be in accordance with the Shire of Derby/West Kimberley Health Local Law 1998 and Shire of Derby/West Kimberley Health Amendment Local Law 2010.</p> <p>16. Veterinary Centre is only permitted on Lot 27.</p>

3.5.2 Despite anything contained in the zoning table, land that is specified in Table 5 to subclause 3.5.1 may be used only for the restricted class of use set out in respect of that land subject to the conditions that apply to that use.

### 3.6 Special use zones

3.6.1 Table 6 sets out—

- special use zones for specified land that are in addition to the zones in the zoning table; and
- the classes of special use that are permissible in that zone; and
- the conditions that apply in respect of the special uses.

**Table 6—Special use zones in Scheme area**

No.	Description of land	Special use	Conditions
SU1	Lots 9 on DP222383 Derby Highway and Lot 10 (No. 54) Guildford Street, Derby	Grouped Dwelling Single House Tourist and visitor accommodation	Development is subject to connection to town sewer system or other approved system and reticulated water supply.
SU2	Lot 84 (No. 138) Loch Street, Derby	Service Station Motor Vehicle Repair Convenience Store	As determined by local government.
SU3	Lot 538 (No.1), Lot 11 (No. 3), Lot 12 (No. 5), and Lot 13 (No. 7) Maxted Street, Derby	Art gallery Caravan Park Caretakers dwelling Convenience store Restaurant/cafe Rural Pursuit / Hobby Farm Shop Single House Tourist and visitor accommodation Workforce Accommodation	<p>Tourist accommodation development is subject to connection to the town sewer system or alternative as approved by the Health Department of WA.</p> <p>Any development application is required to be advertised for public comment.</p> <p>Workforce Accommodation is permitted on Lot 12 (No. 5) only.</p>
SU4	Lots 100 and 101 on DP75164 Lovegrove Street, Derby	Grouped Dwelling Rural Pursuit/Hobby Farm Single House Tourist and visitor accommodation	Connection to reticulated water supply. Effluent disposal system subject to Department of Water and Health Department approval. Any development application is required to be advertised for public comment.

3.6.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

Note: Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

### 3.7 Non-conforming uses

3.7.1 Unless specifically provided, this Scheme does not prevent—

- the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or

- (b) the carrying out of development on land if—
  - (i) before the commencement of this Scheme, the development was lawfully approved; and
  - (ii) the approval has not expired or been cancelled.

3.7.2 Subclause 3.7.1 does not apply if—

- (a) the non-conforming use of the land is discontinued; and
- (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.

3.7.3 Subclause 3.7.1 does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government—

- (a) purchases the land; or
- (b) pays compensation to the owner of the land in relation to the non-conforming use.

### **3.8 Changes to non-conforming use**

3.8.1 A person must not, without development approval-

- (a) alter or extend a non-conforming use of land; or
- (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
- (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
- (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.

3.8.2 An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.

3.8.3 A local government may only grant development approval for a change of use of land referred to in subclause 3.8.1(d) if, in the opinion of the local government, the proposed use—

- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
- (b) is closer to the intended purpose of the zone in which the land is situated.

### **3.9 Register of non-conforming uses**

3.9.1 The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.

3.9.2 A register prepared by the local government must set out the following—

- (a) a description of each area of land that is being used for a non-conforming use;
- (b) a description of any building on the land;
- (c) a description of the non-conforming use;
- (d) the date on which any discontinuance of the non-conforming use is noted.

3.9.3 If the local government prepares a register under subclause 3.9.1 the local government—

- (a) must ensure that the register is kept up-to-date; and
- (b) must make a copy of the register available for public inspection during business hours at the offices of the local government; and
- (c) may publish a copy of the register on the website of the local government.

3.9.4 An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

## **PART 4—GENERAL DEVELOPMENT REQUIREMENTS**

### **4.1 R-Codes**

4.1.1 The R-Codes, modified as set out in clause 4.2, are to be read as part of this Scheme.

4.1.2 The local government must ensure that the R-Codes are published in accordance with clause 87 of the deemed provisions.

- (a) Subclause (4.1.2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

4.1.3 The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.

4.1.4 The R-Codes apply to an area if—

- (a) the area has a coding number superimposed on it in accordance with subclause (4.1.3); or
- (b) a provision of this Scheme provides that the R-Codes apply to the area.



#### 4.2 Modification of R-Codes

The following variations to the R-Codes apply in the Scheme area—

4.2.1 Where a site has a dual coding specified on the Scheme Map, the local government may approve residential development to the higher code, providing the development is connected to a reticulated sewerage system and Local government is satisfied that development proposals have been prepared which take into account—

- (a) the effect the proposal will have on the residential amenity of the locality with regard to streetscape, building form, servicing, privacy, overshadowing and traffic circulation both on and off site;
- (b) any other matter to be considered under the provisions of the appropriate Residential Density Code.

4.2.2 Local government may permit Aged or dependent persons' dwelling in accordance with the R30 Code.

4.2.3 Any application for development approval for any residential development other than a single house shall be accompanied by a landscape plan showing the proposed landscaping on the site.

The landscape plan shall show—

- (a) the location and general nature of planted areas;
- (b) the location and nature of materials to be used on non-planted areas;
- (c) the location and size of any outbuildings or other minor proposed structures; and
- (d) the implementation schedule of the landscape plan including, though not limited to, the applicant commencing the implementation of the landscape plan within six calendar months of the completion of all other approved works and the applicant completing the implementation of the landscape plan no later than six calendar months following approval to occupy any building.

4.2.4 Notwithstanding any other provision of the Scheme Local government may—

- (a) where residential development is proposed as a component of a mixed use development in the Mixed Use Zone consent to the residential development at a density up to a maximum of R35 subject to the—
  - (i) residential component not occupying the ground floor at the street frontage; and
  - (ii) site area occupied by the commercial development shall be excluded from the site area used for the determination of residential unit yield;
- (b) for residential development in the Mixed Use Zone consent to the reduction of the front setback to nil where this is in the opinion of Local government consistent with the existing streetscape.

#### 4.3 Other planning codes to be read as part of Scheme

4.3.1 There are no other planning codes that are to be read as part of this Scheme.

#### 4.4 Modification of planning codes

There are no modifications to a planning code that, under clause 4.3 is to be read as part of the Scheme.

#### 4.5 Environmental conditions

There are no environmental conditions imposed under the *Environmental Protection Act 1986* that apply to this Scheme.

#### 4.6 Additional development standards and requirements

4.6.1 Schedules 1, 3 and 4 set out requirements relating to development that are additional to those set out in the R-Codes, precinct structure plans, local development plans or State or local planning policies.

4.6.2 To the extent that a requirement referred to in subclause 4.6.1 is inconsistent with a requirement in the R-Codes, a precinct structure plan, a local development plan or a State or local planning policy the requirement referred to in clause 4.7 prevails.

#### 4.7 Site specific development standards and requirements

There are no additional requirements that apply to this Scheme.

#### 4.8 Variations to site and development requirements

4.8.1 In this clause—general site and development requirements means requirements set out in clauses 4.6.

4.8.2 The local government may approve an application for development approval that does not comply with the general site and development requirements.

4.8.3 An approval under subclause 4.8.2 may be unconditional or subject to any conditions the local government considers appropriate.

4.8.4 If the local government is of the opinion that the non-compliance with a general site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must—

- (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64(4) of the deemed provisions; and

- (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.

4.8.5 The local government may only approve an application for development approval under this clause if the local government is satisfied that—

- (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67(2) of the deemed provisions; and
- (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

#### 4.9. Restrictive covenants

4.9.1 A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.

4.9.2 If subclause 4.9.1 operates to extinguish or vary a restrictive covenant

- (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
- (b) the local government must not grant development approval for the construction of the residential dwelling unless it gives notice of the application for development approval in accordance with clause 64 of the deemed provisions.

### PART 5—SPECIAL CONTROL AREAS

#### 5.1 Special control areas

5.1.1 Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.

5.1.2 The purpose, objectives and additional provisions that apply to each special control area is set out in Table 7.

5.1.3 In respect of a Special Control Area shown on a Scheme Map, the objectives and additional provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any other provisions of the Scheme.

**Table 7—Special control areas in Scheme area**

Name of area	Purpose	Objectives	Additional provisions
Public Drinking Water Source Area—Priority 1 (SCA 1)	Protection of Priority 1 Public Drinking Water Source Areas	<p>(a) To provide basis for public drinking water resources through the control of land use or development which has the potential to prejudice the quality of water supplies for public use;</p> <p>(b) To identify land that has been designated as a public drinking water resource;</p> <p>(c) To ensure that any land use does not detrimentally impact on a public drinking water resource;</p> <p>(d) To implement Scheme controls that are designed to mitigate any adverse effects on a public drinking water resource.</p>	<p>(a) Despite any other provision of the Scheme development approval is required for all use and development within the Environment—Public Drinking Water Source Area—Priority 1 Special Control Area including a single house, removal of vegetation, earthworks or the use of land for the keeping of or grazing animals, and shall be subject to discretion of the local government, notwithstanding that the use may be designated as a ‘P’ use under the Scheme.</p> <p>(b) The local government may refuse any application for development approval or impose conditions on any development approval so as to—</p> <ol style="list-style-type: none"> <li>1. protect the groundwater resource; and</li> <li>2. require the registration of a notification under section 70A of the <i>Transfer of Land Act 1893</i> on the title to the land giving notice of any limitations or constraints associated with the protection of groundwater resources at the applicant’s cost.</li> </ol>

Name of area	Purpose	Objectives	Additional provisions
			<p>Note: There will be a general presumption against development or use of land which involves a significant risk to the groundwater resource. The onus will be on the proponent of development to demonstrate that the proposed activity will not prejudice the groundwater resource.</p> <p>(c) The local government shall refer applications for development approval within the Environment—Public Drinking Water Source Area—Priority 1 Special Control Area to the Department of Water and Environmental Regulation, any other agency or organisation the local government deems necessary, and the local government shall have due regard to any advice received.</p> <p>(d) In addition to other provisions of the Scheme, in considering any application for rezoning, subdivision or development approval within the Environment—Public Drinking Water Source Area—Priority 1 Special Control Area, the local government is to have due regard to—</p> <ul style="list-style-type: none"> <li>(i) any water resource management plan, strategy or guideline of the Department of Water and Environmental Regulation, and any advice received from the Department of Water and Environmental Regulation;</li> <li>(ii) the potential impact of the proposal on the quality of the water resource;</li> <li>(iii) the practicability and cost of any ameliorative measures proposed for the protection of the resource;</li> <li>(iv) the existing level of protection of the resource provided, with reference to management of land and location of development;</li> <li>(v) the nature, location and performance of any existing or proposed effluent disposal system; and</li> </ul> <p>(e) The drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to manage run-off and drainage.</p>

Name of area	Purpose	Objectives	Additional provisions
Wastewater Treatment Plant Odour Buffer (SCA 2)	Protection of the Wastewater Treatment Plant Odour Buffer	(a) The objective of the Wastewater Treatment Plant Odour Buffer Special Control Area is to avoid the establishment of incompatible or odour-sensitive land uses or development within the buffer and protect the long term operation of the Derby and Fitzroy Crossing Waste Water Treatment Plants.	<p>(a) Notwithstanding any other provisions of the Scheme, a person must not commence or carry out any development or use of land within the Wastewater Treatment Plant Odour Buffer Special Control Area without first having applied for and obtained the development approval of the local government under Part 9 of the deemed provisions.</p> <p>(b) The local government in considering an application for development approval within the Infrastructure—Wastewater Treatment Plant Odour Buffer Special Control Area is to have due regard to—</p> <ul style="list-style-type: none"> <li>(i) the compatibility of the use or development with wastewater treatment plant infrastructure with regard to potential odour and noise emissions from the waste water treatment plant;</li> <li>(ii) whether the use or development would have a detrimental impact on the long term operation of the waste water treatment plant;</li> <li>(iii) the advice and recommendations of the Water Corporation and the Department of Water and Environmental Regulation and any relevant policies of the Department of Water and Environmental Regulation and the Western Australian Planning Commission, including State Planning Policy 4.1 (State Industrial Buffer Policy).</li> </ul>
Coastal Hazard Risk Area (SCA 3)	Reflect the Coastal Processes Setback from the Coastal hazard risk management and adaptation planning guidelines	<p>(a) To ensure land in the coastal zone is continuously provided for coastal foreshore management, public access, recreation and conservation.</p> <p>(b) To ensure public safety and reduce risk associated with coastal erosion and inundation.</p> <p>(c) To avoid inappropriate land use and development of land at risk from coastal erosion and inundation.</p>	<p>(a) In considering proposed structure plans, subdivision or development applications due regard shall be given to</p> <ul style="list-style-type: none"> <li>(i) Derby Coastal Hazard Risk Management and Adaptation Plan;</li> <li>(ii) State Planning Policy 2.6—State Coastal Planning Policy;</li> <li>(iii) Relevant local planning policies.</li> </ul> <p>(b) Where subdivision or development applications are received within SCA 3, a notification pursuant to section 70A of the <i>Transfer of Land Act 1983</i> is to be placed on the Certificate(s) of Title of the subject land, at the cost of the landowner, advising that the lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years.</p>

Name of area	Purpose	Objectives	Additional provisions
		<p>(d) To ensure land use and development does not accelerate coastal erosion or inundation risks; or have a detrimental impact on the functions of public reserves.</p> <p>(e) To ensure that development addresses the Derby Townsite Coastal Hazard Risk Management and Adaptation Plan prepared in accordance with State Planning Policy No. 2.6 State Coastal Planning Policy (as amended) and any relevant local planning policy prepared in accordance with this Scheme.</p>	<p>(c) Notwithstanding any other provisions of the Scheme, a person must not commence or carry out any development or use of land within the Coastal Hazard Risk Area Special Control Area without first having applied for and obtained the development approval of the local government under Part 9 of the deemed provisions.</p>
Environment (Groundwater Protection Area) (SCA 4)	The purpose of identifying land on the scheme map as being within a Groundwater Protection Area is to control the development of certain land uses with the potential to contaminate water resources.	<p>(a) Provide a basis for the protection of public drinking water resources through the control of land use or development which has the potential to prejudice the quality of water supplies for public use;</p> <p>(b) Identify land that has been designated as a wellhead protection zone;</p> <p>(c) Ensure that any land use does not detrimentally impact on a public drinking water resource;</p> <p>(d) Implement Scheme controls that are designed to mitigate any adverse effects on a public drinking water resource.</p>	<p>(a) Despite any other provision of the Scheme development approval is required for all use and development within the Environment—Wellhead Protection Zone Special Control Area including a single house, removal of vegetation, earthworks or the use of land for the keeping of or grazing animals, and shall be subject to discretion of the local government, notwithstanding that the use may be designated as a ‘P’ use under the Scheme.</p> <p>(b) The local government may refuse any application for development approval or impose conditions on any development approval so as to—</p> <p>(i) protect the groundwater resource; and</p> <p>(ii) require the registration of a notification under section 70A of the <i>Transfer of Land Act 1893</i> on the title to the land giving notice of any limitations or constraints associated with the protection of groundwater resources at the applicant’s cost.</p> <p>Note: There will be a general presumption against development or use of land which involves a significant risk to the groundwater resource. The onus will be on the proponent of development to demonstrate that the proposed activity will not prejudice the groundwater resource.</p>

Name of area	Purpose	Objectives	Additional provisions
			<p>(c) The local government shall refer applications for development approval within the Environment—Wellhead Protection Zone Special Control Area to the Department of Water and Environmental Regulation, any other agency or organisation the local government deems necessary, and the local government shall have due regard to any advice received.</p> <p>(d) In addition to other provisions of the Scheme, in considering any application for rezoning, subdivision or development approval within the Environment—Wellhead Protection Zone Special Control Area, the local government is to have due regard to—</p> <ul style="list-style-type: none"> <li>(i) any water resource management plan, strategy or guideline of the Department of Water and Environmental Regulation, and any advice received from the Department of Water and Environmental Regulation;</li> <li>(ii) the potential impact of the proposal on the quality of the water resource;</li> <li>(iii) the practicability and cost of any ameliorative measures proposed for the protection of the resource;</li> <li>(iv) the existing level of protection of the resource provided, with reference to management of land and location of development;</li> <li>(v) the nature, location and performance of any existing or proposed effluent disposal system; and</li> <li>(vi) the drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to manage run-off and drainage.</li> </ul>

## PART 6—TERMS REFERRED TO IN SCHEME

### *Division 1—General definitions used in Scheme*

#### 6.1 Terms used

6.1.1 If a word or expression used in this Scheme is listed in this clause, its meaning is as follows—

**building envelope** means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.

**building height** in relation to a building—

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes.

<b>cabin</b>	means a building that— (a) is an individual unit other than a chalet; and (b) forms part of— (i) tourist and visitor accommodation; or (ii) a caravan park; and (c) if the unit forms part of a caravan park—is used to provide accommodation for persons, on a commercial basis, with no individual person accommodated for a period or periods exceeding a total of 3 months in any 12-month period.
<b>chalet</b>	means a building that— (a) is a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and (b) forms part of— (i) tourist and visitor accommodation; or (ii) a caravan park; and (c) if the unit forms part of a caravan park—is used to provide accommodation to persons, on a commercial basis, with no individual person accommodated for a period or periods exceeding a total of 3 months in any 12-month period.
<b>commencement day</b>	means the day this Scheme comes into effect under section 87(4) of the Act.
<b>commercial vehicle</b>	means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including— (a) a utility, van, truck, tractor, bus or earthmoving equipment; and (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).
<b>floor area</b>	has meaning given in the Building Code.
<b>minerals</b>	has the meaning given in the <i>Mining Act 1978</i> section 8(1).
<b>plot ratio</b>	means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located.
<b>precinct</b>	means a definable area where particular planning policies, guidelines or standards apply.
<b>predominant use</b>	means the primary use of premises to which all other uses carried out on the premises are incidental.
<b>retail</b>	means the sale or hire of goods or services to the public.
<b>R-Codes</b>	Means planning and design provisions for residential development across Western Australia.
<b>wholesale</b>	means the sale of goods or materials to be sold by others.

6.1.2 A word or expression that is not defined in this Scheme—

- (a) has the meaning it has in the *Planning and Development Act 2005*; or
- (b) if it is not defined in that Act- has the same meaning as it has in the R-Codes.

*Division 2—Land use terms used in Scheme*

## 6.2 Land use terms used

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows—

<b>abattoir</b>	means premises used commercially for the slaughtering of animals for the purposes of consumption as food products.
<b>agriculture— extensive</b>	means premises used for the raising of stock or crops including outbuildings and earthworks but does not include agriculture—intensive or animal husbandry—intensive.
<b>agriculture— intensive</b>	means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following— (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts; (b) the establishment and operation of plant or fruit nurseries; (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms); (d) aquaculture.
<b>amusement parlour</b>	means premises— (a) that are open to the public; and (b) that are used predominantly for amusement by means of amusement machines including computers; and (c) where there are 2 or more amusement machines.

<b>ancillary dwelling</b>	means ancillary dwelling as defined in the R-Codes
<b>animal establishment</b>	means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry—intensive or veterinary centre.
<b>animal husbandry—intensive</b>	means premises used for keeping, rearing or fattening of alpacas, beef and dairy cattle, goats, pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production), sheep or other livestock in feedlots, sheds or rotational pens.
<b>art gallery</b>	means premises— (a) that are open to the public; and (b) where artworks are displayed for viewing or sale.
<b>betting agency</b>	means an office or totalisator agency established under the <i>Racing and Wagering Western Australia Act 2003</i> .
<b>brewery</b>	means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the <i>Liquor Control Act 1988</i> .
<b>bulky goods showroom</b>	means premises— (a) used to sell by retail any of the goods and accessories of the following types (but not limited to) that are principally used for domestic purposes— (i) automotive parts and accessories; (ii) camping, outdoor and recreation goods; (iii) electric light fittings; (iv) animal supplies including equestrian and pet goods; (v) floor and window coverings; (vi) furniture, bedding, furnishings, fabrics, manchester and homewares; (vii) household appliances, electrical goods and home entertainment goods; (viii) party supplies; (ix) office equipment and supplies; (x) babies' and children's goods, including play equipment and accessories; (xi) sporting, cycling, leisure, fitness goods and accessories; (xii) swimming pools; or (b) and used to sell goods and accessories by retail if— (i) a large area is required for the handling, display or storage of the goods; or (ii) vehicular access is required to the premises for the purpose of collection of purchased goods.
<b>camping ground</b>	means premises that are a camping ground as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5(1).
<b>caravan park</b>	means premises that are a caravan park as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5 (1).
<b>caretaker's dwelling</b>	means a dwelling on the same site as a building, operation or plant, and occupied by a supervisor of that building, operation or plant.
<b>car park</b>	means premises used primarily for parking vehicles whether open to the public or not but does not include— (a) any part of a public road used for parking or for a taxi rank; or (b) any premises in which cars are displayed for sale.
<b>child care premises</b>	means premises where— (a) an education and care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> Section 5(1), other than a family day care service as defined in that section, is provided; or (b) a child care service as defined in the <i>Child Care Services Act 2007</i> section 4 is provided.
<b>cinema/theatre</b>	means premises where the public may view a motion picture or theatrical production.
<b>civic use</b>	means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.
<b>club premises</b>	means premises used by a legally constituted club or association or other body of persons united by a common interest.



<b>commercial vehicle parking</b>	means premises used for parking of one or 2 commercial vehicles but does not include— <ul style="list-style-type: none"> <li>(a) any part of a public road used for parking or for a taxi rank; or</li> <li>(b) parking of commercial vehicles incidental to the predominant use of the land.</li> </ul>
<b>community purpose</b>	means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.
<b>consulting rooms</b>	means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
<b>convenience store</b>	means premises— <ul style="list-style-type: none"> <li>(a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and</li> <li>(b) operated during hours which include, but may extend beyond, normal trading hours; and</li> <li>(c) the floor area of which does not exceed 300 m<sup>2</sup> net lettable area.</li> </ul>
<b>corrective institution</b>	means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility.
<b>educational establishment</b>	means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution.
<b>exhibition centre</b>	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.
<b>family day care</b>	means premises where a family day care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> is provided.
<b>fast food outlet</b>	means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten— <ul style="list-style-type: none"> <li>(a) without further preparation; and</li> <li>(b) primarily off the premises.</li> </ul>
<b>fuel depot</b>	means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used— <ul style="list-style-type: none"> <li>(a) as a service station; or</li> <li>(b) for the sale of fuel by retail into a vehicle for use by the vehicle.</li> </ul>
<b>funeral parlour</b>	means premises used <ul style="list-style-type: none"> <li>(a) to prepare and store bodies for burial or cremation;</li> <li>(b) to conduct funeral services.</li> </ul>
<b>garden centre</b>	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.
<b>grouped dwelling home business</b>	same meaning as it has in the R-Codes. means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession— <ul style="list-style-type: none"> <li>(a) does not involve employing more than 2 people who are not members of the occupier's household; and</li> <li>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(c) does not occupy an area greater than 50 m<sup>2</sup>; and</li> <li>(d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and</li> <li>(e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and</li> <li>(f) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and</li> <li>(g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.</li> </ul>
<b>home occupation</b>	means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that— <ul style="list-style-type: none"> <li>(a) does not involve employing a person who is not a member of the occupier's household; and</li> </ul>

- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 20 m<sup>2</sup>; and
  - (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and
  - (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (f) does not—
    - (i) require a greater number of parking spaces than normally required for a single house; or
    - (ii) result in an increase in traffic volume in the neighbourhood; and
  - (g) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and
  - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.
- home office** means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation—
- (a) is solely within the dwelling; and
  - (b) does not entail clients or customers travelling to and from the dwelling; and
  - (c) does not involve the display of a sign on the premises; and
  - (d) does not require any change to the external appearance of the dwelling.
- home store** means a shop attached to a dwelling that—
- (a) has a net lettable area not exceeding 100 m<sup>2</sup>; and
  - (b) is operated by a person residing in the dwelling.
- hospital** means premises that are a hospital within the meaning given in the *Health Services Act 2016* section 8(4).
- hosted short-term rental accommodation** means any of the following—
- (a) short-term rental accommodation where the owner or occupier, or an agent of the owner or occupier who ordinarily resides at the dwelling, resides at the same dwelling during the short-term rental arrangement;
  - (b) short-term rental accommodation that is an ancillary dwelling where the owner or occupier, or an agent of the owner or occupier who ordinarily resides at the other dwelling on the same lot, resides at that other dwelling during the short-term rental arrangement;
  - (c) short-term rental accommodation that is a dwelling on the same lot as an ancillary dwelling where the owner or occupier, or an agent of the owner or occupier who ordinarily resides at the dwelling, resides at the ancillary dwelling during the short-term rental arrangement.
- hotel** means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises.
- industry** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes—
- (a) the storage of goods;
  - (b) the work of administration or accounting;
  - (c) the selling of goods by wholesale or retail;
  - (d) the provision of amenities for employees;
  - (e) incidental purposes.
- industry—extractive** means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes—
- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
  - (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.

<b>industry—light</b>	means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.
<b>industry—primary production</b>	means premises used— (a) to carry out a primary production business as that term is defined in the <i>Income Tax Assessment Act 1997</i> (Commonwealth) section 995-1; or (b) for a workshop servicing plant or equipment used in primary production businesses.
<b>industry—rural</b>	means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality but excludes the packing only of product for transport where that product is harvested on the same lot.
<b>liquor store—large</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of more than 300 m <sup>2</sup> .
<b>liquor store—small</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 300 m <sup>2</sup> .
<b>lunch bar</b>	means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas.
<b>marina</b>	means— (a) premises used for providing mooring, fuelling, servicing, repairing, storage and other facilities for boats, including the associated sale of any boating gear or equipment; and (b) all jetties, piers, embankments, quays, moorings, offices and storerooms used in connection with the provision of those services.
<b>marina filling station</b>	means premises used for the storage and supply of liquid fuels and lubricants for marine craft.
<b>market</b>	means premises used for the display and sale of goods from stalls by independent vendors.
<b>medical centre</b>	means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
<b>mining operations</b>	means premises where mining operations, as that term is defined in the <i>Mining Act 1978</i> section 8(1), is carried out.
<b>motor vehicle, boat or caravan sales</b>	means premises used to sell or hire motor vehicles, boats or caravans.
<b>motor vehicle repair</b>	means premises used for or in connection with— (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or (b) repairs to tyres other than recapping or re-treading of tyres.
<b>motor vehicle wash</b>	means premises primarily used to wash motor vehicles.
<b>multiple dwelling</b>	same meaning as it has in the R-Codes.
<b>nightclub</b>	means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> .
<b>office</b>	means premises used for administration, clerical, technical, professional or similar business activities.
<b>park home park</b>	means premises used as a park home park as defined in the <i>Caravan Parks and Camping Grounds Regulations 1997</i> Schedule 8.
<b>place of worship</b>	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
<b>reception centre</b>	means premises used for hosted functions on formal or ceremonial occasions.
<b>recreation—private</b>	means premises that are— (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.
<b>renewable energy facility</b>	means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. . It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and / or business premises and any on selling to the grid is secondary.

<b>repurposed dwelling</b>	means a building or structure not previously used as a single house which has been repurposed for use as a dwelling.
<b>residential care facility</b>	a residential facility providing personal and/or nursing care primarily to aged or dependent persons which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. This may consist of multiple components that include residential respite (short-term) care, aged or dependent persons dwellings and a retirement village, but does not include a hospital, rehabilitation or psychiatric facility.
<b>residential building</b>	same meaning as it has in the R-Codes.
<b>resource recovery centre</b>	means premises other than a waste disposal facility used for the recovery of resources from waste.
<b>restaurant/cafe</b>	means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> .
<b>restricted premises</b>	means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of— <ul style="list-style-type: none"> <li>(a) publications that are classified as restricted under the <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth); and</li> <li>(b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or</li> <li>(c) smoking-related implements.</li> </ul>
<b>road house</b>	means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services— <ul style="list-style-type: none"> <li>(a) a full range of automotive repair services;</li> <li>(b) wrecking, panel beating and spray painting services;</li> <li>(c) transport depot facilities;</li> <li>(d) accommodation for guests, on a commercial basis, with no individual guest accommodated for a period or periods exceeding a total of 3 months in any 12-month period; and</li> <li>(e) facilities for being a muster point in response to accidents, natural disasters and other emergencies.</li> </ul>
<b>rural home business</b>	means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or occupation— <ul style="list-style-type: none"> <li>(a) does not involve employing more than 2 people who are not members of the occupier's household; and</li> <li>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(c) does not occupy an area greater than 200 m<sup>2</sup>; and</li> <li>(d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and</li> <li>(e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and</li> <li>(f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle more than 30 tonnes gross weight.</li> </ul>
<b>rural pursuit/hobby farm</b>	means any premises, other than premises used for agriculture—extensive or agriculture—intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household— <ul style="list-style-type: none"> <li>(a) the rearing, agistment, stabling or training of animals;</li> <li>(b) the keeping of bees; and</li> <li>(c) the sale of produce grown solely on the premises.</li> </ul>
<b>second-hand dwelling</b>	means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular home or transportable dwelling.

<b>service station</b>	means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for— (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.
<b>shop</b>	means premises other than a bulky goods showroom, a liquor store large or a liquor store—small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.
<b>short-term rental accommodation</b>	(a) means a dwelling provided, on a commercial basis, for occupation under a short-term rental arrangement; but (b) does not include a dwelling that is, or is part of, any of the following— (i) an aged care facility as defined in the <i>Land Tax Assessment Act 2002</i> section 38A(1); (ii) a caravan park; (iii) a lodging-house as defined in the <i>Health (Miscellaneous Provisions) Act 1911</i> section 3(1); (iv) a park home park; (v) a retirement village as defined in the <i>Retirement Villages Act 1992</i> section 3(1); (vi) workforce accommodation.
<b>short-term rental arrangement</b>	means an arrangement under which— (a) a dwelling, or part of a dwelling, is provided for occupation by a person; and (b) the person occupies the dwelling, or part of the dwelling, for a period or periods not exceeding a total of 3 months in any 12-month period.
<b>single house</b>	same meaning as it has in the R-Codes.
<b>small bar</b>	means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> .
<b>tavern</b>	means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> .
<b>telecommunications infrastructure</b>	means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network.
<b>tourist and visitor accommodation</b>	(a) means a building, or a group of buildings forming a complex, that— (i) is wholly managed by a single person or body; and (ii) is used to provide accommodation for guests, on a commercial basis, with no individual guest accommodated for a period or periods exceeding a total of 3 months in any 12-month period; and (iii) may include on-site services and facilities for use by guests; and (iv) in the case of a single building—contains more than 1 separate accommodation unit or is capable of accommodating more than 12 people per night; and (b) includes a building, or complex of buildings, meeting the criteria in paragraph (a) that is used for self-contained serviced apartments that are regularly serviced or cleaned during the period of a guest's stay by the owner or manager of the apartment or an agent of the owner or manager; but (c) does not include any of the following— (i) an aged care facility as defined in the <i>Land Tax Assessment Act 2002</i> section 38A(1); (ii) a caravan park; (iii) hosted short-term rental accommodation; (iv) a lodging-house as defined in the <i>Health (Miscellaneous Provisions) Act 1911</i> section 3(1); (v) a park home park; (vi) a retirement village as defined in the <i>Retirement Villages Act 1992</i> section 3(1); (vii) a road house; (viii) workforce accommodation.
<b>trade display</b>	means premises used for the display of trade goods and equipment for the purpose of advertisement.

<b>trade supplies</b>	means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for any of the following purposes including goods which may be assembled or manufactured off the premises— <ul style="list-style-type: none"> <li>(a) automotive repairs and servicing;</li> <li>(b) building including repair and maintenance;</li> <li>(c) industry;</li> <li>(d) landscape gardening;</li> <li>(e) provision of medical services;</li> <li>(f) primary production; and</li> <li>(g) use by government departments or agencies, including local government.</li> </ul>
<b>transport depot</b>	means premises used primarily for the parking or garaging of 3 or more commercial vehicles including— <ul style="list-style-type: none"> <li>(a) any ancillary maintenance or refuelling of those vehicles; and</li> <li>(b) any ancillary storage of goods brought to the premises by those vehicles; and</li> <li>(c) the transfer of goods or persons from one vehicle to another.</li> </ul>
<b>tree farm</b>	means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the <i>Carbon Rights Act 2003</i> section 5.
<b>unhosted short-term rental accommodation</b>	means short-term rental accommodation that— <ul style="list-style-type: none"> <li>(a) is not hosted short-term accommodation; and</li> <li>(b) accommodates a maximum of 12 people per night.</li> </ul>
<b>veterinary centre</b>	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
<b>warehouse/ storage</b>	means premises including indoor or outdoor facilities used for <ul style="list-style-type: none"> <li>(a) the storage of goods, equipment, plant or materials; or</li> <li>(b) the display or the sale by wholesale of goods.</li> </ul>
<b>waste disposal facility</b>	means premises used— <ul style="list-style-type: none"> <li>(a) for the disposal of waste by landfill; or</li> <li>(b) the incineration of hazardous, clinical or biomedical waste.</li> </ul>
<b>waste storage facility</b>	means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.
<b>winery</b>	means premises used for the production of viticultural produce and associated sale of the produce.
<b>workforce accommodation</b>	means premises, which may include modular or relocatable buildings, used— <ul style="list-style-type: none"> <li>(a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and</li> <li>(b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.</li> </ul>

#### **Schedule A—Supplemental provisions to the deemed provisions**

These provisions are to be read in conjunction with the deemed provisions (Schedule 2) contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

#### **Clause 13B. Significant Tree Register**

- (1) The local government may establish and maintain a significant tree register to identify trees within the Scheme area that are worthy of preservation.
- (2) The significant tree register—
  - a. Must set out a description of each tree, its location and the reason for its entry in the significant tree register; and
  - b. Must be available, with the scheme documents, for public inspection during business hours at the offices of the local government; and
  - c. May be published on the website of the local government.
- (3) Upon receiving written consent of the landowner which contains the tree, the local government must not enter the tree in, or remove the tree from, the significant tree register unless the local government—
  - a. Notifies in writing each owner and occupier of the land which contains the tree and provides each of them with a description of the tree and the reason for its proposed entry; and
  - b. Invited each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and

- c. Carries out any other consultation the local government considers appropriate; and
  - d. Following any consultation and consideration of the submissions made on the proposal, resolved that the tree be entered into the significant tree register with or without modifications, or that the tree be removed from the significant tree register.
- (4) If the local government enters a tree in the significant tree register or modifies an entry of a tree in the significant tree register, the local government must give notice of the entry or modification to each owner and occupier of the land which contains the tree.
- (5) The local government may require assessment or certification by an arboriculturist to be carried out prior to the determination of an application for development approval for land which contains a tree identified on the significant tree register.
- (6) Any tree included on the local governments significant tree register prior to clause 13B coming into effect continues under this scheme and is taken to be on the significant tree register.
- Clause 61(2)(i)** (i) the erection or extension of a single house or ancillary dwelling on a lot if a single house or ancillary dwelling is a permitted (“P”) use in the zone where the R Codes do not apply, in which that lot is located and where the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is -entered in the State Register of Heritage Places under the *Heritage Act 2018*; or
- (ii) the subject of an order under Part 4 of the *Heritage Act 2018* and *Heritage Regulations 2019*; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage Act 2018* section 90.
  - (vi) any land without constructed or dedicated road frontage or access;
  - (vii) the proposed development involves the use of repurposed or second-hand dwellings;
  - (viii) the proposed development will be undertaken in a Special Control Area; and/or
  - (ix) development approval is required pursuant to Part 10A, clause 78D, sub-clauses (3) and (4) in Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* as they apply specifically to bushfire risk management
- Clause 61(2)(j)** the erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house if a single house is a permitted (“P”) in the zone where the R Codes do not apply and where the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is—
- (i) entered in the State Register of Heritage Places under the *Heritage Act 2018*; or
  - (ii) the subject of an order under Part 4 of the *Heritage Act 2018* and *Heritage Regulations 2019*; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage Act 2018* section 90.
- Clause 61(2)(k)** The signage and advertisements contained in Schedule 2 of this Scheme do not require development approval.
- Clause 61(2)(l)** The erection of a boundary fence in a zone where the R Codes do not apply.
- Clause 61(2)(m)** The carrying out of works urgently necessary to ensure public safety, for the safety or security of plant or equipment or for the maintenance of essential services.
- Clause 61(2)(n)** The carrying out of works required in response to natural disasters to provide for the reestablishment and continuation of any previously approved use/s of the same size and scale in the same location and development footprint unless the development is located in a place that is—
- (i) entered in the State Register of Heritage Places under the *Heritage Act 2018*; or
  - (ii) the subject of an order under Part 4 of the *Heritage Act 2018* and *Heritage Regulations 2019*; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage Act 2018* section 90; or
  - (vi) designated by the Department of Water and Environmental Regulation as being flood prone; or
  - (vii) located in a Special Control Area as described in Part 5 of the Scheme and shown on the Scheme Maps; or
  - (viii) designated by the Fire and Emergency Services Commissioner as being bushfire prone and any habitable building proposed to be reconstructed has a bushfire attack level (BAL) risk rating of BAL-40 or BAL-Flame Zone (FZ).
- Clause 61(2)(o)** The construction and use of non-habitable structures on any land classified ‘Rural’ zone used for extensive and intensive agricultural purposes where—
- (i) The works are required as part of the agricultural operation or are incidental thereto;

- (ii) The works do not alter or affect existing waterways or water table or involve removal of remnant vegetation;
- (iii) All stormwater drainage is managed and disposed on-site;
- (iv) Any buffer separation distance requirements prescribed in the Environmental Protection Authority's Guidance Statement No.3 are satisfied; and
- (v) Any structure is not more than 15 metres in height.

**Clause 61(2)(p)** The parking of commercial vehicles in the Rural, Light Industry, General Industry, Commercial and Service Commercial zones where no works are required to accommodate the use and all the standards and requirements prescribed in Schedule 3 are satisfied.

### Schedule 1—Car Parking Requirements

[Refer to Schedule 3 for further requirements]

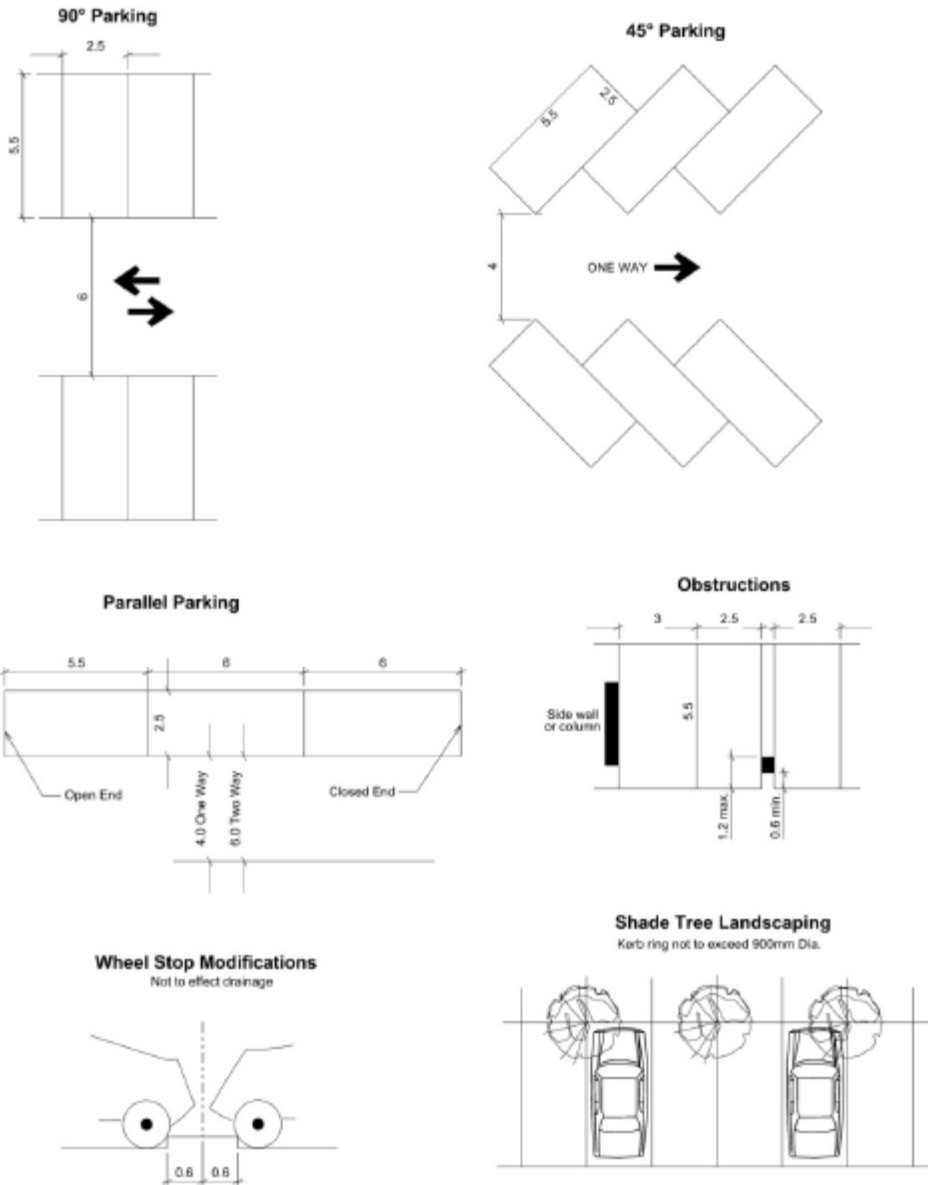
USE	NUMBER OF CAR PARKING SPACES
Betting Agency	1 bay for every 10m <sup>2</sup> NLA floor area
Caravan parks / Camping grounds	1 bay per caravan site and 1 bay per 2 campsites plus 1 bay per 20 sites for visitor parking with a minimum of 2 provided
Child care premises / Family day care	1 bay per 4 patrons plus 1 bay for every person employed
Civic use / Community purpose	1 bay for every 35m <sup>2</sup> NLA floor area
Club Premises	1 bay for every 4 persons to be accommodated
Consulting rooms	4 bays per practitioner
Educational establishment	1 car bay for every person employed plus adequate pickup / set down areas on site plus 2 bays for visitors
Fast food outlet / lunch bar	1 bay for every 10m <sup>2</sup> NLA floor area
Hospital	1 bay for every bed provided plus 1 bay for every person employed
Hotel	1 bay for every bedroom plus 1 bay for every 4m <sup>2</sup> of public bar / lounge NLA floor area
Industry—general	1 bay for every 100m <sup>2</sup> NLA floor area
Medical centre	3 bays for every consulting room
Motor vehicle repair / Service station	2 bays for every working bay plus 1 bay for every person employed
Office	1 bay for every 40m <sup>2</sup> NLA floor area
Place of worship	1 bay for every 4 persons to be accommodated
Residential building	1 bay for every bedroom plus 1 bay for every staff member
Restaurant/Café	1 bay for every 4 persons to be accommodated
Shop	1 bay for every 15m <sup>2</sup> NLA floor area
Single house / Grouped dwelling / Multiple dwelling / Special Purpose Dwellings	As prescribed in the R-Codes
Tavern	1 bay for every 4m <sup>2</sup> of public floor area (NLA).
Tourist and visitor accommodation	1 bay for every bedroom plus 1 bay for every 25m <sup>2</sup> gross floor area of service building
Bulky Goods Showroom and Warehouse / Storage	1 bay for every 100m <sup>2</sup> NLA floor area



**Schedule 1—Car Parking Requirements**

[Refer to Schedule 3 for further requirements]

**CAR PARKING LAYOUTS**



**Schedule 2—Signage and advertisements for which development approval not required**

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Dwellings	One professional name plate as appropriate	0.2m <sup>2</sup>
Home Occupation	One advertisement describing the nature of the home occupation	0.2m <sup>2</sup>
Places of Worship, Meeting Halls and Place of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
Cinemas, Theatres and Drive-in Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed	Each advertisement sign not to exceed 5m <sup>2</sup>

## Schedule 2—Signage and advertisements for which development approval not required

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements shall not exceed 15m <sup>2</sup>  Maximum permissible total area shall not exceed 10 m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup>
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Public Place and Reserves	(a) Advertisement signs (illuminated or non-illuminated) relating to the functions of government, a public authority or local government of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body; and (b) Advertisement signs (illuminated or non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority or the local government of a municipality; and (c) Advertisement signs (illuminated or non-illuminated) required to be exhibited by or pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m <sup>2</sup> in area
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>

**Schedule 2—Signage and advertisements for which development approval not required**

<b>LAND USE AND/OR DEVELOPMENT</b>	<b>EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated signs unless otherwise stated)</b>	<b>MAXIMUM AREA OF EXEMPTED SIGN</b>
<b>TEMPORARY SIGNS</b>	<b>EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated signs unless otherwise stated)</b>	<b>MAXIMUM AREA OF EXEMPTED SIGN</b>
Building Construction Sites (advertisement signs displayed only the duration of the construction as follows: (i) Dwellings  (ii) Multiple Dwellings, Shops, Commercial and Industrial projects  (iii) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.  One sign as for (i) above.  One sign as for (i) above. One additional sign showing the name of the project builder.	2m <sup>2</sup>  5m <sup>2</sup>  5m <sup>2</sup>
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>
Property Transactions Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows: (a) Dwelling  (b) Multiple dwellings, shops, Commercial and Industrial Properties  (c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property.  One sign as for (a) above.  One sign as for (a) above.	Each sign shall not exceed an area of 2m <sup>2</sup>  Each sign shall not exceed an area of 5m <sup>2</sup>  Each sign shall not exceed an area of 10m <sup>2</sup>
Display Homes  Advertisement signs displayed over the period over which homes are on display for public inspection.	i) One sign as for each dwelling on display.  ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2m <sup>2</sup>  5m <sup>2</sup>

**Schedule 3—General development standards and requirements****General Considerations**

- (1) Development on land without constructed or dedicated road frontage or access
  - (a) Notwithstanding any other provision of the Scheme, an application for development approval is required for any development on land abutting an unconstructed road, or a lot or location which does not have frontage to a constructed public road. In considering an application for the development of land abutting an unconstructed road or a lot which does not have frontage to a constructed road the local government may—
    - (i) Refuse the application until the road has been constructed or access by means of a constructed road is provided;
    - (ii) Grant approval to the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof and any other conditions it thinks fit to impose; or
    - (iii) Grant approval to the application subject to the following conditions, or any other conditions the local government see fit to impose—
      - Arrangements are to be made for permanent access, to the satisfaction of the local government;
      - The location of any legal access shall be to the satisfaction of the local government;
      - Access must be constructed and maintained to the satisfaction of the local government; and
      - A notification is to be placed on the title of the land alerting landowners that the lot does not have access to a constructed public road and alternative access arrangements must be maintained, both physically and legally.
- (2) Site with frontage to more than one street
  - (a) Where a development site has frontage to more than one street (except in the 'Residential' zone or 'Urban Development' zone with an adopted Structure Plan), the local government may:—
    - (i) Designate one of the streets to be a primary street for the purpose of determining front setbacks;
    - (ii) Require that the specified front setbacks shall apply to each road;
    - (iii) Permit the setback on a secondary street to be reduced to half of the specified front setback or averaged unless the site is adjacent to a State Highway, Limited Access Road, Primary Distributor Road of Local Distributor Road unless other more specific provisions in the Scheme apply; or
    - (iv) Refuse vehicular access to one of the roads.
- (3) Setbacks requirements
  - (a) Schedule 4 sets out the minimum setback requirements for land in zones within the Scheme which may be supplemented by the local government's specific requirements.
  - (b) The local government in determining applications for any development may require such development to comply generally with the minimum setbacks required for the zone as required in Schedule 4 to ensure that the scale, nature, design, general appearance and impact of such uses is compatible with the objectives of the zone in which the development is proposed and the general purposes and aims of the Scheme.
- (4) Parking of Commercial Vehicles in Residential Areas
  - (a) No person shall park a commercial vehicle in the Residential, Rural Residential, Rural Smallholdings, Rural Townsite, Cultural and Natural Resource, Mixed Use or Tourism zones without the local government's development approval. All commercial vehicle parking shall comply with the following—
    - (i) not more than two (2) such vehicles are to be parked on a lot;
    - (ii) the vehicle is to form an essential part of the lawful occupation of an occupant of the dwelling and that occupation if carried on upon the lot does not contravene the Scheme;
    - (iii) the vehicle is to be parked behind the front building line and effectively screened from view from outside the lot;
    - (iv) no part of the vehicle is to be parked on any portion of a right-of-way or public road contiguous with the lot;
    - (v) the vehicle is not to exceed 3.0 metres in height or 8.0 metres in length;
    - (vi) no major/minor servicing of vehicles shall be undertaken on the lot; and
    - (vii) the vehicle is not brought to or taken from the lot between the hours of midnight and 6.00 am.
- (5) Car parking requirements
  - (a) The minimum number and dimensions of car parking spaces to be provided on a residential lot shall be in accordance with the provisions of the R-Codes.
  - (b) Car parking bay dimensions for other uses shall be in accordance with Schedule 1. If a use is not listed in Schedule 1 then Car parking bay dimensions shall be in accordance with Australian Standard AS2890.1-2004 (as amended).

- (c) A person shall not develop or use any land or erect, use or adopt any building unless car parking spaces specified by the local government are provided and such spaces are constructed and maintained in accordance with the Scheme.
  - (d) The car parking spaces required under the provisions of the Scheme shall measure not less than the dimensions specified by Schedule 1.
  - (e) All areas utilised for vehicle parking, manoeuvring, access, egress and storage are to be sealed, marked and formalised as per Australian Standard 2890.1-2004 as amended.
  - (f) Where the maximum dimension of any open car parking area exceeds twenty metres in length or width, one car parking space in ten shall be used for garden and tree planting to provide visual relief and so long as the garden and tree planting areas shall be maintained in good order, those car parking spaces shall be included in calculations as car parking and not as landscaping.
  - (g) Where the owner can demonstrate to the satisfaction of the local government that there is not the demand for the number of parking spaces specified in subclauses (a) and (b), landscaping may be provided in lieu of car parking spaces not constructed and the said landscaping shall be included in the calculations as car parking but not as landscaping provided that the local government may from time to time require that the additional parking spaces be provided.
  - (h) All areas utilised for storage in the General Industry zone may be constructed to a suitable unsealed standard that permits all-weather access by two-wheel drive vehicles and that does not result in gravel, sand or other forms of earth leaving the site.
  - (i) In the 'Commercial' zone and 'Mixed Use' zone where a developer can satisfy the local government that the maximum car parking requirement cannot be provided on the site the local government may accept a cash payment in lieu of the provision of car parking spaces but subject to the requirements of this clause—
    - (i) A cash-in-lieu payment shall be not less than the estimated cost to the owner of providing and constructing the parking spaces required by the Scheme, plus the value, as determined by either the Valuer-General or by a licensed valuer appointed by the local government, of the area of his land which would have been occupied by the parking spaces.
    - (ii) Before the local government agrees to accept a cash payment in lieu of the provision of car parking spaces, the local government must either have already provided a public car park nearby, or must have firm proposals for providing a public car park area nearby within a period of not more than eighteen (18) months from the time of agreeing to accept the cash payment.
    - (iii) Payments made under this clause shall be paid into a special purpose fund to be used for the provision of public carparking facilities and the local government may use this fund to provide or maintain public parking facilities anywhere within the 'Commercial' zone and 'Mixed Use' zone.
  - (j) Where public off street parking facilities are located or are proposed to be located in the near vicinity of land or building being the subject of an application for development approval the local government may approve such application notwithstanding that the required number of car parking spaces are not to be provided on site subject to—
    - (i) the local government being satisfied that off street parking facilities are sufficient to cater for the requirements of the land or buildings, and
    - (ii) the applicant entering into an agreement with the local government to pay for the cost of providing and maintaining the required number of car parking spaces as required.
  - (k) Where the number of car parking spaces proposed to be provided on land or in a building the subject of an application for development approval is less than the number required to be provided pursuant to the Scheme, the local government may approve the application if it can be demonstrated that off street parking facilities in the near vicinity are available to cater for the requirements of the proposal and that arrangements to the satisfaction of the local government have been made to enable those facilities to be used for that purpose.
- (6) Development of land subject to dampness or flooding
- (a) Where, in the opinion of the local government, the dampness of the site on which a building is proposed to be constructed so warrants the local government may require that one or all of the following measures shall be carried out—
    - (i) the subsoil shall be effectively drained;
    - (ii) the surface of the ground beneath the building shall be regraded or filled and provided with adequate outlets to prevent any accumulation of water beneath the building;
    - (iii) the surface of the ground beneath the building shall be covered with an approved damp-resisting material.
  - (b) The local government may refuse to grant development approval for the construction and use of buildings upon any land designated by the Department of Water and Environmental Regulation as being liable to flooding or inundation.
- (7) Building Height
- (a) The height limit of any building that is not industrial in nature or not located in the Residential, Rural, Commercial or Mixed Use zones shall be limited to 9 metres.
  - (b) The height limit of any building that is industrial in nature shall be limited to 15 metres.

- (c) The height limit of any building that is in the Commercial or Mixed Use zones shall only be limited by plot ratio.
  - (d) The height of any habitable building in the Rural zone shall be limited to 9 metres.
  - (e) The height limit of any non-habitable building in the Rural zone shall be limited to 15 metres with the exception of telecommunication towers.
  - (f) The height limit in subclauses (a), (b), (c), (d) or (e) shall not be exceeded unless considered and approved by the local government in accordance with clause 64 of the deemed provisions.
- (8) Landscaping within the 'Mixed Use' zone
- (a) Access driveways between a street alignment and buildings may be included in any landscaping requirement of this Scheme but otherwise car parking areas and driveways shall not be included in this requirement.
  - (b) The local government may in a landscaped area restrict the use of concrete, gravel, pebble and similar hard materials and require the planting of lawns, trees or shrubs in lieu thereof.
- (9) Caretaker's Dwellings
- (a) Where a caretaker's dwelling use is proposed it shall comply with the following—
    - (i) A caretaker's dwelling must be incidental to the predominant use of the site.
    - (ii) Only one (1) caretaker's dwelling is permitted to support the predominant use of the site.
    - (iii) The total floor area of a caretaker's dwelling does not exceed 100m<sup>2</sup>, measured from the external face of walls excluding verandahs and carports.
    - (iv) In industry zones, the caretaker's dwelling is not to consist of more than two bedrooms and a small office.
    - (v) Verandahs and carports may be permitted, but if enclosed will form part of the total calculated floor area.
    - (vi) The local government may consider the use of notifications on title to advise prospective purchasers of potential impacts from noise, dust, odour or amenity that may arise from the location of a caretaker's dwelling within the zone.
    - (vii) The local government will not consider applications for caretakers' dwellings prior to the primary site activity being either approved or constructed.
    - (viii) Where simultaneous approval has been granted by the local government for both a caretaker's dwelling and the main activity on the same lot, the main activity must be developed and operational prior to occupation of the dwelling.
    - (ix) Caretaker's dwellings should be carefully sited and constructed so the potential site (or estate) impacts from noise, dust, odour or amenity are minimised.
    - (x) A caretaker's dwelling may only be occupied by the owner, manager, lessee or employee (and immediate family thereof) of the lawfully established or approved land use.
    - (xi) Where the primary site activity has ceased the occupation of the caretaker's dwelling is to cease.
- (10) Repurposed Dwelling Requirements
- (a) Notwithstanding any other requirement of the Scheme, all repurposed dwellings require the local government's development approval.
  - (b) Where a repurposed dwelling use is proposed it shall comply with the following—
    - (i) Only one (1) repurposed dwelling is permitted on a lot unless otherwise approved by the local government.
    - (ii) The repurposed dwelling should be carefully sited and constructed so the potential impacts from noise, dust, odour or amenity are minimised.
    - (iii) For the purposes of establishing whether a grouped dwelling is proposed a repurposed dwelling will count as one dwelling.
    - (iv) Regardless of external wall materials, all roofs over the main portion of the repurposed dwelling are to have a pitch of 10° or greater.
- (11) Second-hand Dwelling Requirements
- (a) Notwithstanding any other requirement of the Scheme, all second-hand dwellings require the local government's development approval.
  - (b) Where a second-hand dwelling use is proposed it shall comply with the following in addition to any other relevant provision of the Scheme—
    - (i) A building that has a roof or wall sheeting or any other material such as sound proofing or insulation, that contains asbestos, is not permitted to be relocated until those materials containing asbestos are removed and disposed of in the appropriate manner, prior to transportation.
    - (ii) The void area between the floor and natural ground levels is to be enclosed with brickwork, battens or other suitable materials as approved by the local government.
  - (c) When considering an application for development approval for a second-hand dwelling, the local government may impose conditions concerning—
    - (i) The external appearance and material finishes, the screening of sub-floor spaces, the addition to or modification to the existing dwelling and the time frame imposed to complete specified work and connect the dwelling or building to lot services;

- (ii) The provision of landscaping and/or screening of the building and/or site; and
  - (iii) The provision of a bond or bank guarantee in favour of the local government as surety for the completion of the building to a standard of presentation acceptable to the local government within a specified time.
- (d) Where the provision of a bond or bank guarantee is required, the local government shall refund the payment upon satisfactory completion of the necessary works.
- (12) Vehicles, caravans, trailers in residential areas
  - (a) Except as hereinafter provided, no person within a Residential Zone may without the written approval of the local government—
    - (i) allow any commercial vehicle or truck to remain or be parked for a period of more than forty eight hours consecutively;
    - (ii) repair, maintain, service or clean a commercial vehicle or truck;
    - (iii) keep, park, repair or store any boat, trailer, caravan or any material not specifically for the immediate use by the occupant in front of the building setback line.
- (13) Derelict vehicles
  - (a) Local government shall not permit the storage and/or wrecking of any vehicle on any street verge or on any lot between the front boundary and the front setback line within any Zone.
- (14) Home occupation, Home Business, and Rural Home Business
  - (i) Notwithstanding any other requirement of the Scheme, all home occupations, home businesses, or rural home businesses require the local government's development approval.
  - (ii) The local government may limit the period of approval for a home occupation, home business, or rural home business if it considers a time limited approval is appropriate.
  - (iii) An approval to conduct a home occupation, home business, or rural home business is issued to a specific occupier of a particular parcel of land. It shall not be transferred or assigned to any other person and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier of the land in respect of which a home occupation, home business, or rural home business is issued, the approval is cancelled.
- (15) Rear access and loading docks
  - (a) When considering any application for development approval the local government shall have regard to and may require the provision of loading docks or rear access. In particular, the local government may impose conditions concerning—
    - (i) the size of loading docks
    - (ii) the means of providing rear access of adequate width and design so as to ensure that transport vehicles shall be able to proceed in a forward direction.
- (16) Amenity
  - (a) No building shall be so constructed, finished or left unfinished that its external appearance would significantly detract from the amenity of the locality . All land and buildings shall be so used and maintained as to preserve the local amenity.
  - (b) No land, building or appliance shall be used in such a manner as to permit the escape therefrom of smoke, dust, fumes, odour, noise, glare, vibration or waste products in such quantity or extent or in such a manner as will create or be a nuisance to any inhabitant, or to traffic or persons using any land or roads in the vicinity.
  - (c) If the local government forms the opinion that there has been a breach of the requirements of the preceding subclauses it may, by notice in writing, require the owner to make good the breach in the manner and within the time stated in the notice. The notice may be served on the owner personally or by posting it to the last address of the owner known to the local government, and if served by post, shall be deemed to have been served three (3) clear days after the date of posting.
  - (d) Any person upon whom a notice is served pursuant to this clause may, within 28 days of the date of service of the notice on that person, appeal pursuant to Part 14 of the Act against the requirements of the notice and, where any such appeal is lodged the effect of the notice shall be suspended until a decision to uphold, quash or vary the notice has been made on the appeal or the appeal has been withdrawn, whereupon the time stated in the notice shall again begin to run.
  - (e) Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme.
- (17) Where a strata-titled development containing more than one unit is destroyed either wholly or partially that development may be rebuilt to the density existing before its destruction subject to compliance with the Building Code of Australia and issue of a development approval by Local government and notwithstanding that a lower density may apply to the land under the scheme.
- (18) Where landscaping is required as a condition of development approval this shall be established in accordance with the approved landscape plan and shall be maintained thereafter in accord with the approved plan. Unless otherwise approved by local government a minimum of 10% of the site area of all commercial and industrial developments shall be landscaped.

**Table 8—Zone Development Requirements**

Development in all zones shall comply with the objectives and requirements set out in Part 3—Zones and use of land.

<b>Zone</b>	<b>Development Requirements</b>
Residential Zone	<ol style="list-style-type: none"> <li>1. No horse or other hoofed animal shall be kept on any lot in the Residential zone.</li> <li>2. Except as hereinafter provided, no person within any lot zoned Residential zone may without the written approval of the Local government—               <ol style="list-style-type: none"> <li>(a) allow any commercial vehicle or truck to remain or be parked for a period of more than forty eight hours consecutively;</li> <li>(b) repair, maintain, service or clean a commercial vehicle or truck;</li> <li>(c) keep, park, repair or store any boat, trailer, caravan or any material not specifically for the immediate use by the occupant in front of the building setback line.</li> </ol> </li> </ol>
Settlement Zone	<ol style="list-style-type: none"> <li>1. Development will not be approved by the local government, and the local government will not support subdivision unless a structure plan or a layout plan has been approved for the relevant part of the zone.</li> <li>2. Development shall be in accordance with any adopted layout plan prepared in accordance with State Planning Policy No. 3.2—Aboriginal Settlements.</li> <li>3. In the event that an approved Layout Plan has not been prepared in accordance with State Planning Policy No. 3.2—Aboriginal settlements, assessment and consideration is to be carried out based upon the objectives and intentions of this Scheme.</li> </ol>
Rural Zone	<ol style="list-style-type: none"> <li>1. Development in the Rural zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 3.</li> <li>2. Within the Rural zone the local government will not generally support the erection of more than one (1) single house per lot (not including ancillary dwellings).</li> <li>3. The local government may consider granting development approval to additional single houses in the Rural zone in cases where the landowner clearly demonstrates that additional housing is required for farm management and/or other approved purposes. In any case the total number of single houses per lot shall not exceed four (4).</li> <li>4. Where an application is made for approval for the development of additional single houses in the Rural zone, the local government shall not grant development approval to that application unless notice of the application is first given in accordance with Clause 64 of the Deemed Provisions.</li> <li>5. The existence of more than one (1) single house on a Rural zoned lot shall not be construed as a basis for the local government's support to the subdivision of the lot.</li> <li>6. The construction of dams and the extraction of surface water from drainage lines requires development approval the local government where the local, government may request the advice of the Department of Water Environment and Regulation before determining any application.</li> <li>7. Animal Husbandry—Intensive uses are not permitted—               <ol style="list-style-type: none"> <li>(a) in the Rural zone where such use is proposed to be located within a five (5) kilometre radius of an established townsite;</li> <li>(b) in the Rural zone unless such a use is proposed to be located more than five (5) kilometres from an established townsite and more than two (2) kilometres from an existing residential dwelling; and</li> <li>(c) within two (2) kilometres of an existing neighbouring residential dwelling unless the local government has exercised its discretion by granting development approval after considering a site specific study provided by the applicant addressing the proximity of sensitive land uses and potential impacts, and giving notice in accordance with clause 64 of the deemed provisions.</li> </ol> </li> <li>8. Notwithstanding any other provision of the scheme the keeping of pigs on land zoned Rural within the Derby Townsite is prohibited.</li> </ol>
Rural Residential and Rural Smallholdings Zones	<ol style="list-style-type: none"> <li>1. The subdivision of any land within the Scheme area classified Rural Residential or Rural Smallholdings zone shall generally be in accordance with an approved Structure Plan.</li> <li>2. The subdivision of existing Rural Residential or Rural Smallholdings zoned lots that do not have approved Structure Plans will generally not be supported.</li> </ol>



Zone	Development Requirements
	<ol style="list-style-type: none"> <li data-bbox="544 237 1402 315">3. Lot sizes for all land in the Rural Residential zone shall not be less than two (2) hectares in area unless smaller sized lots are permitted by an approved Structure Plan.</li> <li data-bbox="544 315 1402 371">4. Lot sizes for all land in the Rural Smallholdings zone shall not be less than four (4) hectares in area.</li> <li data-bbox="544 371 1402 701">5. The subdivision of any land classified Rural Residential or Rural Smallholdings zone will be conditional upon the subdivider preparing and implementing an Environmental Management Plan to the satisfaction and approval of the local government. The plan shall include details of— <ol style="list-style-type: none"> <li data-bbox="592 506 1050 539">(a) the location of all building envelopes;</li> <li data-bbox="592 539 983 573">(b) all vegetation protection areas;</li> <li data-bbox="592 573 1326 629">(c) measures for the protection, revegetation and maintenance of landscape buffers along seasonal watercourse and wetlands;</li> <li data-bbox="592 629 1305 663">(d) drainage, nutrient and salinity management arrangements;</li> <li data-bbox="592 663 1106 696">(e) livestock management arrangements; and</li> <li data-bbox="592 696 1342 730">(f) ground, surface and scheme water management arrangements.</li> </ol> </li> <li data-bbox="544 701 1402 779">6. The areas identified in the Environmental Management Plan are to be maintained by individual landowners in accordance with the terms and conditions of the approved Environmental Management Plan.</li> <li data-bbox="544 779 1402 936">7. All landscape buffer, tree preservation, revegetation and/or stream protection areas shown on an approved structure plan and/or Environmental Management Plan are to be protected from livestock by fencing or other means to the satisfaction of the local government and the requirements thereof are to be detailed within the Environmental Management Plan.</li> <li data-bbox="544 936 1402 1395">8. The local government or the Western Australian Planning Commission may require the provision of building envelopes or building exclusion areas for any land proposed to be subdivided in the Rural Residential or Rural Smallholdings zone. These shall be— <ol style="list-style-type: none"> <li data-bbox="592 1043 1366 1099">(a) Shown on the approved Structure Plan, or separate detailed plan required as a condition of subdivision approval;</li> <li data-bbox="592 1099 1206 1133">(b) at a size to be determined by the local government;</li> <li data-bbox="592 1133 1358 1211">(c) located to avoid any native vegetation or any area recognised for protection or rehabilitation as shown on the approved structure plan and/or environmental management plan;</li> <li data-bbox="592 1211 1382 1290">(d) located to ensure on site effluent disposal meets the minimum setback requirements from drainage lines, watercourses, wetlands and other areas as determined by the local government;</li> <li data-bbox="592 1290 1350 1346">(e) located outside of any identified and/or designated buffer areas; and</li> <li data-bbox="592 1346 1286 1395">(f) located in accordance with any bushfire management plan approved for the land.</li> </ol> </li> <li data-bbox="544 1395 1402 1552">9. The local government may permit a variation to a previously approved building envelope, prior to the construction of any building, if it can be demonstrated to the satisfaction of the local government that the location of the proposed new building envelope will not be detrimental to the residential amenity and landscape and/or environmental qualities of the land and other adjoining properties.</li> <li data-bbox="544 1552 1402 1630">10. Unless otherwise approved by the local government, all buildings and on-site effluent disposal systems shall be confined to the building envelope indicated on the approved Structure Plan.</li> <li data-bbox="544 1630 1402 1798">11. The following development is not permitted within a distance of 50 metres on either side of the centre of any watercourse except with the approval of the local government— <ol style="list-style-type: none"> <li data-bbox="592 1715 1390 1771">(a) the construction of dams or artificial retention of flow, pumping, diversion of water or modification of stream course bed or banks; or</li> <li data-bbox="592 1771 1230 1798">(b) the development of any buildings or other structures.</li> </ol> </li> <li data-bbox="544 1798 1402 1921">12. Conventional effluent disposal facilities (i.e. septic tank and leach drains) shall be setback a minimum of 100 metres from any wetland or watercourse. Where an anaerobic treatment unit (ATU) is to be used, it shall be setback a minimum of 30 metres from any wetland or watercourse.</li> <li data-bbox="544 1921 1402 1977">13. The permissibility of uses shall be in accordance with Table 3—Zoning Table unless specified otherwise in the Scheme.</li> <li data-bbox="544 1977 1402 2029">14. Not more than one (1) dwelling per lot shall be permitted but the local government may, at its discretion, permit one (1) ancillary dwelling.</li> </ol>

Zone	Development Requirements
	<p>15. The local government may grant temporary development approval for the temporary occupation/habitation of an outbuilding on a Rural Residential or Rural Smallholdings zoned lot for a period not exceeding 12 months if a building permit for a dwelling is concurrently in force.</p> <p>16. In the Rural Residential and Rural Smallholding zones, a demonstrated and sustainable water supply is to be provided in accordance with State Policy.</p> <p>17. In order to conserve and protect the rural environment and features of natural beauty, all trees shall be retained unless their removal is authorized by the local government.</p> <p>18. Except for—</p> <ul style="list-style-type: none"> <li>(a) the establishment of a firebreak required to comply with a regulation or by-law; or</li> <li>(b) the provision of access to a building site; or</li> <li>(c) the area of building; or</li> <li>(d) cash crops;</li> </ul> <p>not more than 2,000m<sup>2</sup> on any lot shall be cleared of indigenous trees or substantial vegetation. If the local government is satisfied upon receipt of a development application that the clearing of an area greater than 2,000m<sup>2</sup> will not adversely affect the amenity, character and landscape qualities of the locality, it may approve such land to be cleared subject to conditions as may be required by the local government.</p> <p>19. In order to enhance the rural amenity of the land in areas the local government considers deficient in tree cover it may require, as a condition of any development approval, the planting of such trees and groups of trees and species as specified by the local government.</p> <p>20. Any application for a rural pursuit or equestrian activity that involves the stabling and keeping of livestock (including horses) will be conditional upon compliance with the terms and conditions of the approved Environmental Management Plan.</p> <p>21. Any person who keeps an animal or animals or who uses any land in the Rural Residential or Rural Smallholdings zones for the exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the local government.</p> <p>22. With the intention of preventing overstocking, erosion and any other practice detrimental to the amenity of land in the Rural Residential or Rural Smallholdings zones, the local government may take any action which in the opinion of the local government is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals and any costs incurred by the local government in taking such action shall be recoverable by the local government from the landowner.</p> <p>23. The construction of dams and/or the extraction of surface water from drainage lines requires the local government's development approval. The local government may refer a development application to the Department of Water and Environmental Regulation before determining the application.</p>
Rural Townsite Zone	<p>1. Development in the Rural Townsite zone shall comply with the objective for that zone as outlined in Part 3, and with such requirements as the local government considers appropriate relative to the proposed use.</p> <p>2. All residential development shall be in accordance with the R-Codes unless otherwise approved by the local government.</p>
Cultural and Natural Resource Use Zone	<p>1. For the purpose of orderly and proper planning of a particular site the local government may require the preparation and approval of a structure plan or local development plan in accordance with the deemed provisions.</p>
Light Industry Zone	<p>1. Where a building is approved upon a lot and is set back from the front boundary of that lot local government shall require the provision of landscape treatment between the frontage of any building and the front boundary. Where a lot has frontage to two streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the local government. Such landscape treatment may include a car parking area. Implementation of an approved landscaped plan shall occur within six calendar months of—</p> <ul style="list-style-type: none"> <li>(a) the completion of any other approved works; or</li> </ul>

Zone	Development Requirements
	<p>(b) the date of occupancy, if occupancy commences prior to the completion of the development.</p> <p>2. All development in the Light Industry zone shall be subject to the following requirements—</p> <p>(a) Adequate screening of work, service and storage areas;</p> <p>(b) All loading and unloading of materials, parking and the operation of all business associated with any industry shall take place within the boundaries of the site;</p> <p>(c) Minimum fencing standard shall be 1.8m security fence unless otherwise approved by the local government; and</p> <p>(d) New buildings proposed adjacent to the Residential zone shall be compatible in scale, materials and appearance with any existing residential development.</p> <p>3. No dumping, storage of waste or materials, or construction, servicing or maintenance shall be carried out between the building line and the street frontage unless approved by the local government. This does not prohibit the display of finished goods or goods for sale or ready for delivery.</p> <p>4. The wrecking or storage of wrecked vehicles or parts thereof shall not be permitted in front of the building setback as prescribed in Schedule 4.</p> <p>5. The development of built strata lots, for the purpose of providing multiple factory units in one lot, shall not be permitted in the Light Industry zone unless the following requirements are complied with—</p> <p>(a) all built strata lots shall have a floor area greater than 100m<sup>2</sup>.</p> <p>(b) each built strata lot shall have a service yard appurtenant to it which shall be a minimum of 50% of the unit floor area.</p> <p>(c) access to the office attached to each built strata lot and the major access to the built strata lot.</p> <p>(d) off street parking may be provided as an overall area on site and shall provide for all employees with a minimum staff parking requirement of four bays per built strata lot. Customer parking shall be provided as an additional figure of one bay per built strata lot.</p> <p>(e) all facades of built strata lots are to be of masonry construction or other material approved by the local government.</p> <p>6. Local government may permit the development and occupancy of a single house upon a lot for the purposes of caretaker's dwelling</p>
General Industry Zone	<p>1. Where a building is approved upon a lot and is set back from the front boundary of that lot local government shall require the provision of landscape treatment between the frontage of any building and the front boundary. Where a lot has frontage to two streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the local government. Such landscape treatment may include a car parking area. Implementation of an approved landscaped plan shall occur within six calendar months of;</p> <p>(a) the completion of any other approved works; or</p> <p>(b) the date of occupancy, if occupancy commences prior to the completion of the development.</p> <p>2. All development in the General Industry zone shall be subject to the following requirements—</p> <p>(a) Adequate screening of work, service and storage areas;</p> <p>(b) All loading and unloading of materials, parking and the operation of all business associated with any industry shall take place within the boundaries of the site;</p> <p>(c) Minimum fencing standard shall be 1.8m security fence unless otherwise approved by the local government; and</p> <p>(d) New buildings proposed adjacent to the Residential zone shall be compatible in scale, materials and appearance with any existing residential development.</p> <p>3. No dumping, storage of waste or materials, or construction, servicing or maintenance shall be carried out between the building line and the street frontage unless approved by the local government. This does not prohibit the display of finished goods or goods for sale or ready for delivery.</p> <p>4. The wrecking or storage of wrecked vehicles or parts thereof shall not be permitted in front of the building setback as prescribed in Schedule 4.</p>

Zone	Development Requirements
	<p>5. The development of built strata lots, for the purpose of providing multiple factory units in one lot, shall not be permitted in the General Industry zone unless the following requirements are complied with—</p> <ul style="list-style-type: none"> <li>(a) all built strata lots shall have a floor area greater than 100m<sup>2</sup>.</li> <li>(b) each built strata lot shall have a service yard appurtenant to it which shall be a minimum of 50% of the unit floor area.</li> <li>(c) access to the office attached to each built strata lot and the major access to the built strata lot.</li> <li>(d) off street parking may be provided as an overall area on site and shall provide for all employees with a minimum staff parking requirement of four bays per built strata lot. Customer parking shall be provided as an additional figure of one bay per built strata lot.</li> <li>(e) all facades of built strata lots are to be of masonry construction or other material approved by the local government.</li> </ul> <p>6. Local government may permit the development and occupancy of a single house upon a lot for the purposes of caretaker's dwelling.</p>
Commercial Zone	<ol style="list-style-type: none"> <li>1. Where the ground floor of a two-storey building is used for commercial purposes, the upper floors of such building may be used for such purposes as may be permitted by local government and may include shops, offices or residential development.</li> <li>2. Residential uses in such circumstances are to be confined to the upper storey only.</li> <li>3. Residential development within the Commercial zone shall conform to the standards prescribed for the Residential zone and the provisions of the R50 code of the R-Codes.</li> </ol>
Mixed Use Zone	<ol style="list-style-type: none"> <li>1. Where a building is approved upon a lot and is set back from the front boundary of that lot Local Government shall require the provision of landscape treatment between the frontage of any building and the front boundary. Such landscape treatment may include a car parking area. Implementation of an approved landscaped plan shall occur within six months of— <ul style="list-style-type: none"> <li>(a) the completion of any other approved works: or</li> <li>(b) the date of occupancy, if occupancy commences prior to the completion of the development.</li> </ul> </li> </ol>
Service Commercial Zone	<ol style="list-style-type: none"> <li>1. The front façade of all buildings in the Service Commercial zone shall reflect and be compatible with the predominant existing streetscape and architectural style and the local government may impose conditions relating to building setbacks, design, scale, materials and finish to ensure compatibility with the existing streetscape and general architectural style.</li> <li>2. In considering any application for development approval within the Service Commercial zone the local government shall have regard to and may require the provision of loading docks and/or rear access. In particular, the local government may impose conditions relating to— <ul style="list-style-type: none"> <li>(a) the size and location of loading docks; and</li> <li>(b) the means of providing rear access of adequate width and design to ensure transport vehicles can leave the development in a forward gear.</li> </ul> </li> <li>3. The minimum standard fence for lots used for service commercial purposes shall be a 1.8 metre high Colorbond/Neetascreen style fencing unless otherwise approved by the local government.</li> <li>4. Fencing shall be provided to all boundaries abutting reserved land to prevent vehicular ingress and egress. Such fencing shall be of a uniform design, colour, material and height, to the satisfaction of the local government, so as to not detract from the amenity of the reserved land and the general amenity of the surrounding area.</li> <li>5. Landscaping shall be provided in accordance with the requirements of Schedule 4 and should be located in such positions on a site as to enhance the appearance of any development or screen from view any open storage area, drying areas and any other space with, by virtue of its use, is likely to detract from the visual amenity of the surrounding area.</li> </ol>
Tourism Zone	<p>A local Development Plan prepared in accordance with the local development plan framework may be required in the Tourism Zone.</p> <p>Local government may approve the use of a tourist site in the Tourism zone for permanent residential purposes to a maximum of 30% of the number of units, rooms, caravans/cabins, or park homes approved for the site.</p>

**Schedule 4—Minimum setbacks from boundaries and landscaping requirements**

<b>ZONE</b>	<b>STREET</b>	<b>REAR</b>	<b>SIDE</b>	<b>MINIMUM LANDSCAPING REQUIREMENT</b>
Residential Settlement	To be assessed in accordance with the R-Codes.			
Rural	To be assessed in accordance with an approved Layout Plan prepared in accordance with State Planning Policy No.3.2—Aboriginal Settlements. In the event an approved Layout Plan has not been prepared in accordance with State Planning Policy No. 3.2, assessment and consideration is to be carried out based upon the objectives and intentions of this Scheme.			
Rural-Residential / Rural Smallholdings	10m	10m	5m	At the discretion of the Local Government.
Rural Townsite	All residential development to be assessed in accordance with the R-Codes. All other development will be at the discretion of the local government.			
Light Industry	7.5m	Subject to Building Code of Australia		3 metre landscape strip abutting all streets.
General Industry	7.5m	Subject to Building Code of Australia		3 metre landscape strip abutting all streets.
Commercial / Service Commercial	Nil setback which may be varied at the discretion of the Local Government.	In accordance with the Building Code of Australia	In accordance with the Building Code of Australia	<ol style="list-style-type: none"> <li>1. Canopy shade trees at the rate of 1 tree for every 4 open air parking bays.</li> <li>2. Screen landscaping as required by the Local Government.</li> <li>3. Additional landscaping as required by the Local Government.</li> </ol>
Mixed Use	Nil to 3 metres at the discretion of Local Government.	*	*	<ol style="list-style-type: none"> <li>1. Canopy shade trees at the rate of 1 tree for every 4 open air parking bays.</li> <li>2. Screen landscaping as required by the Local Government.</li> <li>3. Additional landscaping as required by the Local Government.</li> </ol>

Note—\*means to be setback from a common boundary with residential zoned land in accordance with the requirements of the applicable R-Code for that land. Otherwise in accordance with the Building Code of Australia.

**COUNCIL RESOLUTION TO ADVERTISE LOCAL PLANNING SCHEME**

Adopted for advertising by resolution of the Council of the Shire of Derby/West Kimberley at the Ordinary Meeting of Council held on 24 February 2022.

T. CLARKSON, A/Chief Executive Officer.  
P. MCCUMSTIE, Shire President.

**COUNCIL RESOLUTION TO SUPPORT SCHEME FOR APPROVAL**

Council resolved to support approval of the draft Scheme of the Shire of Derby/West Kimberley at the Ordinary Meeting of Council held on the 28th day of March 2024.

The Common Seal of the Shire of Derby/West Kimberley was hereunto affixed by authority of a resolution of the Council in the presence of—

T. CLARKSON, A/Chief Executive Officer.  
P. MCCUMSTIE, Shire President.

WAPC Recommended for Approval

K. NEVE Delegated under S.16 of the  
*Planning and Development Act 2005*

**Date:** 12/11/2024  
Approval granted

Hon. J. CAREY, MLA, Minister for Planning.

**Date:** 13/11/2024