

[GO TO CONTENTS PAGE](#)

# **SHIRE OF DERBY/WEST KIMBERLEY**

## **TOWN PLANNING SCHEME NO. 5**

### **DERBY**

---

*Updated to include AMD 24 GG 10/01/2020*

---

#### **DISCLAIMER**

This is a copy of the Town Planning Scheme produced from an electronic version of the Scheme held and maintained by the Department of Planning. Whilst all care has been taken to accurately portray the current Scheme provisions, no responsibility shall be taken for any omissions or errors in this documentation.

Consultation with the respective Local Government Authority should be made to view a legal version of the Scheme.

Please advise the Department of Planning of any errors or omissions in this document.

**Prepared by the Department of Planning**

**Original Town Planning Scheme Gazettal Date: 25 September 2001**

## DERBY-WEST KIMBERLEY TPS 5 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
4	21/3/03	19/3/03	DH	Table 2 - amending by changing Landuse category "Community Service Depot" from 'X' to 'D'.
1	12/3/05	12/3/04	DH	Appendix 2 – adding additional use area A3 "Part of Derby Lot 24 Fitzroy Street" and include "Bus Depot" as an Additional Use.
5	5/10/07	9/10/07	DH	Part 5 - amending Clause 5.2.5.
12	02/07/10	12/07/10	NM	Inserted "Lot 631 Russ Street – S10" into Appendix No. 3 Special Sites.
14	25/01/11	01/02/11	NM	Edited Short-Stay accommodation (within Table 2- Zoning Table) Land use Residential to read "A" instead of "X".
15	08/02/11	15/02/11	Nm	Inserted Additional Use No. 4 into Appendix 2.
18	24/04/12	18/06/12	NM	Inserted 'Residential Development Zone' to the list of zones under Clause 3.1. Added a new column 'Residential Development Zone' to Table 2 – Zoning Table. Inserted clauses 3.8 and 5.8.
17	06/07/12	24/07/12	NM	Replaced the Lot Number of Special Site 6 within Appendix 3 – Special Site Schedule.
19	01/08/14	23/10/14	LD	Rezoning maps only
16	12/12/14	17/3/15	MLD	Rezoning maps only
25	15/12/17	03/01/18	MLD	Rezoning Lot 4 (12) Russ Street from 'Rural Residential' to 'Light Industry'. Rezoning Lot 631 (10) Russ Street from 'Special Use – S10' to 'Light Industry'. Rezoning Lot 634 (17) Conway Street from 'Rural' to 'Light Industry'. Amending Appendix 3 – Special Sites Schedule to remove all text relating to Map Reference S10. Amend the Scheme Maps accordingly.
24	10/01/2020	14/01/2020	MLD	Update scheme text to bring into line with the new Regs and deemed provisions.

## SCHEME TEXT CONTENTS

<b>PART 1 - PRELIMINARY .....</b>	<b>5</b>
1.1 Citation.....	5
1.2 Responsible Authority.....	5
1.3 Scheme Area .....	5
1.4 Revocation Of The Existing Scheme.....	5
1.5 Contents Of The Scheme .....	5
1.6 Arrangement Of The Scheme Text.....	5
1.7 Scheme Objectives.....	5
1.8 Interpretations.....	6
<b>PART 2 - RESERVES.....</b>	<b>7</b>
2.1 Schemes Reserves.....	7
2.2 Matters to be Considered by Local Government.....	7
<b>PART 3 – ZONES AND LAND USE.....</b>	<b>8</b>
3.1 Zones.....	8
3.2 Zone Objectives and Policies .....	8
3.3 Zoning Table .....	11
3.4 Additional Uses.....	12
3.5 Special Use Zone .....	12
3.6 Non-Conforming Use Rights.....	12
3.7 Rebuilding of Strata-Titled Development.....	13
3.8 Residential Development Zone .....	13
<b>PART 4 – GENERAL DEVELOPMENT REQUIREMENTS.....</b>	<b>16</b>
4.1 Residential Development - R Codes .....	16
4.2 R Codes - Variations & Exclusions.....	16
4.3 Split R-Coding.....	16
4.4 Discretion to Modify Development Standards .....	16
4.5 Building Setbacks .....	17
4.6 Height Restrictions.....	17
4.7 Land Subject to Inundation.....	17
4.8 RePURPOSED AND Second-Hand Buildings.....	18
4.9 Landscaping and Preservation of Existing Vegetation .....	18
4.10 Outbuildings.....	18
4.11 Rear Access and Loading Docks .....	19
4.12 Home Occupations .....	19
4.13 Car Parking Requirements .....	19
<b>PART 5 - SPECIAL CONTROL AREAS AND SPECIFIC ZONE PROVISIONS.....</b>	<b>23</b>
5.1 Operation of Special Control Areas .....	23
5.2 Light Industrial and Residential Development Areas.....	23
5.3 Groundwater Protection Area .....	23
5.4 Specific Industrial Zone Provisions.....	24
5.5 Settlement Zone .....	25
5.6 Rural Residential Development Provisions .....	25
5.7 Rural Development Provisions .....	26
<b>SCHEDULE A – SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS .....</b>	<b>28</b>

## **TABLES**

Table 1 : Zone Objectives and Policies.....	8
Table 2: Zoning Table .....	14
Table 3 : Minimum Setbacks from Boundaries .....	17
Table 4 : Number of Car Parking Spaces .....	20
Table 5 : Minimum Lot Sizes - Industrial Zones.....	24

## **APPENDICES**

Appendix 1 - Interpretations .....	29
Appendix 2 - Additional Uses Schedule .....	42
Appendix 3 - Special Sites Schedule .....	43
Appendix 4 - Car Parking Standards .....	44
Appendix 5 - Exempted Advertisements.....	45
Appendix 6 - Schedule of Approved Layout Plans .....	47
ADOPTION.....	48

# PART 1 - PRELIMINARY

## 1.1 CITATION

This Town Planning Scheme may be cited as the **Shire of Derby-West Kimberley Town Planning Scheme No. 5** hereinafter referred to as 'the Scheme' and shall come into operation on the publication of the Scheme in the Government Gazette.

## 1.2 RESPONSIBLE AUTHORITY

The authority responsible for implementing the Scheme is the **Shire of Derby-West Kimberley** hereinafter referred to as 'the local government'.

## 1.3 SCHEME AREA

The Scheme applies to the whole of that area as shown on the Scheme Map by the solid black border, which is hereinafter referred to as the Scheme Area.

## 1.4 REVOCATION OF THE EXISTING SCHEME

The **Shire of West Kimberley Town Planning Scheme No. 2 (Derby Townsite)**, as amended, which came into operation by publication in the Government Gazette on September 26, 1980, is hereby revoked.

## 1.5 CONTENTS OF THE SCHEME

The Scheme comprises this Scheme Text; the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2; the supplemental provisions contained in Schedule A; and the Scheme Maps (Sheets 1 to 6).

## 1.6 ARRANGEMENT OF THE SCHEME TEXT

The Scheme Text is divided into the following parts:

<b>PART 1</b>	<b>Preliminary</b>
<b>PART 2</b>	<b>Reserves</b>
<b>PART 3</b>	<b>Zones and Land Use</b>
<b>PART 4</b>	<b>General Development Requirements</b>
<b>PART 5</b>	<b>Special Control Areas and Special Zone Provisions</b>

## 1.7 SCHEME OBJECTIVES

The general objectives of the Scheme are:

- to zone the Scheme Area for the purposes described in the Scheme;
- to designate areas for the continued development and redevelopment of the town;
- to incorporate development standards and policy guidelines to promote orderly use and development of land within the Scheme boundary;
- to reserve land for public use and recreational purposes;
- to recognise and protect places, buildings and objects of natural beauty and social, cultural, historical and scientific significance in Derby which are considered to be of importance to the heritage of the town;
- to protect and enhance environmental values and natural resources of the town of Derby and to promote ecologically sustainable land use and development;
- to safeguard and enhance the character and amenity of the built and natural

environment of the town of Derby; and

- to provide for development which is suited to the character and lifestyle of the region.

## **1.8 INTERPRETATIONS**

- 1.8.1** Except as provided in Clauses 1.8.2 and 1.8.3 the words and expressions of the Scheme have their normal and common meaning.
- 1.8.2** In the Scheme unless the context otherwise requires, or unless it is otherwise provided herein, words and expressions have the respective meanings given to them in Appendix 1 – Interpretations, the R- Codes or the deemed provisions.
- 1.8.3** Where a word or term is defined in the R- Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the R - Codes.

## **PART 2 - RESERVES**

### **2.1 SCHEMES RESERVES**

The land shown as reserves on the Scheme Map, hereinafter referred to as 'Reserves' are lands reserved under the Scheme for local government purposes or for the purposes shown on the Scheme Map and are listed hereunder:

- **Major Highway**
- **Parks and Recreation**
- **Public Purposes (as marked)**
- **Local Road**

### **2.2 MATTERS TO BE CONSIDERED BY LOCAL GOVERNMENT**

Where an application for development approval is made with respect to land within a Reserve, the local government shall have regard to the ultimate purpose intended for the reserve and the local government shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent.

## PART 3 – ZONES AND LAND USE

### 3.1 ZONES

There are hereby created the several zones set out hereunder:

Zones -

- Town Centre
- Residential
- Commercial
- Service Industry
- Light Industry
- General Industry
- Port Industry
- Rural
- Rural Residential
- Special use (as marked)
- Settlement
- Community Purposes
- Residential Development Zone *AMD 18 GG 24/04/12*

These zones are delineated and depicted on the Scheme Map according to the legend thereon.

### 3.2 ZONE OBJECTIVES AND POLICIES

The objectives and policies of the various zones are set out in Table 1.

**TABLE 1 : ZONE OBJECTIVES AND POLICIES**

<b>TOWN CENTRE ZONE</b>	
<b>Zone Objective</b>	
(a)	To provide land for continued development of a mixed commercial and community focus for Derby, within which retail, office, service trades, administration and entertainment uses are encouraged.
<b>Zone Policies</b>	
(i)	To take into account Local Government's Town Centre policy and Townscape Policies in the assessment of development proposals;
(ii)	To take into account, reinforce and promote the function of the Town Centre as the focus for mixed use activity for Derby in recommending on proposed subdivision /amalgamation applications and considering development applications;
(iii)	To ensure all development will be compatible with existing structures and the amenity of the zone taking into consideration aspects such as design, scale, height and setback;
(iv)	To promote medium density residential development generally in conjunction with commercial development;
(v)	To limit industry within the Town Centre Zone to warehouse and service industries located in proximity to existing industrial uses.



## COMMERCIAL ZONE

### Zone Objective

- (a) To provide land for continued development of mixed commercial uses including retail, office, service trades, administration and entertainment uses to provide an alternative to shopping in the town centre and to provide a more appropriate location for sale and display of items of a bulky nature.

### Zone Policies

- (i) To encourage similar uses to those existing in the zone and provide for commercial uses not appropriate to the Town Centre due to servicing and space requirements;
- (ii) To take into account the primary commercial function of the Town Centre in considering proposed land uses, subdivision/amalgamation and development applications, and make decisions based on promoting and reinforcing the Town Centre as the main focus for mixed use activity for Derby;
- (iii) To ensure all new buildings will be compatible with existing structures, taking into consideration aspects such as design, scale, height and setback;
- (iv) To take into account Local Government's Commercial Precinct policy and Townscape Policies in the assessment of future development proposals.

## RESIDENTIAL ZONE

### Zone Objectives

- (a) To designate land for residential development to meet the needs of the town in locations that can be economically serviced and are environmentally suitable.
- (b) To provide a range in housing and lifestyle choice and protect the amenity and character of residential areas.

### Zone Policies

- (i) To promote development that is suitable for the local climate, designed to minimise energy consumption and reinforces the character of the residential precinct within which it is located;
- (ii) To ensure that necessary physical and social infrastructure is provided in conjunction with residential development;
- (iii) To promote residential development consistent with the R Codes or any variations to those codes as set out in this scheme;
- (iv) To limit the height and scale of any residential development to that of a domestic character consistent with surrounding residential development.

## INDUSTRIAL ZONES

### Zone Objective

- (a) To provide adequate, accessible serviced land for a variety of industrial uses appropriate to the Derby townsite in locations that will have minimum detrimental effect upon residential areas and the Town Centre.

### Zone Policies

- (i) To permit industrial uses which provide desirable and conveniently located service to the townsite;
- (ii) To ensure that development provides reasonable standards of amenity and appearance;
- (iii) To allow retail uses from premises with a primary industrial or wholesale function which would be inappropriately located in other zones;
- (iv) In the Port Industry zone to maintain land for port facilities required for the continuation of the Port of Derby and provide for a range of uses to facilitate the increased use of the port;
- (v) To permit a range of industrial uses of a scale and type suitable to the available services, character and amenity of each of the industrial zones;
- (vi) To only permit the development of a caretakers dwelling where this is required for the development proposed and will not constrain the industrial use of the area within which it is located.

## RURAL ZONE

### Zone Objective

- (a) To ensure the continuation of rural use encouraging where appropriate, the retention and expansion of rural activities and associated pursuits that are compatible with the capability of the land and the amenity of the locality.

### Zone Policies

- (i) To only support a scheme amendment for non-rural uses where it can be demonstrated that the use will be of benefit to the town and no other suitable land is available within Derby;
- (ii) To provide for a variety of uses associated with rural production and the character of rural areas and/or which require a large land area, where these are compatible with agricultural use;
- (iii) To encourage the retention of land for horticultural use;
- (iv) To support the subdivision of land for agricultural purposes to a minimum allotment size necessary for the establishment and operation of a commercial agricultural enterprise.

## RURAL RESIDENTIAL ZONE

### Zone Objective

- (a) To provide for development of closer rural settlement on land suitable for such a purpose in a form that protects the rural character and environmental values of the area, provides a high level of residential amenity and encourages continued productive agricultural use.

### Zone Policies

- (i) To ensure that proposed land uses and lots sizes will not be detrimental to the amenity and rural character of an area;
- (ii) To discourage development of a scale or nature more appropriately located within the urban zones;
- (iii) To provide for the protection of any areas of environmental value in the design of a development or subdivision;
- (iv) When considering applications for re-subdivision of rural residential lots to have regard for the original subdivision plan and only support subdivisions where the rural and residential character is protected or enhanced;
- (v) To ensure the adequate provision of required services and community facilities to all rural residential development.

## COMMUNITY PURPOSE ZONE

### Zone Objective

- (a) To designate land in suitable locations for community purposes to meet the needs of the town in regard to the provision of educational, social, recreational and welfare facilities and services by organisations involved in activities for community benefit.

### Zone Policies

- (i) To permit the development of land within this zone for community purposes as required for the servicing of the community;
- (ii) To ensure development is consistent with the protection of the amenity of the locality.

## SETTLEMENT ZONE

### Zone Objectives

- (a) To identify existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places by:
  - i. Requiring preparation and endorsement of a Layout Plan.
  - ii. Ensuring that development accords with the Layout Plan.

### Zone Policies

- (i) To require development to be consistent with a Layout plan endorsed by the Community, local government and the Western Australian Planning Commission;

## SPECIAL SITE ZONE

### Zone Objective

- (a) To provide the appropriate development control to a land use or combination of land uses that are consistent with the character and amenity of the locality but by their nature require specific consideration.

### Zone Policies

- (i) To permit development consistent with the provisions of the scheme relating to the subject land and the protection of the amenity of the locality.

### 3.3 ZONING TABLE

The Zoning Table (Table No. 2) indicates, subject to the provisions of the Scheme, the several uses permitted by this Scheme in the various zones. The permissibility of any use is determined by cross-reference between the list of Use Classes and the list of zones at the top of the Zoning Table.

**3.3.1** The symbols used in the cross-reference in the Zoning Table have the following meanings:-

- (a) **"P"** means that the use is permitted by the Scheme but development approval is still required in accordance with the provisions of the Scheme;
- (b) **"D"** means that the use is not permitted unless the local government has exercised its discretion by granting development approval;
- (c) **"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;
- (d) **"I"** means 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 any relevant development standards and requirements of this Scheme;
- (e) **"X"** means a use that is not permitted by the Scheme;
- (f) notwithstanding that a development referred to in sub-clause 3.3.1 b), c) & d) is permissible with development approval, the Local government shall not grant consent to that development unless the provisions of the scheme are met;
- (g) the Local government shall not grant consent to the carrying out of development on land to which this Scheme applies unless the Local

government is of the opinion that the carrying out of the development is consistent with one or more of the objectives and policies of the zone within which the development is proposed to be carried out.

**3.3.2** Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use.

**3.3.3** If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use classes the Local government may:

(a) determine that the use is not consistent with the objectives of the particular zone and policies relating to the zone and is therefore not permitted;

**or**

(b) determine by absolute majority that the proposed use may be consistent with the objectives of the zone and policies relating to the zone and thereafter follow the advertising procedures of Clause 64 of the deemed provisions in relation to "A" uses in considering an application for development approval.

### **3.4 ADDITIONAL USES**

Notwithstanding anything contained in the Zoning Table, the land specified in **Appendix No. 2** (Schedule of Additional Uses), and as identified on the scheme maps, may, subject to compliance with any condition specified in the Schedule with respect to the land, be used for the purpose set against the land. The use so specified is in addition to the other uses permitted in the zone in which the land is situated unless any of those uses is excluded or modified by a condition specified in that Schedule.

### **3.5 SPECIAL USE ZONE**

No person shall use land, or any building or structure thereon in a Special Use Zone, except for the purpose set against that land in **Appendix 3** and any other use deemed by Local government to be incidental to the predominant use, and subject to compliance with any conditions specified in that Appendix with respect to the land. Local government may apply such additional development conditions to a proposal as it thinks fit providing such standards are not less than those specified in **Appendix 3** or pertaining to similar uses permitted under the Scheme.

### **3.6 NON-CONFORMING USE RIGHTS**

Except as otherwise provided in this Part, no provision of the Scheme shall be deemed to prevent:

(a) the continued use of any land or building for the purpose for which it was being lawfully used at the time of the coming into force of the Scheme;

**or**

(b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits lawfully required to authorise the development to be carried out, were duly obtained and are current.

#### **3.6.1 Extension of Non-Conforming Use**

A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the development approval of the Local government under the Scheme and unless in conformity with any other provision and requirement contained in the Scheme.

#### **3.6.2 Change of Non-Conforming Use**

Notwithstanding anything contained in the Zoning Table, the Local government may grant development approval to the change of use of any land from a non-conforming

use to another use if the proposed use is, in the opinion of Local government, less detrimental to the amenity of the locality and is, in the opinion of the Local government, closer to the objectives and policies of the zone or reserve, than the non-conforming use.

### **3.6.3 Discontinuance of Non-Conforming Use**

- (a) When a non-conforming use of any land or building has been discontinued for a period of **six months or more**, such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.
- (b) The Local government may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that property, and may enter into an agreement with the owner for that purpose.

### **3.6.4 Destruction of Buildings**

When a building used for a non-conforming use is destroyed to 75% or more of its value, the building shall not be repaired or rebuilt, altered or added to for the purpose of being used for a non-conforming use, or in a manner not permitted by the scheme, except with the development approval of the Local government.

## **3.7 REBUILDING OF STRATA-TITLED DEVELOPMENT**

If 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.

## **3.8 RESIDENTIAL DEVELOPMENT ZONE**

*AMD 18 GG 24/04/12*

### **Zone Objectives**

- (a) To identify opportunities for future subdivision and development of land for the purposes of single and group residential purposes together with, if determined necessary by Local government, associated community and recreational facilities.
- (b) To ensure that subdivision and development of land within the zone has due regard with a Structure Plan approved by the Western Australian Planning Commission prepared in accordance with Part 4 of the Deemed Provisions
- (c) To designate land for residential development to meet the needs of the town in locations that can be economically serviced and are environmentally suitable.
- (d) To provide a range in housing and lifestyle choice and protect the amenity and character of residential areas.

### **Zone Policies**

- (i) To promote development that is suitable for the local climate, designed to minimise energy consumption and reinforces the character of the residential precinct within which it is located;
- (ii) To ensure that necessary physical and social infrastructure is provided in conjunction with residential development;
- (iii) To promote residential development consistent with the R Codes or any variations to those codes as set out in this scheme;
- (iv) To limit the height and scale of any residential development to that of a domestic character consistent with surrounding residential development.

TABLE 2: ZONING TABLE

AMD 18 GG 24/04/12

TYPE	LANDUSE	ZONE														
		TOWN CENTRE (1)	COMMERCIAL	RESIDENTIAL	SETTLEMENT	SERVICE INDUSTRY	LIGHT INDUSTRY	GENERAL INDUSTRY	SPECIAL USE	PORT INDUSTRY	RURAL-RESIDENTIAL	RURAL	COMMUNITY PURPOSES	RESIDENTIAL DEVELOPMENT ZONE		
COMMERCIAL	AMUSEMENT FACILITY	D	A	X	Land use permissibility is to be with reference to the endorsed layout plan	X	X	X	Refer to Appendix 3	X	X	X	X	X		
	CAR PARK	P	P	I		P	P	P		P	X	X	I	X		
	CARAVAN PARK	A	X	X		X	X	X		X	X	X	A	X	X	
	FAST FOOD OUTLET	D	D	X		X	D	X		X	X	X	X	X	X	
	FISH SHOP	A	A	X		X	X	X		X	X	X	X	X	X	
	FUNERAL PARLOUR	X	A	X		D	P	X		X	X	X	X	X	X	
	GARDEN CENTRE	A	A	X		D	D	X		X	X	X	D	X	X	
	HEALTH STUDIO	D	D	X		A	A	X		X	X	X	X	X	X	
	HOME OCCUPATION	D	X	D		X	X	X		X	X	X	D	D	X	D
	HOTEL	A	X	X		X	X	X		X	X	X	X	X	X	X
	LAUNDROMAT	A	A	X		A	A	X		X	X	X	X	X	X	X
	MARKET	A	A	X		D	D	X		X	X	X	X	X	X	X
	MOTEL	A	X	X		X	X	X		X	X	X	X	X	X	X
	NIGHTCLUB	A	X	X		X	X	X		X	X	X	X	X	X	X
	MOTOR VEHICLE OR MARINE SALES	A	A	X		P	P	X		X	X	X	X	X	X	X
	MOTOR VEHICLE HIRE	A	A	X		P	P	X		X	X	X	X	X	X	X
	NURSERY	X	X	X		X	D	X		X	X	X	D	P	X	X
	OFFICE	P	P	X		I	I	I		X	X	X	X	X	I	X
	RECEPTION CENTRE	A	D	X		X	X	X		X	X	X	X	A	X	X
	RESTRICTED PREMISES	A	A	X		X	X	X		X	X	X	X	X	X	X
	RESTAURANT	P	D	X		X	X	X		X	X	X	X	A	X	X
	SERVICE STATION	A	A	X		D	D	D		X	X	X	X	X	X	X
	SHOP	P	P	X		I	I	I		X	X	X	X	X	X	X
	SHORT-STAY ACCOMMODATION <i>AMD 14 GG 25/01/11</i>	A	X	A		X	X	X		X	X	X	A	A	X	A
SHOWROOM	D	D	X	P	P	X	X	X	X	X	X	X	X			
TAVERN	A	A	X	X	X	X	X	X	X	X	X	X	X			
WAREHOUSE	A	X	X	P	P	P	X	X	X	X	X	X	X			
WAYSIDE STALL	X	X	X	X	X	X	X	X	X	D	D	X	X			
RESIDENTIAL	SINGLE HOUSE	P	X	P	X	X	X	X	X	P	P	D	P			
	GROUPED DWELLING	D	X	D	X	X	X	X	X	X	X	D	D			
	MULTIPLE DWELLING	D	X	D	X	X	X	X	X	X	X	D	D			
	ANCILLARY DWELLING	P	X	P	X	X	X	X	X	D	D	D	D			
	AGED AND DEPENDENT PERSONS	D	X	D	X	X	X	X	X	X	X	D	D			
	CARETAKER'S DWELLING	D	D	X	D	D	D	X	X	D	D	D	X			
	REPURPOSED DWELLING	A	A	A	D	D	D	X	X	D	D	D	D			
	RESIDENTIAL BUILDING	A	X	A	X	X	X	X	X	X	X	A	A			
	TEMPORARY ACCOMMODATION	A	X	X	A	A	A	X	X	A	A	X	X			

	SECONDHAND DWELLING	X	X	X	D	D	D	D	D	D	D	D	D	
	STAFF QUARTERS	A	X	X	A	A	A	A	X	A	A	A	X	
	OUTBUILDING	I	I	I	I	I	I	I	I	I	I	I	I	
	CLUB PREMISES	A	X	X	D	X	X	X	X	X	A	X	X	
	COMMUNITY SERVICE DEPOT <i>AMD 4 GG 21/3/03</i>	A	X	X	D	D	D	D	A	D	A	X	X	
	CONSULTING ROOMS	P	P	A	X	X	X	X	X	X	X	D	A	
	DAY/CHILD CARE CENTRE	D	X	X	X	X	X	X	X	X	X	D	X	
	EDUCATION ESTABLISHMENT	D	X	X	A	A	X	X	X	X	X	D	X	
	FAMILY DAY CARE	D	X	D	X	X	X	X	X	D	X	D	D	
	HOSPITAL	A	X	X	X	X	X	X	X	X	X	X	X	
	KINDERGARTEN	P	X	X	X	X	X	X	X	X	X	D	X	
	MEDICAL CENTRE	P	P	X	X	X	X	X	X	X	X	D	X	
	PUBLIC UTILITY	P	P	P	P	P	P	P	P	P	P	P	P	
	PUBLIC AMUSEMENT	D	D	X	X	X	X	X	X	X	X	X	X	
	PUBLIC WORSHIP	P	X	A	A	A	X	X	X	A	A	A	A	
	REHABILITATION CENTRE	A	X	X	X	X	X	X	X	X	X	D	X	
	RADIO AND TV INSTALLATION	A	X	X	D	D	D	D	D	D	X	D	D	X
	REFUGE/SAFEHOUSE		X		X	X	X	X	X	D	X	D	A	
	VETERINARY HOSPITAL	A	X	X	A	A	X	X	X	X	A	X	X	X
<b>INDUSTRY</b>	FUEL DEPOT	X	X	X	X	X	X	X	P	X	X	X	X	
	INDUSTRY - GENERAL	X	X	X	X	X	P	X	X	X	X	X	X	
	- LIGHT	D	X	X	X	P	P	X	X	X	X	X	X	
	- SERVICE	D	X	X	P	P	P	X	X	X	X	X	X	
	- COTTAGE	X	X	A	P	P	X	X	P	P	X	X	X	
	- RURAL	X	X	X	X	X	X	X	X	A	P	X	X	
	MOTOR VEHICLE REPAIR	X	X	X	D	P	P	X	X	X	X	X	X	
	MOTOR WRECKING	X	X	X	X	P	P	X	X	X	X	X	X	
	SALVAGE YARD	X	X	X	X	D	P	X	X	X	X	X	X	
	TRANSPORT DEPOT	X	X	X	X	P	P	X	X	X	X	X	X	
<b>RURAL</b>	KENNELS/CATTERY	X	X	X	X	X	X	X	X	X	D	X	X	
	POULTRY FARMING	X	X	X	X	X	X	X	X	X	A	X	X	
	RURAL PURSUIT	X	X	X	X	X	X	X	X	D	P	X	X	
	STABLES	X	X	X	X	X	X	X	X	D	P	X	X	

(1) REFER TO CLAUSE 4.2

## **PART 4 – GENERAL DEVELOPMENT REQUIREMENTS**

### **4.1 RESIDENTIAL DEVELOPMENT - R CODES**

- 4.1.1** For the purpose of this Scheme 'R Codes' means the Residential Design Codes set out in State Planning Policy No. 3.1, hereinafter referred to as the 'R Codes'.
- 4.1.2** A copy of the R Codes, as amended, shall be kept and made available for public inspection at the offices of the Local government.
- 4.1.3** Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the R Codes shall conform to the provisions of those Codes.
- 4.1.4** The R Code density applicable to land within the Residential zone shall be determined by reference to the R Code density superimposed on the areas and contained by black borders on the Scheme Maps.

### **4.2 R CODES - VARIATIONS & EXCLUSIONS**

- 4.2.1** Notwithstanding any other provision of the Scheme Local government may:
  - (a) where residential development is proposed as a component of a mixed use commercial development in the Town Centre Zone consent to the residential development at a density up to a maximum of R50 subject to:
    - (i) the residential component not occupying the ground floor at the street frontage; and
    - (ii) the 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 Town Centre 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 SPLIT R-CODING**

In Residential zones with a split R12.5/30 coding, the provisions of the R12.5 Code shall apply to single houses, with the R30 Code applying to grouped dwellings. Consent will only be issued for development at a density above R12.5, up to a maximum of R30, where the property is connected to a reticulated sewer 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.

### **4.4 DISCRETION TO MODIFY DEVELOPMENT STANDARDS**

If a development, other than a residential development, the subject of an application for development approval, does not comply with a standard or requirement prescribed by the Scheme with respect to that development the Local government may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Local government thinks fit. The power conferred by this clause may only be exercised if the Local government is satisfied that:



- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality; and
- (c) the spirit and purpose of the Scheme Objectives, requirements or standards will not be unreasonably departed from thereby.

#### 4.5 BUILDING SETBACKS

The minimum setbacks for buildings within the Scheme area are as set out in Table 3 below. Scheme requirements for building setbacks shall exclude garden walls, swimming pools, and advertising signs. Other structures and trade displays will be at the discretion of Local government.

**TABLE 3 : MINIMUM SETBACKS FROM BOUNDARIES**

<b>ZONE</b>	<b>STREET</b>	<b>REAR</b>	<b>SIDE</b>
Town Centre	Nil	◆	◆
Commercial	7.5m	◆	◆
Port Industry	7.5 m	◆	◆
Light Industry	7.5m*	7.5m	5.0m one side, Nil on Other
Service Industry	7.5m*	7.5m	5.0m one side, Nil on Other
General Industry	10.0m	10.0m	5.0m
Rural Residential	10.0m**	10.0m	10.0m
Rural	15.0m	15.0m	10.0m
Special Use	As per Appendix 3 or at local government discretion		
Settlement	As per endorsed Layout Plan		
Community Purposes	7.5m	6.0m	◆

\* In the Service and Light Industry Zone where a development includes a proposed shop front, the local government may approve a front setback of zero to the Primary Street.

\* In the Service and Light Industry Zone the local government may approve the construction of a car port or pergola or like structure between the building line and the front boundary providing:

- (a) that any such structure remains open sided and not in-filled with any material which would ordinarily prevent the free passage of light and air, but may include lattice battens or mesh as approved by local government;
- (b) that any activity beneath such structure does not include any industrial use and is only used for car parking, landscaping, display purposes or any other uses the local government may deem fit.

\*\* Where a Rural Residential Lot has a common boundary with Derby Hwy a minimum setback of 20.0m to that boundary will apply.

◆ At local government's discretion.

##### 4.5.1 Frontage to More than One Street

Where a lot has frontage to more than one street, local government will determine to which street the front setback will apply and may permit a reduction of the street setback requirement to other streets.

#### 4.6 HEIGHT RESTRICTIONS

No building in any zone within the Scheme Area other than the Industrial zone shall exceed 2 stories or 9 metres in height above natural ground level at any point.

#### 4.7 LAND SUBJECT TO INUNDATION

A person shall not carry out any development on any land within an area considered by local government as being liable to flooding without prior consultation with the Department of Water. Minimum floor levels may be required.

## **4.8 REPURPOSED AND SECOND-HAND BUILDINGS**

- 4.8.1** The use of repurposed and second-hand buildings for any purpose within the Scheme Area is subject to the development approval of local government.
- 4.8.2** local government may permit the erection or placement of any repurposed or second-hand building on a lot providing that the architectural design, external appearance and structural integrity of the building is to the satisfaction of local government and, in local government's opinion, will not adversely affect the amenity of other properties in the area.
- 4.8.3** Development approval for repurposed and second-hand buildings may be granted subject to the applicant providing a bond to local government as surety as to the completion of the building to a standard of presentation acceptable to local government and within such period of time as local government may deem appropriate.
- 4.8.4** The standard of finish of a repurposed and/or second-hand building must be agreed upon prior to the issue of development approval.

## **4.9 LANDSCAPING AND PRESERVATION OF EXISTING VEGETATION**

- 4.9.1** 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.
- 4.9.2** Unless otherwise approved by local government a minimum of 10% of the site area of all commercial and industrial developments shall be landscaped.
- 4.9.3** To maintain and enhance the character of the Town of Derby, no person shall remove a Boab Tree from any land within the scheme area without the prior written consent of the local government. For the purpose of this Clause:
- (a) the consent of local government shall not be unreasonably withheld and shall be issued where the tree is dead, dying or dangerous;
  - (b) it shall be sufficient defence to show that a tree that has been removed was dead, dying or dangerous prior to its removal.
- 4.9.4** When considering an application for development approval the local government shall determine whether any Boab tree or other vegetation on the subject site has landscape or environmental significance and should be retained and in granting consent to an application may:
- (a) impose a condition on the development approval requiring the retention or relocation of the tree or trees;
  - (b) request a modification of the proposal; and/or
  - (c) permit a variation of the site development requirements to provide for retention of the tree or trees.

## **4.10 OUTBUILDINGS**

- 4.10.1** No outbuilding(s) collectively exceeding 60m<sup>2</sup> in area and satisfying the deemed-to-comply provisions of the R Codes shall be erected on any Residential lot; or exceeding 60m<sup>2</sup> on any Rural-Residential lot without the development approval of the local government in accordance with clause 61 of the deemed provisions.
- 4.10.2** The setback of outbuildings may be varied by local government pursuant to clause 4.4 providing it is satisfied that such variation is desirable having considered:
- (a) the effect on any adjoining lot;

- (b) the position of existing buildings and structures;
- (c) the relative ground levels of the subject lot and any adjoining lot;
- (d) the requirements of any servicing authority.

**4.10.3** Where, in the opinion of the local government, a proposed variation of an outbuilding setback requirement may significantly affect an adjoining property, the local government shall advertise the proposal in accordance with clause 64 (3a) of the deemed provisions.

#### **4.11 REAR ACCESS AND LOADING DOCKS**

**4.11.1** When considering any application for development approval, 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 concerning:

- (a) the size of loading docks;
- (b) 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.

**4.11.2** Areas for loading and unloading of vehicles, particularly road trains, carrying goods and commodities to or from premises shall be provided and maintained in accordance with the approved plan relating thereto.

#### **4.12 HOME OCCUPATIONS**

**4.12.1** An approval to conduct a home occupation 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 approval is issued the approval is cancelled.

**4.12.2** If, in the opinion of the local government, a home occupation is causing a nuisance or annoyance to owners or occupiers of land in the locality the local government may rescind the approval.

**4.12.3** In granting development approval for a Home Occupation local government may grant such approval subject to conditions relating to:

- Hours of trade;
- Car parking;
- Maximum number of visitors on premises at any time; and
- Equipment permitted to be used.

#### **4.13 CAR PARKING REQUIREMENTS**

**4.13.1** No person shall develop or use land or erect, use or adapt any building for any purpose unless car parking spaces of the number specified in Table 4 are constructed and maintained in accordance with the provisions of the Scheme. Car parking spaces for residential development shall be provided in accordance with the R Codes.

**TABLE 4 : NUMBER OF CAR PARKING SPACES**

USE	NO. OF CAR PARKING SPACES (GLA = Gross Leasable Area)
Amusement Parlour	1/4 Patrons*
Betting Agency	1/20 m <sup>2</sup> GLA
Civic Use	1/30 m <sup>2</sup> GLA
Club Premises	1/50 m <sup>2</sup> GLA
Consulting Rooms	4/Practitioner
Day/Family Care Centre	1/Staff member plus 1/4 patrons
Garden Centre	1/100 m <sup>2</sup> GLA
Health Studio/Gym	1/30 m <sup>2</sup> GLA
Hotel	1/4 m <sup>2</sup> Patrons in Public Areas* Plus 1/Bedroom
Industry:	
- General	1/100 m <sup>2</sup> GLA
- Light & Service	1/50 m <sup>2</sup> GLA
Laundromat	1/2 machines installed
Medical Centre	4/Practitioner
Motel	1/Unit plus 1/25 m <sup>2</sup> Service Area
Nightclub	1/4 Patrons*
Office	1/40 m <sup>2</sup> GLA
Public Amusement	1/4 Seats Provided
Public Worship	1/4 Seats Provided
Reception Centre	1/4 Patrons*
Residential	As per R Codes
Restaurant	1/4 Patrons
Motor Repair Station/Service Station	1/200m <sup>2</sup> Gross Site Area
Shop	1/20 <sup>2</sup> GLA
Tavern	1/4 Patrons
Veterinary Consulting	4/Practitioner
Warehouse/Showroom	1/100 m <sup>2</sup> GLA
Other Uses Not Listed	Refer clause 4.13.2

(See Appendix 1 for Interpretation of Gross Leasable Area)

\* Maximum number of Patrons is number patrons allowed in accordance with Health Act, 1911.

#### 4.13.2 Unlisted Use

Where an application is made for development approval and the purposes for which the land or building is to be used is not specified in Table 4, the local government shall determine the number of car parking spaces to be provided having regard to the nature of the proposed development, the number of likely employees, the prevention of the obstruction of roads and streets, the orderly and proper planning of the locality and the preservation of its amenities.

#### 4.13.3 Car Parking Standards

The dimensions of car parking spaces, parking angles, driveway widths and landscaping detail shall be in accordance with **Appendix 4**.

The local government may vary the dimensions specified:

- (a) where obstructions, site dimensions or topography result in the loss of a car parking space in any run of car parking spaces;
- (b) when the provisions of car parking space dimensions need to be enlarged to accommodate wider or longer vehicles.

#### **4.13.4 Carparking Construction & Maintenance**

The owner or occupier of the premises on which car parking spaces are to be provided shall ensure that the parking area is landscaped and the car parking is laid out, drained, sealed and maintained in accordance with the approved plan relating thereto.

#### **4.13.5 Shared or Combined Parking**

Where the number of car parking spaces proposed to be provided for a development 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 private 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.

In granting development approval under this clause, the local government may permit land uses to share parking facilities provided that:

- (a) the local government is satisfied that no conflict will occur as a result of the joint use of the parking facilities;
- (b) where required the owners sharing parking facilities enter into a legal agreement for reciprocal rights of access to the parking facilities.

#### **4.13.6 Public Parking**

If public parking facilities are located or are proposed to be located in the near vicinity of land or buildings 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:

- (a) the local government being satisfied that the public parking facilities are sufficient to cater for the requirements of the land or buildings in addition to existing use; and
- (b) the applicant entering into an agreement with the local government to pay for the cost of providing and maintaining the required number of spaces including the value of the land.

#### **4.13.7 Town Centre Zone**

In the Town Centre Zone, if the local government is satisfied that adequate constructed car parking is to be provided in close proximity to a proposed development, notwithstanding the provisions of Table 4, the local government may accept a cash payment in lieu of the provision of on-site car parking spaces provided:

- (a) the cash-in-lieu payment is not less than the estimated cost to the owner of constructing the car parking spaces required by the Scheme plus the value, as estimated by the Valuer General of Western Australia, of that area of land which would have been occupied by the parking spaces;
- (b) 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 purchased land and/or have provided a public car park or on street car parking nearby or have firm proposals for providing a public car park nearby

within a reasonable time of agreeing to accept the cash payment;

- (c) payment made under this Clause shall be paid into a special fund to be used to provide public car parks and the local government may use this fund to provide public car parking or on street car parking facilities within the Town Centre Zone or in close proximity of the site in respect of which a cash-in-lieu arrangement is made.

## **PART 5 - SPECIAL CONTROL AREAS AND SPECIFIC ZONE PROVISIONS**

### **5.1 OPERATION OF SPECIAL CONTROL AREAS**

**5.1.1** The following Special Control areas are shown on the Scheme Maps:

- Light Industrial Development;
- Residential Development; and
- Groundwater Protection.

**5.1.2** In respect of the Special Control Areas shown on the Scheme maps, the provisions of the Special Control areas apply in addition to the provisions of the underlying zones, reserves and any general provisions of the Scheme.

### **5.2 LIGHT INDUSTRIAL AND RESIDENTIAL DEVELOPMENT AREAS**

**5.2.1** The purpose of identifying land on the scheme map as being within a Light Industrial Development Area or a Residential Development Area is to enable the planned and progressive development of the land for Light Industrial or Residential purposes respectively consistent with the proper planning of the land and the locality.

**5.2.2** Requirement for Structure Plan

Prior to subdivision and development proceeding on land within the Light Industrial Development Area or the Residential Development Area, a Structure Plan shall be prepared and approved in accordance with Part 4 of the deemed provisions.

### **5.3 GROUNDWATER PROTECTION AREA**

**5.3.1** 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.

**5.3.2** Prohibited Uses

Notwithstanding any other provision of the scheme the development of land within a Groundwater Control Area for a Service Station, Motor Vehicle Repair Station or Motor Vehicle Wrecking is prohibited.

**5.3.3** Restricted Uses

Where the local government receives an application for consent for the carrying out of development within the Groundwater Protection Area of a type listed hereunder the application shall notwithstanding any other provision of the Scheme be dealt with as if it were an 'A' or 'D' use and shall be referred to the Department of Water for comment, and, in deciding whether to grant consent the local government shall take into account its comments:

- (a) Rural Pursuit excluding broadacre agriculture and stables;
- (b) Aircraft or Boat servicing;
- (c) Caravan/trailer hire;
- (d) Agricultural Service Industry;
- (e) Veterinary Clinic;
- (f) Cemeteries;
- (g) General Industry;
- (h) Light Industry;
- (i) Power Station;
- (j) Hospital;
- (k) Mining -Mineral Processing;
- (l) Extractive Industry;

- (m) Mineral Exploration;
- (n) Processing Foodstuffs and Animal Products;
- (o) Storage of Toxic and Hazardous Substances;
- (p) Caravan Park;
- (q) Waste Disposal Sites;
- (r) Refuse Transfer Station;
- (s) Recycling Depot;
- (t) Sewage Pump Station;
- (u) Wastewater/Water Treatment Plant;
- (v) Irrigated Recreation Areas;
- (w) Motor Sport Facilities;
- (x) Public Swimming Pool; and
- (y) Transport Depot.

## 5.4 SPECIFIC INDUSTRIAL ZONE PROVISIONS

### 5.4.1 Lot Sizes – All Industrial Zones

Minimum lot sizes should be as shown in Table 5, however local government may support or recommend lot sizes that do not comply with these standards provided the local government is satisfied the lot sizes would not be contrary to the general objectives of the scheme and the relevant zone, and would not compromise the amenity and orderly and proper planning of the locality.

**TABLE 5 : MINIMUM LOT SIZES - INDUSTRIAL ZONES**

General Industry	4000 m <sup>2</sup>
Light Industry, Warehousing & Service Industry	1000 m <sup>2</sup>
Port Industry	To be determined by Local government having regard to the purpose of the lots, and the amenity and proper and orderly planning of the locality.
Light Industrial Development Area	2000 m <sup>2</sup>

### 5.4.2 Use of Front Setbacks

The front setback of a lot within any Industrial Zone shall only be used for the following purposes:

- (a) car parking;
- (b) landscaping;
- (c) access;
- (d) trade displays.

### 5.4.3 Factory Unit Development

The development of factory tenement buildings, for the purpose of providing multiple factory units on one lot, shall not be permitted unless the following requirements are complied with:

- (a) no factory unit shall have a floor area of less than 100 m<sup>2</sup>; and
- (b) each factory unit shall have a service yard appurtenant to it which shall be a minimum of 50% of the unit floor area; and
- (c) access to any office attached to the factory unit and the major access to the



unit itself shall not be through the service yard.

## **5.5 SETTLEMENT ZONE**

### **5.5.1 Layout Plans**

In the Settlement zone, the use and development of land is to be in accordance with an endorsed Layout Plan prepared in accordance with State Planning Policy 3.2 Aboriginal Settlements,

**5.5.2** 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.

## **5.6 RURAL RESIDENTIAL DEVELOPMENT PROVISIONS**

### **5.6.1. Requirement for a Structure Plan**

Prior to subdivision and development proceeding on land within the Rural Residential Area, a Structure Plan shall be prepared and approved in accordance with Part 4 of the deemed provisions.

### **5.6.2 Approval under Base Zoning**

Notwithstanding Clause 5.6.1 above, local government may approve any development within a Rural Residential zone consistent with the zoning of the land without the preparation of a Structure Plan, where in the opinion of local government the development will not adversely affect the future subdivision and development of the land.

### **5.6.3 Lot Sizes**

Lot sizes for land zoned Rural Residential should generally not be less than 2 hectares in area.

**5.6.4** Further subdivision of land within the Hamlet Grove Rural Residential zone shall be generally in accordance with the original Structure Plan for the area. Further subdivision of the land into lots smaller than 2 hectares may be supported by local government providing that proposed lot sizes are generally in accordance with those existing in the area.

**5.6.5** On land zoned Rural Residential located north of Conway St and Reserve 1326 local government may support subdivision to a minimum lot size of 1Ha subject to connection of the subdivision to a reticulated water supply.

### **5.6.6 Rural Residential General Development Requirements**

In addition to other provisions of the Scheme as may affect it, development of any land included in the Rural Residential Zone shall be subject to the following provisions:

- (a) the breeding or keeping of animals other than as indicated in the definition of Rural Pursuit will not be permitted unless specifically approved by local government and subject to conditions local government deems necessary. Local government shall in considering the approval of the keeping of animals take advice from the Department of Agriculture as to stocking rates;
- (b) notwithstanding any other provision of the scheme the keeping of pigs on land within the Rural Residential zone is prohibited;
- (c) not more than one dwelling house may be constructed on any lot. This provision shall not prevent the local government from consenting to the

development of ancillary accommodation, provided such is self-contained , which may be attached to or integrated with or detached from the dwelling.;

- (d) in addition to a building licence, the local government's approval to commence development is required for all development, except a single house (unless that house is a repurposed or second-hand building) or an outbuilding of less than 60m<sup>2</sup> in area, an application for such approval shall be made in accordance with Part 8 of the deemed provisions;
- (e) in order to enhance the amenity of the land in areas local government considers deficient in tree cover, it may require as a condition of any development approval and request as a condition of subdivision the planting of trees and/or groups of trees of species as specified by the local government;
- (f) no trees or substantial vegetation may be felled, removed or damaged except for:
  - (i) clearing associated with approved development within the building envelope;
  - (ii) establishment of firebreaks as may be required by a Local Law or a notice issued by the local government or the Department of Fire and Emergency Services;
  - (iii) establishment of driveways and fence lines in association with approved development;
  - (iv) removal of vegetation that is dead, dying or dangerous, with the written approval of local government;
- (g) each dwelling shall be provided with a supply of potable water with a minimum capacity of 120,000 litres, of which 10,000 litres shall be kept in reserve for fire fighting purposes and shall be fitted with connections as required by the Department of Fire and Emergency Services;
- (h) if, in the opinion of the local government, any lot is overgrazed or severely degraded it may serve notice under the deemed provisions requiring the removal of any stock, until required remedial works are carried out by the landowner to render the land stable and usable;
- (i) the construction of dams and the extraction of surface water from drainage lines delineated on the Structure Plan is not permitted without the prior approval of the Department of Water and the local government;
- (j) strategic firebreaks, as shown on the Structure Plan, shall be constructed and maintained to the satisfaction of the local government and the Department of Fire and Emergency Services;
- (k) a Bush Fire Management Plan shall be prepared by the developer/subdivider to the satisfaction of the Department of Fire and Emergency Services and the local government.

## **5.7 RURAL DEVELOPMENT PROVISIONS**

### **5.7.1 Rural General Development Provisions**

In addition to other provisions of the Scheme as may affect it, development of any land included in the Rural Zone shall be subject to the following provisions:

- (a) notwithstanding any other provision of the scheme the keeping of pigs on land within the Rural zone is prohibited;

- (b) no more than one single dwelling shall be permitted on any lot in the Rural zone unless the written approval of local government is granted. The maximum number of single dwellings which local government may permit shall be restricted to two (2). The approval of the development of two dwellings on a Rural lot does not imply approval for subdivision of that lot. This provision shall not prevent the local government from consenting to the development of ancillary accommodation;
- (c) the construction of dams and the extraction of surface water from drainage lines is not permitted without the prior approval of the Department of Water and the local government.

## **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 61(1) (k)                    the erection on a Rural zoned lot of a Single dwelling, except where the Single dwelling is a transportable or second-hand building, or outbuilding;
- Clause 61(1) (l)                    the erection on a Rural-Residential zoned lot of a Single dwelling, except where:
- (i)     the single dwelling is a repurposed or second-hand building; or the proposed dwelling requires local government to exercise its discretion to approve a variation to a provision of the Scheme;
  - (ii)    the erection of an outbuilding with a floor area of less than 60m<sup>2</sup> on a Rural Residential zoned lot.
- Clause 61(1) (m)                    the advertisements contained in Appendix 5 of this Scheme are exempt from development approval.
- Clause 61(1) (n)                    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.

## APPENDIX 1 - INTERPRETATIONS

- Abattoir:** means land and buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.
- Airfield:** means land and buildings used in connection with the operation of aircraft, including a passenger terminal, offices, parking and servicing of aircraft, and car parking, but not including occasional or seasonal use of temporary facilities for purposes associated with agriculture.
- Amenity Building:** means a building or part of a building that employees or persons engaged in an industry or business use for their personal comfort, convenience or enjoyment or leisure as distinct from the work of the industry or business.
- Amusement Facility:** means land and buildings, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use.
- Amusement Machine:** means a machine, device or games table, mechanically or electronically powered, that releases or makes available balls, discs or other items for projection in or on the machine by the use of springs, flippers, paddles or cues, or electronic devices which are controlled or partly controlled by computer associated with electronic screen(s) operated by one or more players for amusement or recreation.
- Amusement Parlour:** means land and buildings, open to the public, where the predominant use is amusement by amusement machines and where there are more than two amusement machines operating within the premises.
- Art Gallery:** means premises used for the showing of works of art.
- Battle-axe lot:** shall have the same meaning as is given to it in and for the purposes of the Residential Design Codes
- Betting Agency:** means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*..
- Builder's Storage Yard:** means land and buildings used for the storage of building material, pipes, or other similar items related to any trade; and may include manufacture, assembly and dismantling processes incidental to the predominant use.
- Building:** shall have the same meaning as is given to it in and for the purposes of the Residential Design Codes.
- Building Envelope:** means an area of land within a lot marked on an approved plan outside which building development is not permitted.
- Building Line:** means the line between which and any public place or public reserve a building may not be erected except by or under the authority of an Act.
- Building Setback:** means the shortest horizontal distance between a boundary or other specified point and the position at which a building may be erected.
- Camping Area:** means land used for the lodging of persons in tents or other temporary shelter.
- Caravan:** means a vehicle as defined under the Road Traffic Act 1974 maintained in condition suitable for licence under that Act all times and being designed or fitted or capable of use as a habitation or for a dwelling or sleeping purposes.
- Caravan Park:** means a premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1)..

- Caretaker's Dwelling:** means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site.
- Car Park:** means land and buildings used primarily for parking private cars or taxis whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any land or buildings in which cars are displayed for sale.
- Cattery:** means the use of an approved out-building constructed in accordance with the Health Act Model By-laws Series 'A' Part One - General Sanitary Provisions (as amended) for the purpose of keeping more than three (3) cats over the age of three (3) months.
- Civic Building:** means a building designed, used or intended to be used by a Government Department, an instrumentality of the Crown, or the Local government for administrative, recreational or other purpose.
- Civic Use:** means land and buildings used by a Government Department, an instrumentality of the Crown, or the Local government, for administrative, recreational or other purpose.
- Club Premises:** means land and buildings used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the Liquor Act, 1970 (as amended) or not and which building or premises are not otherwise classified under the provisions of the Scheme.
- Commission:** means the Western Australian Planning Commission constituted under the Town Planning and Development Act 2005
- Community Home:** means a building primarily used for living purposes by a group of physically or intellectually handicapped or socially disadvantaged persons living together with or without paid supervision or care and managed by a constituted community-based organisation, with a recognised voluntary charitable or religious organisation, a Government Department or instrumentality of the Crown.
- Community Purposes:** means the use of premises designed or adapted primarily for the provision of education, social, cultural and recreational or other purposes as deemed appropriate by Local government.
- Community Service Depot:** means land and buildings used for the garaging of vehicles and equipment used to provide a community service such as a fire brigade, ambulance and the like.
- Consulting Rooms:** means a building (other than a hospital or medical centre) used by no more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, chiropractors, and persons ordinarily associated with a practitioner, in the prevention or treatment of physical or mental injuries or ailments, and the two practitioners may be of the one profession or any combination of professions or practices.
- Convenience Store:** means land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 200 m<sup>2</sup> gross leasable area.

- Day Care Centre:** means land and buildings used for the daily or occasional care of children in accordance with the Child Welfare (care Centres) Regulations, 1968 (as amended).
- Development:** shall have the same meaning given it in and for the purposes of the *Planning and Development Act 2005*.
- Display Home Centre:** means a group of two or more dwellings which are intended to be open for public inspection as a demonstration of housing design.
- District:** means the Municipal District of the Shire of Derby-West Kimberley.
- Dog Kennels:** means land and buildings used for the boarding and breeding of dogs where such premises are registered or required to be registered by the Local government; and may include the sale of dogs where such use is incidental to the predominant use.
- Drive-In Theatre:** means land and buildings used to make provision for an audience to view the entertainment while seated in motor vehicles.
- Dry Cleaning Agency:** means a building at which the public may lodge and receive articles for dry cleaning and where in some instances subject to the provisions of the Health Act a limited amount of dry cleaning may be carried out on the premises.
- Dry cleaning Premises:**  
means land and buildings used for the cleaning of garments and other fabrics by chemical processes.
- Eating House:** means any house, building or structure or any part thereof in which meals are served to the public for gain or reward and the expression includes a restaurant or cafe. The term does not include:
- (a) any premises in respect of which an hotel licence, tavern licence, a restaurant licence or wine house licence has been granted under the Liquor Act;
  - (b) any residential building;
  - (c) any building or structure used temporarily for serving meals to the public at any fair, show, military encampment, races or other sports, games or amusements.
- Educational Establishment:** means a school, college, university, technical institute, academy or other educational centre, but does not include a reformatory or institutional home.
- Effective Frontage:** means the width of a lot at the minimum distance from the street alignment at which buildings may be constructed, and shall be calculated as follows:
- (a) where the site boundaries of a lot are parallel to one another, the length of a line drawn at right angles to such boundaries;
  - (b) where the side boundaries of a lot are not parallel to one another, the length of a line drawn parallel to the street frontage and intersecting the side boundaries at the minimum distance from the street alignment at which buildings may be constructed;
  - (c) where a lot is of such irregular proportions or on such steep grade that neither of the foregoing methods can reasonably be applied, such length as determined by the Local government.

- Equestrian Centre:** means land and buildings used for the stabling and exercise of horses and includes facilities for events of a competitive nature.
- Factory Unit Building:** means an industrial building designed, used or adapted for use as two or more separately occupied production or storage areas.
- Family Day Care:** means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided
- Fast Food Outlet:** means land and buildings used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a fish shop.
- Fish Shop:** means a building where wet fish and similar foods are displayed and offered for sale.
- Floor Area:** shall have the same meaning given to it and for the purposes of the Building Code of Australia.
- Frontage:** shall have the same meaning as is given to it in and for the purposes of the Residential Design Codes
- Fuel Depot:** means land and buildings used for the storage and sale in bulk of solid or liquid gaseous fuel, but does not include a service station.
- Funeral Parlour:** means land and buildings occupied by an undertaker where bodies are stored and prepared for burial or cremation.
- Garden Centre:** means land and buildings used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of pre-fabricated garden buildings.
- Gazettal Date:** means the date of which this Scheme is published in the Government Gazette.
- Gross Leasable Area:** means in relation to a building, the area of all floors capable of being occupied by a tenant for his exclusive use, which area is measured from the centre lines of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas.
- Harbour Installations:** means land and buildings used for and incidental to the purposes of loading, unloading and maintaining ships.
- Health Centre:** means a maternal or X-ray centre, a district clinic, a masseur's establishment, or a medical clinic.
- Health Studio:** means land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation.
- Hire Service:** means land and buildings used for the storage and hire of machinery and other bulky equipment.
- Holiday Accommodation and Tourist Uses:** means land and buildings constructed and used for the accommodation and recreation of holiday makers and organisations in accordance with the provisions of the Caravan and Camping Act 1995 and the Caravan and Camping Grounds Regulations 1997, the Shire of Derby west Kimberley health Local Laws 1998, and may include, with the approval of the Local government, uses incidental to the normal functioning of a holiday accommodation facility such as a restaurant, cafe, recreational facility or



similar use.

**Home Occupation:** means a business or activity carried on with the written permission of the Local government within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that:

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection due to the emission of light, noise, vibration, electrical interferences, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, liquid wastes or waste products or the unsightly appearance of the dwelling house or domestic outbuilding or the land on which the business is conducted;
- (b) does not entail employment of any person not a member of the occupier's family;
- (c) does not occupy an area greater than forty square metres;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located;
- (e) does not display a sign exceeding 0.2 m<sup>2</sup> in area;
- (f) in the opinion of the Local government it is compatible with the principal uses to which land in the zone in which it is located may be put and will not in the opinion of the Local government generate a volume of traffic that would prejudice the amenity of the area;
- (g) does not entail the presence, use or calling of a vehicle of more than two tonnes tare weight;
- (h) does not entail the presence of more than one commercial vehicle; and
- (i) does not entail the offering for sale or display of motor vehicles machinery or goods (other than goods manufactured or serviced on the premises).

**Hospital:** means a building in which persons are received and lodged for medical treatment or care and includes maternity hospital.

**Hospital Special Purposes:**

means a building used or designed for use wholly or principally for the purpose of a hospital or sanatorium for the treatment of infectious or contagious diseases, or hospital for the treatment of the mentally ill or similar use.

**Hotel:** means any land or buildings providing accommodation for the public the subject of a Hotel Licence granted under the provisions of the Liquor Licensing Act 1988 and may include a betting agency operated in accordance with the *Racing and Wagering Western Australia Act 2003*, but does not include a motel, tavern or boarding house the subject of a limited hotel licence or other licence granted under that Act.

**Industry:** means the carrying out of any process in the course of trade or business for gain, for and incidental to one or more of the following:

- (a) the winning, processing or treatment of minerals;
- (b) the making, altering, repairing, or ornamentation, painting, finishing,

cleaning, packing or canning or adapting, or the breaking up or demolition of any article or part of an article;

- (c) the generation of electricity or the production of gas;
- (d) the manufacture of edible goods;

and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of goods, and the use of land for the amenity of persons engaged in the process;

but does not include:

- (i) the carrying out of agriculture,
- (ii) site work on buildings, work or land;
- (iii) in the case of edible goods the preparation of food for sale from the premises.

**Industry - Cottage:** means an industry which produces arts and crafts goods which cannot be carried out under the provisions relating to a "home occupation" and that:

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection, due to the emission of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid wastes or waste products;
- (b) where operated in a Residential Zone, does not entail the employment of any person not a member of the occupier's family normally resident on the land;
- (c) is conducted in an out-building which is compatible to the zone and its amenity and does not occupy an area in excess of 55m<sup>2</sup>;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located, and;
- (e) does not display a sign exceeding 0. 2m<sup>2</sup> in area.

**Industry Extractive:** means an industry which involves:

- (a) the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals, or similar substance from the land, and also the storage, treatment or manufacture of products from those materials is extracted or on land adjacent thereto; or
- (b) the production of salt by the evaporation of sea water.

**Industry General:** means an industry other than a cottage, extractive, hazardous, light, noxious, rural or service industry.

**Industry Hazardous:** means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries.

- Industry Light:** means an industry:
- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
  - (b) the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.
- Industry Noxious:** means an industry which is subject to licencing as 'Prescribed Premises' under the Environmental Protection Act 1986 (as amended).
- Industry Rural:** 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.
- Industry Service:** means a light industry carried out on land or in buildings which may have a retail shop front and from which goods manufactured on the premises may be sold; or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced.
- Kindergarten:** means land and buildings used as a school for the education of young children by object-lessons, toys, games, singing and similar methods.
- Kit Home:** means a dwelling that is partly or wholly pre-fabricated at any place other than on the lot upon which it is to be erected and which by virtue of architectural design and external appearance is compatible with the standards and design of non-prefabricated residential dwellings.
- Land:** shall have the same meaning given to it in and for the purposes of, the Act.
- Laundromat:** means a building, open to the public, in which coin-operated or other washing machines, with or without provision for drying clothes, are available for use.
- Liquor Store:** means a building the subject of a Store Licence granted under the provisions of the Liquor Licensing Act, 1988 (as amended).
- Lot:** for single houses, a lot as defined under the *Planning and Development Act 2005*, as amended. For multiple or grouped dwellings, the parent lot.
- Marine Collector's Yard:** means land and buildings used for the storage of marine stores under the provisions of the Marine and Harbours Act 1981 and land Marine Dealer's Yard and Marine Store have the same meaning.
- Marine Filling Station:** means land and buildings used for the storage and supply of liquid fuels and lubricants for marine craft, but in which no industry is carried on; but does not include a service station.
- Market:** means land and buildings used for a fair, a farmers' or producers' market, or a swap-meet in which the business or selling carried on or the entertainment provided is by independent operators or stall holders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rental.

- Medical Centre:** means a building (other than a hospital) that contains or is designed to contain facilities not only for the practitioner or practitioners mentioned under the interpretations of consulting rooms but also for ancillary services such as chemists, pathologists and radiologists.
- Milk Depot:** means land and buildings to which milk is delivered for distribution to consumers but in which milk is not processed or pasteurised.
- Mobile Home:** means any vehicle or similar relocatable structure having been manufactured with wheels (whether or not such wheels have been removed) and having no footings other than wheels, jacks or skirtings, and so designed or constructed as to permit independent occupancy for continuous dwelling purposes incorporating its own facilities including bathroom and toilet facilities.
- Mobile Home Park:** means land upon which two or more mobile homes, occupied for dwelling purposes, are located regardless of whether or not a charge is made for such accommodation.
- Motel:** means land and buildings used or intended to be used to accommodate patrons in a manner similar to a Hotel or Boarding House but in which special provision is made for the accommodation of patrons with motor vehicles and to which a licence under the Liquor Licensing Act 1988 has been granted.
- Motor Vehicle and Marine Sales Premises:** means land and buildings used for the display and sale of new or second hand motorcycles, cars, trucks, caravans and boats or any one or more of them and may include, the servicing of motor vehicles sold from the site.
- Motor Vehicle Hire Station:** means land and buildings used for the hiring out of motor vehicles and when conducted on the same site, the storage and cleaning of motor vehicles for hire but does not include mechanical repair or servicing of such vehicles.
- Motor Vehicle Repair Station:** means land and buildings used for the mechanical repair and overhaul of motor vehicles including tyre recapping, retreading, panel beating, spray painting and chassis reshaping.
- Motor Vehicle Wash Station:** means land and buildings where vehicles are washed and cleaned by or primarily by mechanical means.
- Motor Vehicle Wrecking Premises:** means land and buildings used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts.
- Multiple Occupancy:** means the use and occupation of a rural holding at a residential density higher than normally associated with traditional rural living and which may be characterised by the following:
- (a) an approved agreement for management of and responsibility for the whole or parts of the holding;
  - (b) more than one separate dwelling unit for use by families or unrelated groups of persons;
  - (c) a defined area for separate occupation for residential and ancillary uses.
- Museum:** means land and buildings used for storing and exhibiting objects illustrative of antiquities, natural history, art, nature and curiosities.

- Non-conforming Use:** means a use of land which, though lawful immediately prior to the coming into operation of this Scheme, is not in conformity with the Scheme.
- Nursery:** means land and buildings used for the propagation, rearing and sale of products associated with horticultural and garden decor.
- Office:** means a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services, and services of a similar nature.
- Outbuilding:** refers to a non-habitable building located in association with, but not necessarily connected to, a dwelling, and used for purposes ancillary to the residential use of the property.
- Parent lot** relating to multiple or grouped dwellings, the lot inclusive of common areas to which the strata scheme as defined under the *Strata Titles Act 1985*, as amended, relates
- Park Home:** means a movable dwelling, not being a vehicle as defined under the Road Traffic Act 1974 but constructed and maintained on its own chassis and wheels and capable of mobility at all times although stabilised by jacks and provided with skirtings and so designed and constructed as to permit independent occupancy for dwelling purposes.
- Park Home Park:** means an area of land set aside exclusively for the parking of park homes occupied for residential purposes whether for short or long stay purposes, but includes the provision of buildings and uses incidental to the predominant use of the land , including ablution blocks, recreation areas office and storage space and, as approved by Local government, a shop or kiosk and refuelling facilities, but the term shall be interpreted to exclude the parking of caravans, camper trailers and the erection of tents.
- Petrol Filling Station:** means land and buildings used for the supply of petroleum products and motor vehicle accessories.
- Piggery:** shall have the same meaning given to it in and for the purposes of the Health Act, 1911 (as amended).
- Plot Ratio:** except for a single house, attached house, grouped dwelling or multiple dwelling where it shall have the same meaning given to it in the Residential Design Codes, plot ratio means the ratio of the gross total of the areas of all floors to the area of land within the site boundaries, and in calculating the gross total of the areas of all floors the areas shall be measured over any walls provided that lift shafts, stairs, toilets and amenities, external wall thicknesses, plant rooms and the gross floor area of any floor space used for the parking of wheeled vehicles including access to and from that space within the building shall not be included.
- Potable Water:** means water in which levels of physical, chemical and bacteriological constituents do not exceed the maximum permissible levels set out in 'International Standards for Drinking Water - Third Edition, World Health Organisation - 1971'.
- Poultry Farm:** means land and buildings used for hatching, rearing or keeping of poultry for either egg or meat production which does not constitute an offensive trade within the meaning of the Health Act, 1911-1979 (as amended).
- Prison:** shall have the same meaning given to it in and for the purposes of the Prisons Act, 1981 (as amended).

- Private Hotel:** means land and buildings used for residential purposes the subject of a Limited Hotel Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended).
- Private Recreation:** means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not normally open to the public without charge.
- Produce Store:** means land and buildings wherein fertilisers and grain are displayed and offered for sale.
- Professional Office:** means a building used for the purposes of his profession by an accountant, architect, artist, author, barrister, chiroprapist, consular official, dentist, doctor, engineer, masseur, nurse, physiotherapist, quantity surveyor, solicitor, surveyor, teacher (other than a dancing teacher or a music teacher), town planner, or valuer, or a person having an occupation of a similar nature, and Professional Person has a corresponding interpretation.
- Public Amusement:** means land and buildings used for the amusement or entertainment of the public, with or without charge.
- Public Authority:** shall have the same meaning given to it in and for the purposes of the Act.
- Public Mall:** means any public street or right-of-way designed especially for pedestrians who shall have the right of way and vehicle access shall be restricted to service vehicles at times specified by the Local government.
- Public Recreation:** means land used for a public park, public gardens, foreshore reserve, playground or other grounds for recreation which are normally open to the public without charge.
- Public Utility:** means any work or undertaking constructed or maintained by a public authority or the Local government as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services.
- Public Worship - Place Of:** means land and buildings used for the religious activities of a church but does not include an institution for primary, secondary, or higher education or a residential training institution.
- Radio and T.V. Installation:** means land and buildings used for the transmission, relay and reception of signals and pictures, both commercial and domestic, but does not include domestic radio and television receivers.
- Reception Centre:** means land and buildings used by parties for functions on formal or ceremonious occasions, but not for unhosted use for general entertainment purposes.
- Reformatory:** means land and buildings used for the confinement or detention in custody of juvenile offenders against the law with a view to their reformation.
- Refuge/Safe House:** means a building or buildings which is used for the purpose of providing emergency accommodation for persons affected by domestic violence.
- Rehabilitation Centre:** means a building used or designed for use wholly or principally for the purpose of rehabilitation and includes a sobering up shelter.
- Repurposed Dwelling:** a building or structure not previously used as a single house, which has been repurposed for use as a dwelling.

**Residential Building:** means a building or portion of a building, together with rooms and outbuildings separate from such building but ancillary thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

- (a) temporarily by two or more persons, or
- (b) permanently by seven or more persons,

who do not comprise a single family; but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school.

**Restaurant:** means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant, and a restaurant at which food for consumption outside the building is sold where the sale of food for consumption outside the building is not the principal part of the business.

**Restoration:** means any work or process on at or in respect of a building structure or place which wholly or partly brings back the building structure or place to its original condition or which reinstates its historic or natural character either by rebuilding or repairing its fabric or by removing accretions or additions.

**Restricted Premises:** means any premises, part or parts thereof, used or designed to be used primarily for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of:

- (a) publications that are restricted under the Classification (Publications, Films and Computer Games) Act 1995 (Commonwealth); or
- (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
- (c) smoking-related implements.

**Rural Pursuit:** means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:

- (a) the growing of vegetables, fruit, cereals or food crops;
- (b) the rearing or agistment of goats, sheep, cattle or beasts of burden;
- (c) the stabling, agistment or training of horses;
- (d) the growing of trees, plants, shrubs, or flowers for replanting in domestic, commercial or industrial gardens;
- (e) the sale of produce grown solely on the lot;
- (f) aquaculture,

but does not include the following except as approved by the Local government:

- i) poultry farming;
- ii) the processing, treatment or packing of produce;
- iii) the breeding, rearing or boarding of domestic pets.

**Salvage Yard:** means land and buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.

**Sawmill:** means land and buildings where logs or large pieces of timber are sawn but does not include a joinery works unless logs or large pieces of timber are sawn therein.

**Schedule:** means a schedule to the Scheme.

- Second-hand Building:** means any building or structure which does not consist of substantially all new material and may be transported or moved to a site for the purpose of re-erection.
- Second-hand dwelling:** 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 or transportable dwelling.
- Service Station:** means land and buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use, but does not include transport depot, panel beating, spray painting, major repairs or wrecking.
- Shared Dwelling:** means a building used primarily for living purposes by not more than five persons residing therein as a single household; the term also includes such outbuildings and recreational uses and gardens as are ordinarily used therewith, but does not include a private hotel, motel or boarding house.
- Shop:** means a building wherein goods are kept, exposed or offered for sale by retail, but does not include a bank, fuel depot, market, service station, milk depot, marine collector's yard, timber yard or land and buildings used for the sale of vehicles or for any purpose falling within the definition of industry.
- Short Stay Accommodation:** means any land or buildings used for the overnight or holiday accommodation of patrons in self-contained units and/or shared accommodation and may include ancillary facilities. It includes dormitory style accommodation, hostel/backpackers, tourist lodgings and guest houses, but excludes single suite bed and breakfast facilities.
- Showroom:** means a building wherein goods are displayed and may be offered for sale by wholesale and/or by retail of: foodstuffs, liquor or beverages; items of clothing or apparel, magazines, books or paper products; medical or pharmaceutical products; china, glassware or domestic hardware; and items of personal adornment.
- Single House:** shall have the same meaning as is given to it in and for the purposes of the Residential Design Codes .
- Sports Ground:** means any land used for any sport, but does not include land within the curtilage of a dwelling, if not used commercially.
- Stables:** means land and building used for the housing and keeping of horses.
- Staff Quarters:** means a building or buildings used or designed for use wholly or principally for the exclusive accommodation of staff employed by an organisation or business existing on or carried on the same site and may include incidental facilities such as swimming pools, sporting facilities and recreational facilities for the exclusive use of staff only.
- Stockyards:** means any land, building or other structure used for holding and/or sale of animal stock.
- Storey:** means for other than residential development, that portion of a building which is situated between the top of the floor next above it: and if there is no floor above it, that portion between the top of the floor and the ceiling above it.
- Tavern:** means land and buildings the subject of a Tavern Licence granted under the provisions of the Liquor Licensing Act, 1988..



- Temporary Accommodation:** means any habitable building not permanently affixed to the ground and includes any caravan, transportable dwelling, or any structure used for habitation for the purposes of accommodation for a period not exceeding six months.
- Trade Display:** means land and buildings used for the display of trade goods and equipment for the purposes of advertisement.
- Transport Depot:** means land and buildings used for the garaging of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one such motor vehicle to another of such motor vehicles and includes maintenance, management and repair of the vehicles used, but not of other vehicles.
- Transportable Building:** means any structure that is prefabricated at any place other than on the site upon which it is to be erected but does not include a "Kit Home".
- Veterinary Consulting Rooms:** means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight.
- Veterinary Hospital:** means a building used in connection with the treatment of sick animals and includes the accommodation of sick animals.
- Video Sales and /or Hire:** means premises used for the sale or hire of video equipment or tapes used in video recorders.
- Warehouse:** means a building wherein goods are stored and may be offered for sale by wholesale.
- Waterway:** means an artificial channel, lake, harbour or embayment, for the navigational, irrigational, ornamental, and recreation purposes, or for any of those purposes; and includes any addition to or alteration of a waterway as so defined.
- Wayside Stall:** means a building which offers for sale to the general public produce or any commodity which is produced on the land upon which the buildings are located or immediately adjoining.
- Wholesale:** means the sale of any goods to any person or persons other than the ultimate consumer of those goods by a person or his trustee, registered as a 'wholesale merchant' for Sales Tax purposes under the provisions of the Sales Tax Assessment Act No. 1 1930, (as amended).
- Wine House:** means land and buildings the subject of a Wine House Licence granted under the provisions of the Liquor Licensing Act 1988.
- Zoological Gardens:** means land and buildings used for the keeping, breeding or display of fauna and the term includes Zoo but does not include kennels or keeping, breeding or showing of domestic pets.

## APPENDIX 2 - ADDITIONAL USES SCHEDULE

Shire of Derby/West Kimberley

Town Planning Scheme No. 5

### SCHEDULE OF ADDITIONAL USES (CLAUSE 3.4)

	LOT NO.	STREET	CURRENT USES	PERMITTED ADDITIONAL USES	DATE
A1	Lot 1	Derby Highway	Special Rural and Tearooms	Tearooms and Nursery	As at Gazettal of this Scheme
A2	Lot 170	Windjana Road	Rural Residential Dog Kennels	Dog Kennels (Boarding/Breeding)	As at Gazettal of this Scheme
A3	Pt of Derby Lot 24	Fitzroy Street	Rural Residential	Bus Depot	AMD 1 GG 12/3/04
A4	399 AMD 15 GG 08/02/11	Clarendon	Residential	Nursery	AMD2

## APPENDIX 3 - SPECIAL SITES SCHEDULE

Shire of Derby/West Kimberley

Town Planning Scheme No. 5

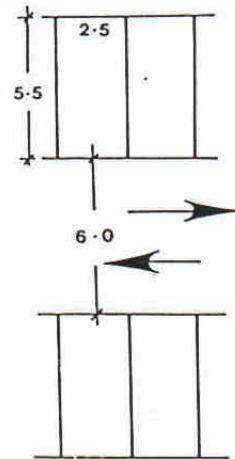
### SPECIAL SITE SCHEDULE (CLAUSE 3.5)

MAP REF	LOT NO.	LOCATION	PURPOSE	DEVELOPMENT PROVISIONS
S1	Lot 9 & 10	Derby Highway	Short stay Accommodation	Development is subject to connection to town sewer system or other approved system and reticulated water supply.
S2	50, 51 & 1218	Sutherland & Stanley Streets	Short stay Accommodation and Offices	Expansion of existing uses subject to capacity of on-site effluent disposal.
S3	84	Loch Street	Service Station Motor Repair Station Convenience Store	As determined by Local government.
S4	520	Loch Street	Motel/Accommodation	As per approval.
S5	Reserve 39791	Rowan Street	Aged Persons Dwellings	As determined by Local government.
S6	Lot 1500	Rowan Street <i>AMD 17 GG 6/7/12</i>	Caravan and Camping Park	As determined by Local government and Caravan Park and Camping Ground Regulations 1997 (as amended).
S7	527	Lovegrove Street	Short stay Accommodation Rural Residential	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.
S8	538 & 1210	Maxted Street	Tourism Accommodation Uses and Rural Residential	Development of the site may include: Caravan Park; Convenience Store; Museum; Art Gallery Gift Shop, Caretakers dwelling; Backpackers Hostel; Café and Rural Residential subdivision. Tourist accommodation development is subject to connection to the town sewer system or alternative as approved by the Health Department of WA. Any development application is required to be advertised for public comment.
S9	1198	Loch Street	Accommodation Resort	As determined by Local government.

# APPENDIX 4 - CAR PARKING STANDARDS

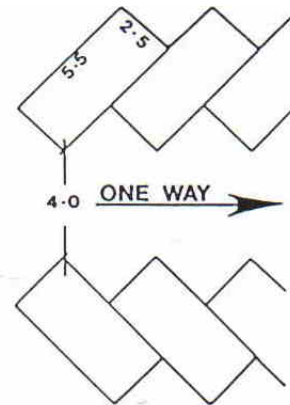
Shire of Derby/West Kimberley

Town Planning Scheme No. 5

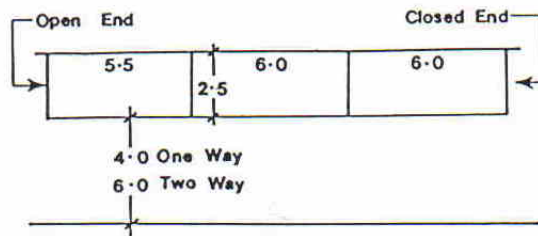


**90° Parking**

90° & 45° Parking - 5.5m x 2.5m



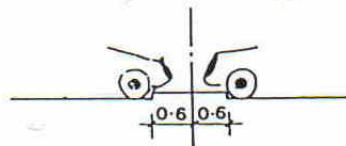
**45° Parking**



**Parallel Parking**

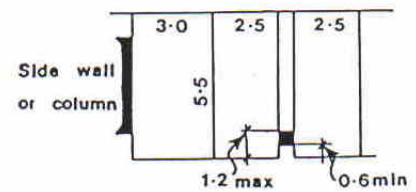
Parallel Parking - 6.0m x 2.5m

OF: - 5.5m x 2.5m where Open Ended

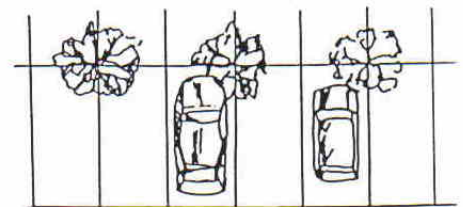


**Wheel Stop Modifications**

Not to affect drainage



**Obstructions**



**Shade Tree Landscaping**

Kerb ring not to exceed 900mm diam

## APPENDIX 5 - EXEMPTED ADVERTISEMENTS

Shire of Derby/West Kimberley

Town Planning Scheme No. 5

### EXEMPTED ADVERTISEMENTS PURSUANT TO Clause 61 of the deemed provisions

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER REQUIRING ADVERTISEMENT (Includes the change of posters on poster signs and applies to 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 Places 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>
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.	Not Applicable
Industrial and Warehouse Such 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 advertisements shall not exceed 15m <sup>2</sup> .  Maximum permissible total area shall not exceed 10m <sup>2</sup> & individual advertisement signs shall not exceed 6m <sup>2</sup> .
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes.	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.	N/A
Public Places and Reserves	(a) Advertisement signs (illuminated and 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 and 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 and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made 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  N/A  N/A

<b>TEMPORARY SIGNS</b>	<b>EXEMPTED SIGN TYPE AND NUMBER</b> (All non-illuminated unless otherwise stated)	<b>MAXIMUM AREA OF EXEMPTED SIGN</b>
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>
<p>Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows):</p> <p>(i) Dwellings</p> <p>(ii) Multiple Dwellings, Shops, Commercial &amp; Industrial projects.</p> <p>(iii) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.</p>	<p>One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.</p> <p>One sign as for (i) above.</p> <p>One sign as for (i) above.</p> <p>One additional sign showing the name of the project builder.</p>	<p>2m<sup>2</sup></p> <p>5m<sup>2</sup></p> <p>10m<sup>2</sup></p> <p>5m<sup>2</sup></p>
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>
<p>Property Transactions.</p> <p>Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, Commercial &amp; Industrial Properties.</p> <p>(c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha.</p>	<p>One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above.</p>	<p>Each sign shall not exceed an area of 2m<sup>2</sup>.</p> <p>Each sign shall not exceed an area of 5m<sup>2</sup>.</p> <p>Each sign shall not exceed an area of 10m<sup>2</sup>.</p>
<p>Display Homes.</p> <p>Advertisement signs displayed for the period over which homes are on display for public inspection.</p>	<p>(i) One sign for each dwelling on display.</p> <p>(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.</p>	<p>2m<sup>2</sup></p> <p>5m<sup>2</sup></p>

## APPENDIX 6 - SCHEDULE OF APPROVED LAYOUT PLANS

Shire of Derby/West Kimberley

Town Planning Scheme No. 5

### SCHEDULE OF APPROVED LAYOUT PLANS

COMMUNITY	PROPERTY DETAILS	APPROVED DATE
Karmulinunga	Reserve 5952 : Family Area 1	29/10/97
	Reserve 13980 : Family Area 2	29/10/97
	Reserve 30725 : Djimung Gnuda	29/10/97
	: Budulah	29/10/97

## **ADOPTION**

Adopted by Resolution of the Council of the Shire of Derby West Kimberley at the Ordinary meeting of the Council held on the 30th day of April 1997.

**PRESIDENT** .....

**CHIEF EXECUTIVE OFFICER** .....

## **FINAL APPROVAL**

Adopted for final approval by resolution of the Council of the **Shire of Derby West/Kimberley** at the Ordinary meeting of the Council held on the 15th day of December 1999 and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of:

**PRESIDENT** .....

**CHIEF EXECUTIVE OFFICER** .....

This Scheme Text is to be read in conjunction with the approved maps of the Scheme described in Clause 1.4 of this Scheme and to which formal approval was given by the Hon. Minister for Planning on the date shown below.

Recommended/submitted for final approval by the Western Australian Planning Commission

for CHAIRPERSON OF THE WEST AUSTRALIAN PLANNING COMMISSION

.....

Date: .....

Final approval granted.

MINISTER FOR PLANNING & INFRASTRUCTURE.....

Date: .....