

ORDER IN COUNCIL

At the Executive Buildings, Brisbane, the twenty-fourth day of November, 1960

Present:

His Excellency the Governor in Council

WHEREAS by "The City of Mackay and Other Town Planning Schemes Approval Act of 1934," as amended by "The City of Mackay and Other Town Planning Schemes Approval Act Amendment Act of 1948," and collectively cited as "The City of Mackay and Other Town Planning Schemes Approval Acts, 1934 to 1948," it is amongst other things enacted that—

- (1) The town planning scheme defined and delineated in Schedules I. and II. of the aforesaid first-mentioned Act shall be the City of Mackay Town Planning Scheme, and on the approval by the Governor in Council of the said scheme, including any amendments, alterations, additions, or modifications, pursuant to the notice published by the Council of the City of Mackay in the *Daily Mercury* on the seventh day of July, 1934, such scheme shall be duly authorised, approved, and ratified, and made as if made pursuant to Part III. of the said Act; and
- (2) Notification of such approval as aforesaid by the Governor in Council shall be published in the *Gazette*, and on such publication such town planning scheme shall be approved, authorised, and ratified, and shall have the force of law and be obeyed by the said Council and all persons concerned, and its legality shall not be questioned in any proceedings in any Court whatsoever;

And whereas by Order in Council made pursuant to the provisions of the aforesaid firstmentioned Act on the seventh day of August, 1941, and published in the *Gazette* of 9th August, 1941, approval was given to the said recited City of Mackay Town Planning Scheme:

And whereas by the said Act it is further enacted that—

- (1) The approved scheme may, at any time with the approval of the Governor in Council be amended, altered, added to, or modified, and any such amendment, alteration, addition, or modification of the approved scheme shall also be notified in the *Gazette*, and the provisions of section four of the said Acts shall, *mutatis mutandis*, apply and extend accordingly; and
- (2) The said Council is thereby empowered and authorised to execute and enforce the approved scheme (including any amendments, alterations, additions, or modifications thereof authorised, approved, and ratified), and for such purposes and for the purpose of amending, altering, adding to, or modifying the approved scheme, shall have all the powers, rights, privileges, and authorities and be subject to the liabilities, duties, obligations, and responsibilities of the Local Authority under Part III. of the said Acts (or any amendment of the said Acts) and of "The Local Authorities Acts, 1902 to 1932" (or any amendment of the said Acts):

And whereas by "The Local Government Act of 1936" the Acts collectively cited as "The Local Authorities Acts, 1902 to 1932," were repealed to the extent set forth in the First Schedule of the said Act and so much of "The City of Mackay and Other Town Planning Schemes Approval Act of 1934" as related to town planning schemes by Local Authorities (being Part III. of the said Act) was repealed and it was enacted that nothing therein contained should be construed to repeal or otherwise prejudicially affect the provisions of "The City of Mackay and Other Town Planning Schemes Approval Act of 1934" so far as related to the City of Mackay: And whereas by "The Local Government Acts, 1936 to 1959," it is further enacted that—

- (1) A town planning scheme may be made by a Local Authority for any defined part or all of the land within the Area under its jurisdiction;
- (2) When a Local Authority has decided to prepare a town planning scheme, it shall pass a resolution to that effect defining the area it is proposed to include within the scheme and that a copy of this resolution shall be forwarded together with a plan showing the area defined in the resolution to the Minister;
- (3) When the Minister has approved of such resolution his approval shall be published in the *Gazette* and the Local Authority may then proceed with the preparation of the scheme;

- (4) When a town planning scheme has been prepared by a Local Authority and before it has been forwarded to the Minister for the approval of the Governor in Council, the scheme and all plans connected therewith shall be open for inspection at the office of the Local Authority for three months and the Local Authority shall by advertisement in the *Gazette* and in some newspaper give due notice that the scheme is open to inspection;
- (5) During the time that a scheme is open to inspection any person affected by the scheme may forward objections to the scheme or to any part thereof in writing to the Local Authority together with reasons for such objections;
- (6) After the period of inspection all objections so lodged shall be considered by the Local Authority, and the Local Authority shall then forward to the Minister the scheme together with the objections received, its representations thereon, and a statement regarding the action it proposes to take in the case of each objection;
- (7) The Governor in Council may require such amendments, alterations, additions to, or modifications of the scheme as he may deem fit;
- (8) A town planning scheme shall not have effect until it has been finally approved by the Governor in Council by Order in Council and notification thereof published in the *Gazette*; and
- (9) A town planning scheme may be altered, amplified, or revoked by a subsequent scheme made by the Local Authority and approved by the Governor in Council in the same manner as the original scheme:

And whereas by Order in Council made in pursuance of the provisions of "The Local Government Acts, 1936 to 1951," and "The City of Mackay and Other Town Planning Schemes Approval Acts, 1934 to 1948," on the 24th April, 1952, and published in the *Gazette* on the 28th April, 1952, approval was given to an amending town planning scheme for the City of Mackay as set forth and defined in the said Order in Council:

And whereas by Order in Council made in pursuance of the provisions of "The Local Government Acts, 1936 to 1953," and "The City of Mackay and Other Town Planning Schemes Approval Acts, 1934 to 1948," on the 28th October, 1954, and published in the *Gazette* on the 30th October, 1954, approval was given to a further amending town planning scheme for the City of Mackay as set forth and defined in the said Order in Council:

And whereas the Council of the City of Mackay (hereinafter referred to as "the Council"), passed the following resolution at a meeting of the Council held on the 7th April, 1959:—

"The Council resolves—

- (1) To prepare a town planning scheme amending the town planning scheme for the City of Mackay approved by the Governor in Council on the twenty-eighth day of October, 1954;
- (2) That the area proposed to be included within the said scheme shall be all the land within the Area of the City of Mackay":

And whereas the Council, in pursuance of the provisions of "The Local Government Acts, 1936 to 1958," forwarded a copy of the said resolution together with a plan showing the area defined in the resolution to the Minister: And whereas the Minister, on the 27th April, 1959, approved of the said resolution and notification of such approval was published in the *Gazette* on the 2nd May, 1959:

And whereas the Council has now prepared a town planning scheme for the whole of the Area of the City of Mackay in revocation of the town planning schemes finally approved by the Governor in Council by Orders in Council made on the 7th August, 1941, the 24th April, 1952, and the 28th October, 1954, and published in the *Gazette* on the 9th August, 1941, the 28th April, 1952, and the 30th October, 1954, respectively:

And whereas such town planning scheme and all plans connected therewith were open for inspection at the office of the Council for a period of three months, the Council, by advertisements published in the *Gazette* and in the *Mackay Daily Mercury* on the 31st October, 1959, and the 30th October, 1959, respectively giving due notice that the said town planning scheme was so open for inspection:

And whereas during the time the said town planning scheme was so open for inspection certain persons affected thereby forwarded objections thereto or to part thereof in writing to the Council, together with the reasons for such objections:

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And whereas after the period of inspection all objections so lodged were considered by the Council and the Council forwarded to the Minister the said town planning scheme together with the objections received, its representations thereon, and a statement regarding the action it proposed to take in the case of each objection:

And whereas the Governor in Council requires certain alterations to the said town planning scheme:

Now, therefore, His Excellency the Governor, acting by and with the advice of the Executive Council, and in pursuance of the provisions of the said Acts, doth hereby require, declare, and direct—

- (a) That the aforesaid Orders in Council made on the 7th August, 1941, the 24th April, 1952, and the 28th October, 1954, and published in the *Gazette* on the 9th August, 1941, the 28th April, 1952, and the 30th October, 1954, respectively, shall be and are hereby rescinded and the town planning schemes finally approved thereby shall be and are hereby revoked;
- (b) That the town planning scheme prepared by the Council for the whole of the Area of the City of Mackay in consequence of the resolution passed by the Council at a meeting of the Council held on the 7th April, 1959, and the Minister's approval of the said resolution and as amended, altered, added to and modified by the Governor in Council shall be and is hereby finally approved;
- (c) That the said town planning scheme so finally approved shall be the town planning scheme defined and delineated in the Schedules hereto; and
- (d) That the "Plan" referred to in Schedule I. hereto shall be the plan consisting of 5 sheets signed for identification by Archibald Fletcher, the Acting Clerk of the Executive Council, and filed on record in the Department of Local Government and registered in the records of such Department by number "60/238 Town Planning" and that a copy of such plan similarly signed for identification shall be open for inspection at the public office of the Council of the City of Mackay.

And the Honourable the Minister for Public Works and Local Government is to give the necessary directions herein accordingly.

Acting Clerk of the Council.

THE CITY OF MACKAY TOWN PLANNING SCHEME SCHEDULE I

1. The City of Mackay is hereby divided into five zones as are more particularly set forth in the Table of Zones herein and delineated on the plan.

2. (a) Those parts of the City of Mackay defined under Zone 1 shown coloured green on the plan as Residential Zones are hereby declared to be Residential Zones;

(b) Those parts of the City of Mackay defined under Zone 2 shown coloured red on the plan as Business Zones are hereby declared to be Business Zones;

(c) Those parts of the City of Mackay defined under Zone 3 shown coloured blue on the plan as Light Industry Zones are hereby declared to be Light Industry Zones;

(d) Those parts of the City of Mackay defined under Zone 4 shown coloured brown on the plan as Medium Industry Zones are hereby declared to be Medium Industry Zones;

(e) Those parts of the City of Mackay defined under Zone 5 shown coloured yellow on the plan as Reserved Uses Zones are hereby declared to be Reserved Uses Zones;

(f) Those parts of the City of Mackay as shown in the respective zones included between black lines and/or broken black lines and identified by parallel broken black lines are hereby declared to be proposals for the situation and planning of roads within the meaning of subsection (11) of section 34 of "The Local Government Acts, 1936 to 1959."

3. (a) The use or uses that may be made of land under this scheme without the special permission of the Council in the various zones hereinbefore defined shall be in respect of each such zone, the use or uses or any or either of them included in the categories of uses set forth in the second column of the Table of Zones opposite the name of each respective zone under the heading "Use that may be made without the special permission of the Council."

(b) The use or the uses that may be made of land under this scheme only with the special permission of and upon the conditions (if any) imposed by the Council in the various zones hereinbefore defined shall be in respect of each such zone the use or the uses or any or either of them included in the categories of uses set forth in the third column of the said Table of Zones opposite the name of each

respective zone under the heading "Use that may be made with the special permission of and upon conditions imposed by the Council."

(c) No land in a particular zone shall be used for any of the uses set forth in the fourth column of the said Table of Zones opposite the name of that zone under the heading "Use that may not be made."

4. (a) Where, pursuant to the provisions of clause 2 (f) hereof, certain parts of the City of Mackay are declared to be proposals for the situation and planning of roads, within the meaning of subsection (11) of section 34 of "The Local Government Acts, 1936 to 1959," any application made to the Council for approval of the opening of a road shall, unless the Council otherwise determines, be in strict conformity with the proposals so declared in respect of the locality in which such road is to be opened.

(b) The provisions of subsection (15) of section 34 of "The Local Government Acts, 1936 to 1959," shall apply and extend to decisions of the Council pursuant to subclause (a) of this clause.

5. (a) Where in accordance with the Table of Zones any land may be used for any use without the special permission of the Council, any building, structure or erection thereon, or any building, structure or erection that may be erected thereon, may be occupied or used for such use.

(b) Where in accordance with the Table of Zones any land may be used for any use with the special permission of the Council, any building, structure or erection thereon, or any building, structure or erection that may be erected thereon may be occupied or used for such use provided the special permission of the Council is obtained for such use in accordance with the provisions hereinafter contained and provided further such building, structure or erection conforms to any conditions imposed by the Council relating to such use.

(c) Where in accordance with the Table of Zones the use of any land for any use is prohibited or for which the special permission of the Council has not been given no building or structure or erection thereon may be used or occupied for such use nor may any building or structure be erected thereon for such use.

6. (a) Any application to the Council to make use of any land for any use pursuant to clause 3 (b) hereof shall be in writing signed by the applicant or applicants or in the case of a firm by one of the partners thereof or in the case of a company executed under its common seal or in the case of an unincorporated association signed by an authorised officer thereof addressed to the Council and shall truly set forth the following particulars:—

1. The full description of the land.
2. The name of the registered proprietor in the case of freehold land or the name of the registered lessee in the case of Crown land.
3. The name of the occupier.
4. The use desired to be made of the land.
5. A description of the buildings erected and those to be erected upon the land.
6. The use being made of the land at the date of the application.
7. Where the application is made by any person, firm or company, who or which is not the registered proprietor or registered lessee from the Crown of such land, the consent of such registered proprietor or registered lessee from the Crown must accompany such application.

(b) Upon an application being made to the Council, the Council may if in its discretion it thinks fit or shall in the case of an application to carry on any particular local business in any residential area or if requested so to do by the person or persons firm or company making the application give notice of the application by advertisement in manner hereinafter provided.

(c) Where the Council shall decide or where it shall be bound or where it shall be requested to advertise such application the following provisions shall apply:—

1. The costs thereof shall be paid by the applicant and shall be recoverable in any court of competent jurisdiction.
2. A notice in a form to be prepared by the town clerk containing particulars of the application and calling upon persons affected or likely to be affected thereby to lodge their objections within 14 days of the last publication of such notice shall be published by the direction of the town clerk as soon as may be in a daily newspaper circulating in the city and shall be published twice within an interval of not less than seven days nor more than ten days between such advertisements.
3. A notice in a form to be prepared by the town clerk containing particulars of the application and calling upon persons affected or likely to be affected thereby to lodge their objections with the Council within 14 days of the last publication of

the notice to be advertised in the last preceding subclause shall as soon as may be placed by the direction of the town clerk in a conspicuous position upon the land in respect of which the application is made. The minimum size of such notice shall be:—

Height	..	..	2 feet	(66.15.7.69)
Area	..	..	10 square feet	
Lettering	..	..	2 inches high.	

(d) The application shall be considered by the Council together with any objections which shall have been received and the Council shall decide to give or withhold its special permission or to give its special permission upon such conditions as it may think fit and shall within fourteen days of its decision serve a notice of such decision upon the applicant and upon any person firm or company who shall have lodged an objection.

(e) Any person who is dissatisfied with the requirements or the decision of the Council under this clause may appeal to the Minister in manner provided by subsection (7) of section 33 of "The Local Government Acts, 1936 to 1959."

7. Notwithstanding anything herein contained—

(a) Where any parcel of land is at the date when this scheme comes into operation being lawfully put to any use or where any parcel of land is at the same date not being used but which not earlier than one year from such date had been then upon the last day of such use lawfully put to any use in either case contrary to the requirements of the Table of Zones and of the provisions herein relating to the same then such use (hereinafter called "a non-conforming use") may in the first case be continued notwithstanding such requirements and may in the second case be recommenced within six months after this scheme comes into operation notwithstanding such requirements:

Provided that upon the destruction of or substantial damage to any building or structure or erection upon such parcel of land upon which such non-conforming use is carried on by any cause or upon the discontinuance for six months from any cause of such non-conforming use the right to continue such use shall cease unless the Council otherwise determines pursuant to subclauses (b) and (d) hereof.

(b) Where a building structure or erection to which the provisions of subclause (a) hereof apply is destroyed or substantially damaged by any cause the Council may approve the erection of a new building, structure or erection upon the same parcel of land or it may approve of the repair of such building, structure or erection provided always that such new building, structure or erection or the repaired building, structure or erection as the case may be shall be used only for the same non-conforming use as the destroyed or damaged building, structure or erection was being used at the time this scheme comes into operation unless the building, structure or erection to be erected or the repaired building, structure or erection and its intended use otherwise conform to the scheme.

(c) The Council may approve the execution of repairs alterations and additions to any building, structure or erection referred to in subclause (a) hereof or to any building, structure or erection used with the approval of the Council under subclauses (b) and (d) hereof upon the confines of the parcel of land upon which the building, structure or erection was situated at the time of the coming into operation of this scheme.

(d) Where a building, structure or erection referred to in subclause (a) hereof is not used for the non-conforming use as set out in subclause (a) hereof for a period of at least six months from any cause the Council may subsequently approve that such building structure or erection may again be used for the same non-conforming use as it was being used at the time it ceased to be used for such non-conforming use.

(e) Any application to the Council to erect a new building, structure or erection or to repair any damaged building, structure or erection or to execute any repairs alterations or additions to any building, structure or erection or to recommence the use of the parcel of land for a non-conforming use pursuant to subclauses (b), (c), and (d) hereof respectively shall be in writing signed by the applicant or applicants or in the case of a firm by one of the partners thereof or in the case of a company executed under its common seal or

in the case of an unincorporated association signed by an authorised officer thereof addressed to the Council and shall truly set forth the following particulars:—

1. The full description of the land;
2. The name of the registered proprietor in the case of freehold land or the name of the registered lessee in the case of Crown land;
3. The name of the occupier;
4. (i.) In the case of an application under subclause (b) of this clause the non-conforming use previously carried on in the destroyed or damaged building, structure, or erection and the nature of the destruction or damage and the cause;
- (ii.) In the case of an application under subclause (d) of this clause the non-conforming use previously carried on and the reason for its discontinuance;
5. In the case of applications under subclauses (b) and (c) of this clause the nature of the new building, structure, or erection or the repairs to the damaged portion or the repairs, alterations, or additions intended to be executed, as the case may be;
6. The reason or reasons why the non-conforming use is desired to be continued;
7. Where the application is made by any person, firm, or company who is not the registered proprietor of the land or the registered lessee thereof from the Crown the consent of such registered proprietor or registered lessee must accompany the application.
- (f) Upon an application being made to the Council under this clause the Council shall give notice thereof by advertisement and the provisions of clauses 6 (c), 6 (d), and 6 (e) hereof shall apply thereto;

Provided that the Council may in its discretion dispense with such advertisement in the case of an application under subclause (b) hereof for permission to repair any damaged building structure or erection.

8. (a) Subject to the provisions of subclause (b) of this clause, no person, firm or company engaged in or carrying on any non-conforming use shall change such use to any use in a category of uses other than the category of uses into which such non-conforming use is classified or be engaged in or carry on any additional use in a category of uses other than the same category of uses into which such non-conforming use is classified unless such new use shall comply with the Table of Zones and the provisions herein contained and unless such non-conforming use shall be abandoned.

(b) No person, firm, or company engaged in or carrying on any non-conforming use shall change such use to any other non-conforming use outside the category of uses into which the firstmentioned non-conforming use is classified or carry on any use additional to such non-conforming use outside the category of uses into which the firstmentioned non-conforming use is classified without the special permission of the Council and otherwise in strict conformity with the terms of the special permission so granted by the Council or any conditions so imposed.

(c) Any application to the Council under subclause (b) hereof shall be in writing signed by the applicant or applicants or in the case of a firm by one of the partners thereof or in the case of a company executed under its common seal or in the case of an unincorporated association signed by an authorised officer thereof addressed to the Council and shall truly set forth the following particulars:—

1. The full description of the land.
2. The name of the registered proprietor in the case of freehold land or the name of the registered lessee in the case of Crown land.
3. The name of the occupier.
4. The non-conforming use presently carried on;
5. The changed or additional non-conforming use desired to be carried on.
6. The reasons for desiring to carry on such changed or additional non-conforming use.
7. Where the application is made by any firm, person, or company who or which is not the registered proprietor of the land or registered lessee thereof from the Crown the consent of such registered proprietor or registered lessee must accompany the application.

Upon an application being made to the Council under this subclause the Council shall give notice thereof by advertisement and the provisions of clauses 6 (c), 6 (d), and 6 (e) hereof shall apply thereto provided that the Council may in its discretion in any particular case dispense with such advertisement.

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9. Notwithstanding anything herein contained—

- (a) Where any parcel of land at the date this scheme comes into operation has a use which would be classified as a Special Use under this scheme, such land shall be deemed to have been allotted such use and it shall be lawful for such use to continue and for any further works or buildings incidental thereto to be constructed or to be repaired from time to time without the special permission of the Council subject always to the provisions of the Council's By-laws.
- (b) Where after the coming into operation of this scheme the special permission of the Council is granted to use any land for a use which is classified as a Special Use under this scheme, it shall be lawful for such use to continue and for such further works or buildings incidental thereto to be constructed or repaired from time to time without the special permission of the Council after the granting of the special permission of the Council for such use subject always to any conditions which shall have been imposed by the Council upon the granting of such special permission and subject always to the provisions of the Council's By-laws.
- (c) Where, in pursuance of this scheme, a parcel of land is zoned for a particular reserved use, it shall be lawful for any further works or buildings, including the repair thereof incidental to the use for which each particular parcel of land is defined to be done and constructed without the special permission of the Council.

10. Where at the time this scheme comes into operation any person, firm, or company is using any land or any building, structure or erection thereon for any non-conforming use or where not earlier than one year from such date any person, firm, or company had been using any land or any building structure or erection thereon for any non-conforming use he, they, or it shall in the first case within twelve months of the date this scheme comes into operation or within such further time as the Council may allow in any particular case or in the second case within six calendar months of the date when this scheme comes into operation give notice thereof to the Council. Such notice shall give the full description of such land and the nature of the use being carried on thereon and shall be accompanied by a plan delineating the site of any building structure or erection thereon in relation to the boundaries of the parcel of land upon which it or they is or are situate. The town clerk shall keep a register to be called "The Register of Non-conforming Uses" and he shall upon the Council approving of such notice enter in such register the description of such land and the nature of such use and a copy of such plan. Where the Council does not approve of such notice or plan or where any person, firm or company fails to give such notice within the time aforesaid the town clerk may enter in such register the particulars of such non-conforming use which the Council considers to be the true and correct information relating thereto provided however that before doing so notice of the particulars intended to be entered in such register shall be served on the owner of the land upon which such non-conforming use is carried on and on the occupier thereof and thereupon any person who is dissatisfied therewith may appeal to the Minister in manner provided by subsection (7) of section 33 of "The Local Government Acts, 1936 to 1959." If no appeal shall be instituted the town clerk shall enter such particulars in the said register, but if an appeal shall be instituted the town clerk shall upon the determination of such appeal enter in the said register the particulars of such non-conforming use in conformity with the decision of the Minister or the person appointed by him to hear and determine the appeal. Upon the town clerk making any entry in the said register he shall serve on the owner of the land and the occupier thereof a certificate showing the particulars entered in such register.

Such register shall be conclusive evidence in any proceedings that any land therein described was, as the case may be at the date of the coming into operation of this scheme or at a date not earlier than one year from such date, being used for the non-conforming use therein recorded. Such register if tendered in any Court or proceedings by the town clerk or other officer of the Council shall be admitted without further proof.

If any person, firm, or company shall fail to give such notice as aforesaid or if the town clerk shall not enter the required particulars as aforesaid the onus of proving that any non-conforming use existed at the date when this scheme comes into operation or not earlier than one year before such date shall be upon the person alleging the same.

11. (a) No person shall erect any building, structure or erection in any of the said zones as herein approved unless such building structure or erection complies with the By-laws of the Council for the time being in force relating to buildings, structures or erections. In giving special permission to the use of any land where such special permission is required in terms of this scheme the Council may impose such conditions as it thinks fit. In giving or withholding its special permission or

imposing conditions the Council shall have regard to the likelihood of the use injuring the amenity of the zone including in the case of an industrial building the likelihood of any injury to or annoyance to any person due to the emission of smoke, fumes, dust, noise, smell, ash, grit, vibration, oil, waste products, bagasse or any other cause.

(b) Nothing herein contained shall be construed to derogate from the powers of the Council relating to roads, subdivision of land, buildings, or any other matter, act or thing essential to the good rule and government of the Area.

12. (a) Subject to clauses 7, 8, and 9 hereof no person, firm, or company shall use or occupy any land or any part thereof or any building, structure or erection thereon or any part of such building, structure or erection except in accordance with the uses described in the Table of Zones.

(b) Where the special permission of the Council shall have been obtained for the use of any land in accordance with the requirements of the scheme and where any conditions shall have been imposed, any person, firm, or company doing, causing, or procuring to be done or knowingly concerned in doing anything otherwise than in strict conformity with the terms of the special permission so granted by the Council or any conditions so imposed shall be guilty of an offence.

(c) Subject to clauses 7, 8, and 9 hereof no person, firm, or company shall erect any building, structure or erection upon any land or any part thereof except in accordance with the uses described in the Table of Zones.

(d) Subject to clauses 7, 8, and 9 hereof no person, firm, or company shall use or occupy any land or any part thereof or any building, structure or erection thereon or any part of such building, structure or erection for any use otherwise than in strict conformity with the provisions herein contained relating to such use.

(e) Any person, firm, or company doing, causing, or procuring to be done or knowingly concerned in doing anything contrary to the provisions herein contained shall be guilty of an offence.

(f) Every person, firm, or company who omits to execute, provide or do any work or thing by the scheme required to be executed, provided or done by him and who does not within a reasonable stated time after being served with a notice in writing by the Council, which notice the Council is hereby authorised to send and which notice may be renewed, pull down and remove such work or thing or alter and amend the same so as to comply with the scheme or as the case may be execute, provide, or do or cause to be done such work or thing as required by the scheme shall be guilty of an offence.

13. Except where in any case it is otherwise expressly provided any person who is guilty of an offence under the scheme shall be liable to a penalty not exceeding £50 and also and in addition thereto in the case of successive or continuing offences a further penalty of £5 per day for each successive day during which such offence shall be committed.

14. Notwithstanding any other law or authority to the contrary any breach of the provisions of the scheme may be restrained by the Supreme Court or a judge thereof by injunction.

15. (a) Any offence against the provisions of this scheme may be prosecuted in a summary way under "The Justices Acts, 1886 to 1958," upon the complaint of the town clerk or acting town clerk or of any other person duly authorised by the Council.

(b) Where the same act or omission is an offence both under this scheme and under some other Act or Law the offender may be prosecuted either under this scheme or the other Act or Law in question for that Act or omission but so that he is not twice punished for the same act or omission.

(c) In any proceedings under this scheme—

(i.) In relation to the owner or occupier of any land, the allegation or averment in the complaint that any person is the owner or occupier of any land shall in the absence of evidence in rebuttal thereof be conclusive evidence that such person is the owner or occupier of such land.

(ii.) A signature purporting to be that of the town clerk or acting town clerk or city engineer or acting city engineer shall be taken to be the signature it purports to be until the contrary is proved.

(iii.) Evidence on oath by the town clerk or acting town clerk that the Council had resolved that in the opinion of the Council any event is likely to happen shall be *prima facie* evidence that such event was likely to happen.

(iv.) A certificate purporting to be under the hand of the city engineer or acting city engineer that any instrument used in measuring noise—

(1) Has been tested on a day named in the certificate and has been found to indicate the density of noise correctly; or

- (2) Has been tested on a day named in the certificate and that the greatest amount of error (expressed as a percentage of the correct density of noise) found in any noise measured by such instrument is not greater than the percentage specified in such certificate:

shall be received in evidence and when such instrument is used for measuring any noise within three months next succeeding the said day named in the certificate shall be *prima facie* evidence any noise measured by such instrument was—

- (3) In the case of a certificate under subparagraph (1) of this paragraph the correct density of noise; and
- (4) In the case of a certificate under subparagraph (2) of this paragraph not greater than the correct density of noise by a greater percentage of the correct density of noise than the percentage specified in such certificate to be the greatest amount of error (expressed as a percentage of the correct density of noise) found upon such test.

16. Where any land is occupied by any person who is not the owner thereof, then both the owner and the occupier shall each be severally liable for any offence against the scheme whether the offence shall in fact have been committed by either the owner or the occupier independently of the other.

17. In this Order in Council, unless the context otherwise indicates or requires—

- (a) The term "person" shall include any body corporate;
- (b) The masculine shall include the feminine and the singular shall include the plural;
- (c) The term "use" shall where the context requires or admits include any occupation, business, profession, trade or calling;
- (d) The term "the use that may be made" shall where the context requires or admits mean the occupation, business, profession, trade or calling that may be carried on or conducted;
- (e) The term "non-conforming use" shall include any particular use, business, profession, trade or calling, but shall not include any category of uses.
- (f) The term "building" shall mean any fixed structure which is either wholly or in part enclosed by walls and is roofed or any part thereof; and
- (g) The terms "structure" or "erection" shall include any construction of any nature whatsoever constructed, manufactured or made for any use whatsoever.

TABLE OF ZONES

(1) Zone	(2) Use that may be made Without the Special Permission of the Council	(3) Use that may be made With the Special Permission of and upon Conditions Imposed by the Council	(4) Use that may not be made
1. Residential	Dwelling-houses (Schedule 2)	Special Uses (Schedule 3) Flats (Schedule 4) Tenement Buildings (Schedule 5) Boarding Houses (Schedule 6) Domestic Uses (Schedule 7) Local Business (Schedule 8)	All other Uses
2. Business	Places and Forms of Entertainment (Schedule 9) General Business (Schedule 10) Shops (Schedule 11)	Dwelling-houses (Schedule 2) Special Uses (Schedule 3) Flats (Schedule 4) Tenement Buildings (Schedule 5) Boarding-Houses (Schedule 6) Domestic Uses (Schedule 7) Service Stations (Schedule 12) Light Industries (Schedule 13)	All other Uses
3. Light Industry	Light Industries (Schedule 13)	Dwelling-houses (Schedule 2) Special Uses (Schedule 3) Domestic Uses (Schedule 7) Places and Forms of Entertainment (Schedule 9) General Business (Schedule 10) Shops (Schedule 11) Service Stations (Schedule 12)	All other Uses
4. Medium Industry	Light Industries (Schedule 13) Medium Industries (Schedule 14)	Dwelling-houses (Schedule 2) Special Uses (Schedule 3) Domestic Uses (Schedule 7) Shops (Schedule 11) Service Stations (Schedule 12)	All other Uses
5. Reserved Uses	The particular reserved uses designated in the plan (Schedule 15)	Dwelling-houses (Schedule 2) Special Uses (Schedule 3) Domestic Uses (Schedule 7)	All other Uses

SCHEDULE 2

Dwelling-houses

For the purposes of the scheme, this classification means a building used wholly for human habitation. The term shall not include boarding-houses, tenement buildings, flat buildings, hostels, hotels, convents, schools, clubs, colleges, churches, halls, dwelling and farm, dwelling and nursery, dwelling and dairy, dwelling and stables, warehouses, shops, combined shop and dwelling or any other premises of a similar nature.

SCHEDULE 3

Special Uses

The uses, works, buildings, and purposes included in the list hereto are hereby classified as Special Uses for the purposes of the scheme.

List mentioned and referred to in Schedule 3—

Aerodromes and Heliports	Car Parks
Agricultural and Horticultural Uses	Caravan Parks
Ambulance Stations	Cemeteries and Mortuaries
Asylums	Charitable Institutions
Camping Places	Child Minding Centres
	Creches

SCHEDULE 3—continued

Crematoriums	Parks, Gardens, Esplanades,
Departmental and Official Uses (Commonwealth, State or Semi-Governmental)	Sporting and Recreation Grounds
Educational and Cultural Institutions	Places for Religious Purposes
Electrical Works and Reticulation (Governmental or Semi-Governmental)	Police Purposes
Experimental Farms	Radio Broadcasting Stations
Gas Reticulation and Works	Railway Purposes
Health Centres	Roads and Lanes
Homes for the Aged	Sewerage and Sewerage Works
Hospitals	Scientific Purposes
Kindergartens	Swimming Baths
Libraries — Public — Other than Schools of Arts	Television Transmitting Stations
Local Government Works and Purposes	Transport Terminals
Motels	University Purposes
Museums	Youth Centres
Orphanages	Wharves, Quays, Jetties, Slips, and Landing Places
	Works for obtaining, location conserving, distributing or utilising water.

(not conducted in
association with
a dwelling house)
amended 6/6 18.11.70

SCHEDULE 4

Flats

For the purposes of the scheme, this classification means any building divided into or made into suites of rooms or any part or parts of any building divided or made into suites of rooms or a suite of rooms which suites or suite are or is let or are or is intended or adapted for occupation as living and/or sleeping accommodation and which have or has their or its own bathroom, kitchen, and water closet or earth closet.

SCHEDULE 5

Tenement Buildings

For the purposes of the scheme, this classification means a building comprising a room or rooms used for living and/or sleeping and let for hire or reward in one hiring, the occupants of which are not provided with board. The term does not include a flat.

SCHEDULE 6

Boarding-houses

For the purposes of the scheme, this classification includes any building used or intended or adapted for use for the provision for hire of living and/or sleeping accommodation and board at an exclusive or inclusive charge. The term also includes hostel, lodging-house, serviced room, residential club (unlicensed), and unlicensed hotel.

SCHEDULE 7

Domestic Uses

The businesses, occupations, and uses included in the list hereto are hereby classified as Domestic Uses for the purposes of the scheme.

List mentioned and referred to in Schedule 7—

Amateur Radio Stations	Lending Libraries
Agencies—other than	Millinery
Agencies involving storage	Photography
of produce, machinery &c.	Picture Framing
Arts and Crafts	Professional Rooms
Cake Decorating	Signwriting
Dressmaking	Sports Goods Repairing
Driving Instructing	Teaching and Tutorial
Fancy Goods Making	Classes
Film Developing	Tradesman's Office (Not
Florists	workshops)
Hat Trimming	Watch repairing
Horticultural Nurseries	

No person, firm, or company engaged in or carrying on any domestic use as aforesaid shall—

- (a) Conduct the same in a separate or semi detached building or other than in or upon or under a dwelling-house.
- (b) Use for the purposes of the domestic use in question a total floor space greater than one-third of the floor space in a dwelling-house or of the space under such dwelling-house where such industry is carried on;
- (c) Use any part of the curtilage of the dwelling-house in the course of or for the purpose of the industry other than for access;
- (d) Display goods on the premises so as to be seen or likely to be seen by the public;
- (e) Carry on more than one such industry or carry on any such industry while any other person is carrying on any such industry in the same dwelling-house;
- (f) Cause noise which at or upon any boundary of the land upon which such industry is carried on is in excess of the frequencies in decibels set out in the following table:—

(A) Where the tone of the noise is not above Middle C, then between the hours of 8 a.m. and 6 p.m.—	
(i.) In a Residential Zone	30 decibels
(ii.) In a Business Zone	40 decibels
(iii.) In a Light Industry Zone	50 decibels
(iv.) In a Medium Industry Zone	60 decibels
(B) Where the tone of the noise is above Middle C, then between the hours of 8 a.m. and 6 p.m.—	
(i.) In a Residential Zone	18 decibels
(ii.) In a Business Zone	24 decibels
(iii.) In a Light Industry Zone	30 decibels
(iv.) In a Medium Industry Zone	36 decibels
(C) Between the hours of 6 p.m. and 8 a.m.—	
(i.) In a Residential Zone	18 decibels
(ii.) In a Business Zone	24 decibels
(iii.) In a Light Industry Zone	30 decibels
(iv.) In a Medium Industry Zone	36 decibels
- (g) Advertise on the premises by more than one sign;
- (h) Use any sign for advertising larger than three square feet;
- (i) Print or write on any such sign words or figures other than the name of the occupier and of his occupation;

- (j) Cause smoke, fumes or hazards likely in the opinion of the Council to cause disturbances and/or annoyance and/or discomfort to persons or affect property not connected with the industry.

The provisions of clauses (a), (b), and (c) hereof shall not apply to Horticultural Nurseries.

SCHEDULE 8

Local Business

The buildings, occupations, retail businesses and uses mentioned in the list hereto are hereby classified as Local Business for the purposes of the Scheme.

List mentioned and referred to in Schedule 8—

Bank Agencies	GG 15.3.69	Hairdressers
Beauty Parlours		Pharmacies
Butcher Shops		Professional Rooms
General Retail Stores		

No person, firm, or company engaged in or carrying on any local business in a residential zone shall—

- (a) Conduct or carry on the same upon a piece or parcel of land the area and/or dimensions of which are less than those for the time being prescribed by the By-laws of the Council for the purpose of a dwelling-house;
- (b) Conduct or carry on the same in a dwelling-house or in a building, structure or erection whether combined with a dwelling-house or not unless the front alignment and all spaces about such building, structure or erection conform to the By-laws of the Council relating to the construction of dwelling-houses;
- (c) Conduct or carry on more than one local business on the same parcel of land;
- (d) Conduct or carry on the same where such business has not been conducted or carried on for a period of not less than six months or such extended period as the Council may allow not exceeding twelve months;
- (e) Conduct or carry on a local business other than the same local business conducted or carried on at the date when this scheme comes into operation or other than the same local business as approved by the Council;
- (f) In the case of any local business conducted or carried on at the date this scheme comes into operation, rebuild or substantially reconstruct the building structure or erection wherein the same is carried on if such rebuilt or reconstructed building structure or erection does not comply with sub-clauses (a), (b), and (c) hereof, unless the Council in special circumstances shall waive such provisions;
- (g) Sell any goods which are not usually sold in conjunction with a business of the type being carried on.
- (h) *see amendment*

SCHEDULE 9

Places and Forms of Entertainment

The places, buildings and uses included in the list hereto are hereby classified as Places and Forms of Entertainment for the purposes of the scheme.

List mentioned and referred to in Schedule 9—

Bazaars	Gymnasiums
Billiard Saloons	Meeting Halls other than
Cinemas	Churches
Circuses	Schools of Arts
Clubs	Side Shows
Dance Halls	Skating Rinks
Exhibitions	Stadiums
Games	Theatres

SCHEDULE 10

General Business

The businesses, uses, and places mentioned in the list hereto are hereby classified as General Business for the purposes of the scheme.

List mentioned and referred to in Schedule 10—

Auctioneers	Financial Institutions
Advertising Agents	Forwarding and Receiving
Airways Offices	Agencies
Banks	Funeral Parlours
Baths	Hairdressers
Beauty Parlours	Herbalists
Chiropodists	Importers
Commercial Offices	Jewellers
Decorators	Optometrists
Dispensaries	Pharmacies
Dressmakers	Professional Rooms and
Exchanges	Offices
Estate and Commission	Signwriters
Agents	Studios
Exporters	Watchmakers

Radios and Electrical Repairs
GG 15.3.69

Child Minding Centres (conducted in association with a dwelling house) Amendment GG 18.4.70

No person, firm, or company engaged in or carrying on any general business as aforesaid shall—

- (a) Cause smoke fumes or hazards likely in the opinion of the Council to cause annoyance and/or disturbance and/or discomfort to persons or affect property not connected with the premises in which the business is carried on;
- (b) Cause noise which at or upon any boundary of the land upon which such industry is carried on is in excess of the frequencies in decibels set out in the following Table:—
 - (A) Where the tone of the noise is not above Middle C, then between the hours of 8 a.m. and 6 p.m.—
 - (i.) In a Business Zone 40 decibels
 - (ii.) In a Light Industry Zone 50 decibels
 - (B) Where the tone of the noise is above Middle C, then between the hours of 8 a.m. and 6 p.m.—
 - (i.) In a Business Zone 24 decibels
 - (ii.) In a Light Industry Zone 30 decibels
 - (C) Between the hours of 6 p.m. and 8 a.m.—
 - (i.) In a Business Zone 24 decibels
 - (ii.) In a Light Industry Zone 30 decibels

SCHEDULE 11

Shops

For the purposes of the scheme, any building, structure, erection or place wherein or whereat is carried on exclusively any retail or wholesale business not otherwise classified by this scheme as General Business, Light Industry, Medium Industry, or a Service Station, is hereby classified as a Shop provided that where a Shop may be lawfully carried on the same may be carried on in conjunction with any other use which is also lawful under this Scheme. The term Shop specifically includes bars, cafes, hotels, milk bars, restaurants, snack bars, and tea rooms.

No person, firm, or company engaged in or carrying on any shop as aforesaid shall—

- (a) Cause fumes, smoke, or hazards likely in the opinion of the Council to cause annoyance and/or disturbance and/or discomfort to persons or affect property not connected with the premises in which the business is carried on;
- (b) Cause noise which at or upon any boundary of the land upon which such industry is carried on is in excess of the frequencies in decibels set out in the following table:—
 - (A) Where the tone of the noise is not above Middle C, then between the hours of 8 a.m. and 6 p.m.—
 - (i.) In a Business Zone 40 decibels
 - (ii.) In a Light Industry Zone 50 decibels
 - (iii.) In a Medium Industry Zone 60 decibels
 - (B) Where the tone of the noise is above Middle C, then between the hours of 8 a.m. and 6 p.m.—
 - (i.) In a Business Zone 24 decibels
 - (ii.) In a Light Industry Zone 30 decibels
 - (iii.) In a Medium Industry Zone 36 decibels
 - (C) Between the hours of 6 p.m. and 8 a.m.—
 - (i.) In a Business Zone 24 decibels
 - (ii.) In a Light Industry Zone 30 decibels
 - (iii.) In a Medium Industry Zone 36 decibels

SCHEDULE 12

Service Stations

A service station is defined for the purposes of the scheme as a business wherein or whereat is sold by retail sale only for internal combustion engines the following:—

- (a) Petrol and gas, oil or any derivatives therefrom capable of use in such internal combustion engines; and
- (b) Lubricating oils and greases, together with the following or any of them:—
 - (a) Spare parts including electrical equipment;
 - (b) Tyres, tubes, valves, and repair equipment therefor;
 - (c) Motor vehicle accessories;
 and wherein or whereat may be carried out the following:—
 - (a) Running repairs of a minor nature of a type which does not normally immobilise the vehicle for a longer period than two hours;
 - (b) Lubricating, greasing, and car-washing.

The term specifically includes any business of the nature holding itself out as a one-brand or multi-brand petrol station.

SCHEDULE 13

Light Industries *list added to see 66 15.3.69*

The industries, persons, occupations, places and uses included in the list hereto are hereby classified as Light Industries for the purposes of the Scheme.

List mentioned and referred to in Schedule 13—

Aerated Water Factories	Furniture Factories
Agricultural Implement and Machinery Showrooms	Furniture Repairing
Aluminium Working	Fur Goods Factories
Animal Food Factories	Garages and/or places for the Storage and/or Parking of Motor Vehicles of tare exceeding 40 cwt. and/or Tractors and/or Machinery
Artificial Limb Factories	Gasket Manufacturing
Assembly Works	Gas Appliances Workshops
Bag Factories	Glass Cutting Works and Silvering Works
Bakeries	Harness Manufacturing
Banana Ripening Rooms	Hateherics- 66 15.3.69
Battery Works	Hat Factories
Bedding Factories	Herb Products Manufacturing
Biscuit Factories	Hessian Manufacturing
Blind Factories	Hosiery Manufacturing
Boat Building and Repair (Yards)	House Removing
Bonded Stores	House Stump Depots
Book Binding (Shop)	Ice Cream Factories
Boot and Shoe Factories	Ice Works
Bottle Depots	Icing Sugar Manufacturing
Bottling Works	Instrument Manufacturing
Box Factories	Iron and Steel Merchants (not manufacturing)
Breakfast Meal Factories	Jam Factories
Bristle and Hair Goods Factories	Jelly Manufacturing
Broom Factories	Jewel Case Manufacturing
Brush Factories	Jute Goods Factories
Builders Workshops	Laundries
Builders Yards	Lawnmower Repairing
Bulk Stores	Leadlight Works
Cabinet Making	Leather Goods Manufacturing
Cake Factories	Machinery Dealers
Cake Ornament Making	Marble and Terrazzo Works
Canvas Goods Making	Mattress Factories
Cardboard Articles Factories	Medical Goods Manufacturing
Carpenters and Joiners Workshops	Motor Vehicle Repair Shops (not otherwise classified as Medium Industry)
Carriage Works	Musical Instrument Making
Carriers Stabling or Garages	Napery Manufacturing
Case Factories and Dealers	Net Making
Cereal Factories and Dealers	Oar Making
Chaff Mills	Organ Building
Chemical Works (Small and Non-noxious or non-hazardous)	Ornament Making
Cheese Factories and Dealers	Packing Works
Chutney Factories	Paint Spraying Works
Cleansing Material Manufacturing	Pattern Making
Clothing Factories	Paper Products Manufacturing
Coach Building	Peanut Products Manufacturing
Coat Hanger Manufacturing	Pickle Factories (including Home Manufacturing)
Coir Goods Factories	Plaster Modelling
Cold Stores	Plaster Works
Condiment Factories	Plumbers Works and/or Depots
Confectionery Factories	Polish Manufacturing
Contractor's Yards	Poster Advertising Workshops
Cooperages	Preserving Works (non-noxious)
Cordial and Soft Drink Factories	Printing Works
Cork Product Works	Produce Stores
Corset Making	Process Engraving
Cosmetic Factories	Pure Food Manufacturing
Delivery Depots	Receiving Depots—Laundry
Dental Goods Factories	Parcels
Dried Fruit Manufacturing	Removing Furniture, Houses, &c.
Dry Cleaning	Rope Works and Rope Making
Electric Advertising Works	Saddlery
Electrical Materials Factories	Salt-lick Manufacturing
Electrical Appliances Factories	Sauce Factories
Electroplating	Shell Grit Depots
Engraving	Shop Fittings
Felt Works	Small Goods Factories
Felt Goods Manufacturing	Smokers Requisites Manufacturing
Fence Posts and Paling Depots	Sports Goods Manufacturing
Fibrous Goods Factories	Stationery Manufacturing
Firewood and Fuel Depots	Stereo Making
Fishing Gear Manufacturing	
Fishmongering	
Food Coverings Factories	
Foodstuffs Manufacturing	
Food Preserving Works	
Footgear Factories	
Forestry Products Factories	
Fruit and Vegetable Spray Makers	
Fruit Products Factories	

MacKay

SCHEDULE 13—continued

Stock Food Factories	Umbrella Manufacturing
Straw Hat Manufacturing	Undertakers Works
String Factories	Upholstering
Surgical Supplies Factories	Vegetable Products Factories
Taxi Cab Depots	Vinegar Factories
Tent Making	Vulcanising Works
Terrazzo Works	Washtub Manufacturing
Textile Manufacturing	Wax Products Manufacturing
Textile Goods Factories	Wheel-Wrights
Tobacco Manufacturing	White Ant and Borer
Tool Repairing and Tool Sharpening	Exterminators (not manufacturing)
Transport and Motor Bus Depots	Whiting Manufacturing
Travelling Requisites Manufacturing	Wire Netting Manufacturing
	Woodworking
	Yeast Manufacturing

No person, firm, or company engaged in or carrying on any Light Industry as aforesaid shall—

- (a) Cause smoke, fumes, or hazard likely in the opinion of the Council to cause undue annoyance and/or discomfort to persons or affect property not connected with the Industry;
- (b) Cause noise which at or upon any boundary of the land upon which such industry is carried on is in excess of the frequencies in decibels set out in the following table:—
 - (A) Where the tone of the noise is not above Middle C, then between the hours of 8 a.m. and 6 p.m.—
 - (i.) In a Business Zone . . . 40 decibels.
 - (ii.) In a Light Industry Zone . . . 50 decibels.
 - (iii.) In a Medium Industry Zone . . . 60 decibels.
 - (B) Where the tone of the noise is above Middle C, then between the hours of 8 a.m. and 6 p.m.—
 - (i.) In a Business Zone . . . 24 decibels.
 - (ii.) In a Light Industry Zone . . . 30 decibels.
 - (iii.) In a Medium Industry Zone . . . 36 decibels.
 - (C) Between the hours of 6 p.m. and 8 a.m.—
 - (i.) In a Business Zone . . . 24 decibels.
 - (ii.) In a Light Industry Zone . . . 30 decibels.
 - (iii.) In a Medium Industry Zone . . . 36 decibels.

SCHEDULE 14

Medium Industries

The industries, places, occupation and uses included in the list hereto are hereby classified as Medium Industries for the purposes of the Scheme.

List mentioned and referred to in Schedule 14—

Asbestos Products Works	Can Works
Bedstead Factories	Cardboard Factories
Belting Factories	Celluloid Products Manufacturing
Binding Materials Factories	Cistern Manufacturing
Bitumen Preparation (not Manufacturing)	Concrete Block, Slab and Pipe Works
Blacksmithing	Concrete Products Making
Boiler Disencrustant Fluid Factories	Copper Smithing
Boxer Repairing	Cotton Ginneries
Brake Repairing	Cutlery Works
Brass Working (not Foundries)	Dairy Produce Factories
Breweries	Depots of Council and Government Departments
Butter Factories	Distilleries (non-noxious)
Canning Works (non-noxious)	Dye Works
Cannister Works	Earthenware Works
	Electric Welding Works

SCHEDULE 14—continued.

Enamelling Works	Paint Manufacturing
Engineering Works	Panel Beating
Farm Implement Works	Paper Factories
Farmers and Graziers Supplies Factories	Parkerising and Bonderising Works
Film Storage	Piano Manufacturing
Flour Milling	Pipe Works
Freezing Works	Plywood Mills
Fuel Depots	Potteries
Furniture Factories (large)	Radiator Works
Galvanising Works	Radio Works
Galvanised Iron Works	Refrigeration Factories
Glass Works	Roofing and Materials Manufacturing
Glass Products Factories	Rubber Products Factories
Grinding Mills	Sand and Gravel Depots and/or screening plants for the same
Hardware Factories	Saw Manufacturing
Heating Appliances Factories	Scales Manufacturing
Ink Works	Sheet Metal Working
Joinery Works	Scrap Metal Dealers
Kennels (including dog hospitals)	Smithies Shops
Knitting Mills	Spinning and Weaving Mills
Lumber Yards	Spring Works
Machine Works	Stone Masonry
Manufacturing Chemists	Stone Working
Margarine Factories	Stove Works
Mechanical Repairing Works	Textile Mills
Metal and Machinery Works	Tile Works
Metal Ware Manufacturing	Timber Mills
Milk Bottling and Products Works	Timber Yards
Monumental Masonry	Tool Manufacturing
Motor Body Building	Tyre Manufacturing
Motor Cycle Works	Welding Works
Motor Engineering Works	Wire Works
Motor Mechanic Works	Wool Dumping
Motor Vehicle Wreckers	Wool Stores
Motor Trimmers	Wool Mills
Nail Factories	Works Depots
Oil Manufacturing	Zinc Oxide Works
Oxy-welding Works	

No person, firm, or company engaged in or carrying on any Medium Industry as aforesaid shall—

- (a) Cause smoke, fumes, or hazards likely in the opinion of the Council to cause undue disturbance and/or discomfort to persons or affect property not connected with the Industry;
- (b) Cause noise which at or upon any boundary of the land upon which such industry is carried on is in excess of the frequencies in decibels set out in the following table:—
 - (A) Where the tone of the noise is not above Middle C, then between the hours of 8 a.m. and 6 p.m.—60 decibels.
 - (B) Where the tone of the noise is above Middle C, then between the hours of 8 a.m. and 6 p.m.—36 decibels.
 - (C) Between the hours of 6 p.m. and 8 a.m.—36 decibels.

SCHEDULE 15

Reserved Uses

The particular uses designated on the plan in respect of those parts of the city zoned for Reserved Uses are hereby declared to be Reserved Uses for the purposes of the scheme.

ORDER IN COUNCIL

At the Executive Buildings, Brisbane, the thirteenth day of March, 1969

Present:

His Excellency the Governor in Council

WHEREAS by the *Local Government Act 1936-1968*, it is amongst other things provided that the Governor in Council may approve of an application made to the Minister by a Local Authority for amendment of a town-planning scheme: And whereas the Council of the City of Mackay has made application to the Minister for amendment of the town-planning scheme for the Area of the City of Mackay finally approved by Order in Council made on the 24th November, 1960, and published in the *Gazette* of the 26th November, 1960, hereinafter referred to as "the Scheme") in the manner hereinafter set forth: Now, therefore, His Excellency the Governor, acting by and with the advice of the Executive Council and in pursuance of the provisions of the said Act, doth hereby approve of the aforesaid application made by the Council of the City of Mackay for amendment of the Scheme and doth hereby amend the Scheme:—

1.—

(a) By excluding the lands described in Column 1 of the Schedule hereto from the Zones set forth in Column 2 of the said Schedule respectively opposite the description of such lands; and

(b) By including such lands in the Zones set forth in Column 3 of the said Schedule respectively opposite the description of such lands.

2. By omitting subclauses (b), (c), (d) and (e) of clause 6 of Schedule 1 of the said Order in Council.

3. By omitting from the list mentioned and referred to in Schedule 8 of the said Order in Council the following buildings, occupations, retail businesses and uses:—

Bank Agencies Hairdressers
Beauty Parlours Pharmacies

4. By adding the following clause to Schedule 8 of the said Order in Council:—

"(h) For the purpose of conducting such local business occupy a building having a total floor space exceeding 2,000 square feet."

5. By adding to the list mentioned and referred to in Schedule 10 of the said Order in Council the business "Radio and Electrical Repairers".

6. By omitting from the list mentioned and referred to in Schedule 13 of the said Order in Council and use "Hatcheries".

7. By adding to the list mentioned and referred to in Schedule 13 of the said Order in Council the following industries, persons, occupations, places and uses:—

Bowser Repairing Motor Engineering Works
Brake Repairing Motor Mechanic Works
Brass Working (not foundries) Motor Trimmers
Cutlery Works Oxy Welding Works
Electric Welding Works Piano Manufacturing
Enamelling Works Radio Works
Joinery Works Spring Works
Machine Works Timber Yards
Monumental Masonry Welding Works

8. By omitting from the list mentioned and referred to in Schedule 14 of the said Order in Council the following industries:—

Bowser Repairing Monumental Masonry
Brake Repairing Motor Engineering Works
Brass Working (not foundries) Motor Mechanic Works
Cutlery Works Motor Trimmers
Electric Welding Works Oxy Welding Works
Enamelling Works Piano Manufacturing
Furniture Factories (large) Radio Works
Joinery Works Spring Works
Machine Works Timber Yards
 Welding Works.

9. By adding to the list mentioned and referred to in Schedule 14 of the said Order in Council the use "Hatcheries".

And the Honourable the Minister for Local Government and Conservation is to give the necessary directions herein accordingly.

K. SPANNN

Acting Clerk of the Council.

THE SCHEDULE

Column 1	Column 2	Column 3
Description of Land	Zone from which Land Excluded	Zone in which Land Included
Resubdivision 2 of subdivision 1 of portion 68, county of Carlisle, parish of Howard	Reserved Uses Zone as shown on Sheet 2 of the Scheme Maps	Medium Industry Zone as shown on amending Sheet 1 of the Scheme Maps
Reserve 707, being portion 91, county of Carlisle, parish of Howard	Residential Zone as shown on Sheet 3 of the Scheme Maps	Reserved Uses Zone as shown on amending Sheet 1 of the Scheme Maps
Allotments 1 and 10 of section 38 and allotments 5 and 6 of section 39, county of Carlisle, parish of Howard	Residential Zone as shown on Sheet 1 of the Scheme Maps	Business Zone as shown on amending Sheet 1 of the Scheme Maps
Portion 409, county of Carlisle, parish of Howard	Unzoned	Light Industry Zone as shown on amending Sheet 1 of the Scheme Maps
Allotment 1 of section 64, county of Carlisle, parish of Howard	Unzoned	Light Industry Zone as shown on amending Sheet 1 of the Scheme Maps
Portion 378 and subdivisions 45 to 57 of allotment 1 of section 61, county of Carlisle, parish of Howard	Residential Zone as shown on Sheet 1 of Scheme Maps	Light Industry Zone as shown on amending Sheet 1 of the Scheme Maps

Govt. Gazette

15 MAR 1969

Mackay
amendments

ORDER IN COUNCIL

At the Executive Buildings, Brisbane, the sixteenth day of April, 1970

Present:

His Excellency the Governor in Council

WHEREAS by the *Local Government Act* 1936-1969 it is amongst other things provided that the Governor in Council may approve of an application made to the Minister by a Local Authority for amendment of a town-planning scheme: And whereas the Council of the City of Mackay has made application to the Minister for amendment in the manner hereinafter set forth of the town-planning scheme for the Area of the City of Mackay (hereinafter referred to as "the Scheme") finally approved by Order in Council (hereinafter referred to as "the said Order in Council") made on the 24th November, 1960, and published in the *Gazette* of the 26th November, 1960, as subsequently amended from time to time: Now, therefore, His Excellency the Governor acting by and with the advice of the Executive Council and in pursuance of the provisions of the said Act doth hereby approve of the aforesaid application made by the Council of the City of Mackay for amendment of the Scheme and doth hereby amend the Scheme:—

1. By omitting from the list mentioned and referred to in Schedule 3, Special Uses of the said Order in Council the words "Child Minding Centres" and inserting in their stead the words "Child Minding Centres (not conducted in association with a dwelling-house)."
2. By inserting in the list mentioned and referred to in Schedule 7, Domestic Uses, of the said Order in Council after the words "Cake Decorating" the words "Child Minding Centres (conducted in association with a dwelling-house)."

And the Honourable the Minister for Local Government and Electricity is to give the necessary directions herein accordingly.

G. H. CURTIS

Clerk of the Council.

Govt. Gazette

18 APR 1970

ORDER IN COUNCIL

At the Executive Buildings, Brisbane, the twenty-second day of April, 1971

Present:

His Excellency the Governor in Council

WHEREAS by the *Local Government Act* 1936-1970 it is amongst other things provided that the Governor in Council may, by another Proclamation or Order in Council, amend or rescind any Proclamation or Order in Council made under the said Act: And whereas by an Order in Council made on the fourth day of March, 1971, and published in the *Gazette* of the sixth day of March, 1971 (hereinafter referred to as "the said Order in Council"), approval was given to an application (hereinafter referred to as "the said application") made by the Council of the City of Mackay for amendment of the town-planning scheme for the area of the City of Mackay in the manner in the said Order in Council mentioned: And whereas it is deemed expedient to amend the said Order in Council: Now, therefore, His Excellency the Governor, acting by and with the advice of the Executive Council and in pursuance of the powers and authorities vested in him by the said Act doth order that the said Order in Council made on the fourth day of March, 1971, and published in the *Gazette* of the sixth day of March, 1971, shall be and is hereby amended by deleting paragraph 1 (a) thereof and inserting the following new paragraph 1 (a) in its stead:—

"1. By (a) in the Table of Zones set forth in the said Order in Council inserting in Column (3) opposite Zone 3, Light Industry, and in Column (3) opposite Zone 4, Medium Industry respectively, the following words, symbols and number:—

"Flats (Schedule 4)—(required only for use and occupation in conjunction with an industry and situated on the land on which such industry is conducted)."

And the Honourable the Minister for Local Government and Electricity is to give the necessary directions herein accordingly.

K. SPANN

Clerk of the Council.

Govt. Gazette

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