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ORDER IN COUNCIL

At the Executive Building, Brisbane, the sixth day of April, 1978

Present:

His Excellency the Governor in Council

WHEREAS by the *Local Government Act 1936-1977* (hereinafter referred to as "the said Act") it is amongst other things enacted that—

(a) an application by a Local Authority for the approval of a Town-Planning Scheme shall be made to the Minister within ninety days or, if the Minister who is thereunto authorised allows a longer period, the period allowed by the Minister after the last day for the receipt of objections to the scheme;

(b) the application shall be accompanied by—

(i) all objections made and lodged as prescribed on or before the last day for the receipt of objections;

(ii) the representations by the Local Authority in respect of all objections made and lodged as prescribed;

(iii) particulars, including the relevant map or maps of the scheme;

(c) the Governor in Council shall consider every application made to the Minister as aforesaid and all objections and representations accompanying such applications and may reject the application, or may approve of the application wholly or in part;

(d) the power of the Governor in Council to approve an application in part includes power to make all such amendments of the scheme as the Governor in Council, having regard to the application and to the objections and representations which accompanied the application, deems fit; and

(e) where the Governor in Council approves of the scheme an Order in Council notifying such approval shall be published in the *Gazette* and such Order in Council shall describe so as to identify the scheme approval whereof is hereby notified:

And whereas—

(f) the Council of the City of Mackay (hereinafter referred to as "the said Council") at a meeting of the Council held on the twelfth day of November, 1974, passed the following resolution (hereinafter referred to as "the said Resolution"):

"That Mackay City Council resolves to prepare a Town-Planning Scheme wholly revoking and replacing the Town-Planning Scheme for the City of Mackay, finally approved by the Governor in Council by Order in Council published in the *Government Gazette* of 26th November, 1960."

And whereas—

(g) an application by the said Council for approval of a Town-Planning Scheme (hereinafter referred to as "the said scheme") prepared by the said Council for the City of Mackay pursuant to the said resolution was made to the Minister within the period prescribed by the said Act;

(h) the application was accompanied by all objections, representations and particulars with which it was required to be accompanied by the said Act; and
(i) the Governor in Council, after considering the application and all objections and representations accompanying such application, deems it expedient to approve the application in part:

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 in part the application by the said Council for approval of the said scheme and doth hereby notify that the said scheme, so approved in part, shall be as described in the Schedule hereto.

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

KEITH SPANN, Clerk of the Council.

THE SCHEDULE

THE TOWN-PLANNING SCHEME FOR CITY OF MACKAY

This Town-Planning Scheme includes the scheme maps and is divided into the following parts, namely:—

- PART I—DEFINITIONS;
- PART II—ZONING;
Division I—Division of the City of Mackay into Zones;
Division II—Table of Zones;
- PART III—EXISTING LAWFUL NON-CONFORMING USES;
- PART IV—EXISTING LAWFUL FETTERED USES;
- PART V—POPULATION DENSITY REQUIREMENTS;
- PART VI—NOISE;
- PART VII—BEACH EROSION CONTROL DISTRICTS;
- PART VIII—CONTRAVENTION OF SCHEME PROVISIONS.

Part 1

DEFINITIONS

1. In this Town-Planning Scheme unless the context otherwise indicates or requires, the following terms have the meanings respectively assigned to them, that is to say:—

"Accommodation Units"—Any land, building or other structure used or intended for use as a boarding-house, guest-house, hostel, serviced apartment, serviced room, tenements, unlicensed hotel, unlicensed residential club;

"Agriculture"—Any land, building or other structure used for the growing of crops, fruit, vegetables and the like; the term includes horticulture but excludes domestic horticulture;

"Allotment"—A piece, parcel or subdivision of land the boundaries of which are separately defined by metes and bounds on a plan of survey deposited in the Survey Office, or in the case of land under the *Real Property Act 1861-1976*, which has been subdivided, any and every subdivision of such land the boundaries of which are separately defined by metes and bounds on the relevant plan of such land registered with the Registrar of Titles under and in accordance with the *Real Property Act 1861-1976*;

"Appointed Day", subject to the Act, means the day upon which the Order in Council notifying that the Governor in Council has approved this scheme is published in the *Gazette*;

"By-law"—A By-law of the Council made under the authority of the *Local Government Act 1936-1977* and in force for the time being;

"Caravan Park"—Any land, building or other structure used or intended for use for the parking of caravans and for the purpose of providing temporary accommodation for and rendering services to travellers or tourists; the term does not include an accommodation unit as herein defined;

"Caretaker's Flat"—Any flat used for caretaker purposes only in connection with an industry or other use conducted on the same parcel of land and constructed as an integral part of the main building wherever practicable;

"Car Park"—Any land, building or other structure used or intended for use for the parking of motor vehicles; the term does not include car parks ancillary to or necessarily associated with other proposed or established uses on the same parcel of land;

"Commercial Premises"—Any land, building or other structure or any part thereof used or intended for use as a business office or for other business or commercial purposes not otherwise particularly defined in this Part;

"Corner Site"—Any parcel of land which is bounded on two or more adjoining sides by public roads. This shall include land which has only one frontage and which abuts that section of a roadway containing a bend with a deflection angle greater than 30°;

"Council"—The Council of the City of Mackay;

"Day Care Centre"—Premises at which a person receives or in relation to which he hold himself out as ready to receive children for the purpose of educating, caring for or minding them (other than in the course of their medical treatment) for fee or reward for the whole or any part of the period between midnight and the next succeeding midnight; the term includes a kindergarten, but does not include—

- (a) any other school, college or institution the sole or main purpose of which is the education of persons attending thereat;
- (b) a dwelling-house at which a person minds or cares for children of whom he is a parent, relative or guardian;

"Development"—The carrying out of building, mining, or engineering operations in, on, or under land, or the making of any material changes in the use of land or of a building;

"Dwelling-house"—Any land, building or other structure which comprises or is intended to comprise only self-contained accommodation within the curtilage of the site and subject to the provisions of By-law 100 of the Council for the exclusive use of one family, including such outbuildings as are incidental to and necessarily associated with a dwelling-house;

"Erect" includes—

- (a) erect or commence or continue to erect;
- (b) do, or commence or continue to do any work in the course of or for the purpose of erecting;
- (c) perform any structural work or make any alteration, addition or rebuilding;
- (d) move from one position on an allotment to another position on or partly on the same allotment or another allotment;
- (e) re-erect with or without alteration on or partly on the same or another allotment;
- (f) where a building is located on more than one allotment—
 - (i) move to another position on the same allotment or any of them or to another allotment or allotments; or
 - (ii) re-erect with or without alteration on another position on the same allotments or any of them or on another allotment or allotments;

"Existing Use"—The use of any land, building or other structure, for the purpose for which it was lawfully used before the appointed day or for which a consent granted before the appointed day has not expired;

"Funeral Parlour"—Any land, building or other structure used or intended for use by undertakers for the storage and/or preparation of bodies for burial or cremation; the term includes a funeral chapel;

"Home Occupation"—An occupation or profession carried on in or under a dwelling-house by a "person resident therein" and in the conduct of which—

- (a) no more than one or more single-phase electric motors having a total connected load of not more than 0.5 kW is used; This excludes motors used for air conditioning; and
- (b) the floor area used (whether temporarily or permanently) does not exceed more than one room of maximum area 20 square metres in the house except with and in accordance with the conditions of an express permission of the Council; and
- (c) not more than two persons one of whom is the "person resident therein" are engaged; and
- (d) there is no interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise; and
- (e) there is no public display of goods on the premises; and
- (f) no load is imposed on any public utility greater than that which is normally required by other uses permitted in the zone in which the dwelling-house is situated; and
- (g) no sign other than a sign not exceeding 0.3 of a square metre in area, and bearing only the name of the occupier and the occupation is displayed by attaching to part of the dwelling; and
- (h) except in the case of horticultural nurseries, florists, and market gardens no part of the curtilage is used in the course of or for the purposes of the home occupation, other than for visitor parking or access; and
- (i) there is no operation of the home occupation between the hours of 10 p.m. and 7 a.m.;

"Hospital"—Any land, building or other structure used or intended for use for the accommodation and treatment of persons requiring medical and/or paramedical care;

"Hotel"—Any land, building or other structure or any premises specified in a licensed victualler's licence issued under the *Liquor Act 1912-1975*;

"Indoor Entertainments" includes the use of any land, building or other structure for any activity, purpose or pursuit which affords or is calculated to afford interest or amusement irrespective of whether or not food is provided, and which when situated in a Local Business Zone complies with the requirements for local shops. Without limiting the generality of the foregoing the term includes the use of any land, building or other structure for any of the activities, purposes or pursuits included in Appendix I hereto:—

APPENDIX I

Amusement saloons
 Art galleries
 Bowling centres
 Broadcasting studios
 Cinemas
 Circuses (indoor)
 Clubs (licensed)
 Clubs (non-residential)
 Concert halls
 Courts (covered)
 Covered swimming pools
 Dance halls
 Exhibitions
 Gymnasiums
 Meeting halls (other than places of worship)
 Music halls
 Premises specified in a cabaret licence issued under the *Liquor Act 1912-1975*
 Schools of Art
 Side shows (indoor)
 Skating rinks (indoor)
 Squash courts
 Stadiums (indoor)
 Theatres (indoor)
 Youth Centres;

"Industry" includes—

(a) any of the following operations:—

- (i) Any manufacturing process whether or not such process results in the production of a finished article;
- (ii) The breaking up or dismantling of any goods or article for trade sale or gain, or ancillary to any business;
- (iii) The extraction of sand, gravel, clay, turf, soil, rock, stone or similar substances from land;
- (iv) Repairing and servicing of articles, including vehicles, machinery, buildings or other structures, laundering of articles, but not including on-site work on buildings or other structures on land;
- (v) Any operation connected with the installation of equipment and services and the extermination of pests, but not including on-site work on buildings or other structures on land;

(b) when carried out on land upon which any of the above operations are carried on—

- (i) the storage of goods used in connection with or resulting from any of the above operations;
- (ii) the provision of amenities for persons engaged in such operations;
- (iii) the sale of goods resulting from such operations;
- (iv) any work of administration or accounting in connection with such operations; and

(c) without limiting the generality of the foregoing, any industry or any class of industry particularly described or defined in this Town-Planning Scheme;

"Institution"—Any land, building or other structure used or intended for use as a home for mentally or physically handicapped or aged persons or as an orphanage or any other home which in Council's opinion is of a like nature;

"Light Industry"—Any industry included in but not limited to Appendix II hereto: Provided that such industry complies with the following provisions, that is to say:—

- (a) They do not cause smoke, fumes or hazards likely in the opinion of the Council, to cause undue disturbance and/or annoyance to persons or affect property not connected with the industry;
- (b) Does not occupy a site area more than 2 000 square metres or does not employ more than 20 persons:—

APPENDIX II

Aerated water manufacturing
Agricultural implement and machinery showrooms
Aluminium joinery assembly works
Artificial flower manufacturing
Bag manufacturing
Bakeries
Banana ripening rooms
Battery works
Bedding manufacturing
Binding material manufacturing
Blind manufacturing
Bonded stores
Bookbinding
Boot and shoe manufacturing
Bottle depots
Bottling works
Brake repairing
Builders' workshops and yards
Bulk stores
Bus depots with workshops
Cabinet making
Cake factories
Cake ornament manufacturing
Carpenters and joiners workshops
Carriers' depots
Cleansing materials manufacturing
Clothing manufacturing
Cold stores
Concrete products
Contractor's yards
Copper smithing
Cordial manufacturing
Cosmetic manufacturing
Cycle repairing
Dry cleaning

APPENDIX II—continued

Fence posts and paling depots
Film developing works and storage
Furniture manufacturing and repairing
Furniture storage
Gas appliances workshops
Glass cutting works and silvering works
Glazing
House removing depots
House stump manufacturing
Ice cream depots (not manufacturing)
Ice works
Implement and machinery assembly
Instrument manufacturing
Jewel case manufacturing
Joinery works
Laundries
Lawnmower repairing
Mattress manufacturing
Milk depots
Motor repair workshops
Motor trimmers
Netmaking
Neon signs works
Newspaper publications
Packaging
Pastry cooking
Pattern making
Plaster modelling and moulding
Plaster works
Plumbers' yards and workshops
Poster advertising workshops
Printeries
Produce stores
Process engraving
Radio works
Radiator repairs
Scrap metal merchants
Shopfitting
Small goods manufacturing
Sports goods manufacturing
Stationery manufacturing
Stereo manufacturing
Stock food manufacturing
Stone masons
Taxi cab and hire car depots
Tool repairing and sharpening
Transport depots
Transport terminals
Tyre retreading
Upholstering
Warehouses
Wholesale depots
Workshops;

"Local Shop"—Any land, building or other structure used or intended for use for one or more of the purposes set out below, but excluding any other shop as herein defined:—

Butcher	Grocer
Chemist	Hairdresser
Fish Shop	Newsagent.
Greengrocer	

The use must also comply with the following requirements:—

- (a) The building shall comply with the boundary clearances as required for dwelling-houses. A maximum floor area of 25 per cent. of the site shall be allowed;
- (b) A caretaker's flat will be permitted subject to Council's consent in addition to the particular use;
- (c) Where any local shop was carried on before the appointed day, it may not be altered or reconstructed without the consent of Council and in agreement with the requirements as listed above;

"Medium Industry"—Any industry included in but not limited to Appendix III hereto provided that such industry complies with the following provisions, that is to say:—

- (a) They do not cause smoke, fumes or hazards likely in the opinion of the Council to cause undue disturbance and/or annoyance to persons or affect property not connected with the industry;

- (b) They do not make demands on water, gas and/or electricity which, in the opinion of the Council, would prejudice the supply of water, gas and/or electricity for authorised use in the locality concerned;
- (c) They do not involve disposal of such quantities of waste as, in the opinion of the Council, would be likely to overload the Council's sewerage reticulation in the locality concerned:—

APPENDIX III

- (1) Those industries hereinafter mentioned in Appendix II under the description "Light Industry" which do not comply with the provisions for "Light Industries" but comply with the foregoing provisions relating to "Medium Industries"; and
- (2) The industries hereinafter mentioned in this list:—

Blacksmithing
Boiler works
Bowser repairing
Brass working (not foundries)
Breweries
Butter manufacturing
Car wrecking
Cardboard manufacturing
Carriage works
Cement product works
Cold stores
Concrete block slab and pipe works
Concrete product making
Distilleries (non-noxious)
Earthenware works
Electricity distribution and generation stations
Engineering works
Fibrous plaster manufacturing
Food preserving works
Foundries
Freezing works
Fuel depots (wood, coal, coke)
Galvanised iron works
Galvanising
Glass works
Hardware manufacturing
Ice works
Iron works (constructional)
Jam manufacturing
Jobbing iron foundry
Joinery works
Knitting mills
Liquid fuel depot
Machinery and implement assembly works
Margarine manufacturing
Metal and machinery works
Metal ware manufacturing
Milk bottling and products works
Milk depots
Motor body builders
Motor cycle works
Motor engineering works
Nail manufacture
Panel beating
Paint spraying works
Paper manufacturing
Pasteurising works
Plumbing works
Plywood mills
Pickle manufacturing
Potteries (light)
Radiator works
Refrigeration manufacturing
Roofing materials manufacturing

APPENDIX III—continued

Rubber products manufacturing
Sand and gravel depots
Saw mills
Sheet metal works
Spinning and weaving mills
Spring works
Textile goods factories
Textile mills
Timber yards
Tool makers
Vulcanising works
Wire working;

"Motel"—Any land, building or other structure used or intended for use principally for the temporary reception, lodging and accommodation of the travelling public, including off-street parking, and accommodation by way of serviced guest suites, each of which has its own bathroom, living and sleeping facilities and such building may have a restaurant attached;

"Multiple Dwelling"—Any land, building or other structure used or intended for use as flats, or home units;

"Outdoor Entertainment" includes the use of any land, building or other structure for any activity, purpose or pursuit which affords or is calculated to afford interest or amusement irrespective of whether or not food is provided. Without limiting the generality of the foregoing; the term includes the use of any land, building or other structure for any of the activities, purposes or pursuits included in Appendix IV hereto:—

APPENDIX IV

Boating
Children's playgrounds
Circuses (outdoor)
Commercial or community swimming pools (uncovered)
Coursing tracks
Courts (uncovered)
Cycling tracks
Drive-in theatres
Exhibitions
Fairs
Fauna and/or flora sanctuaries
Golf courses
Lawn bowls
Model car, boat or aeroplane operations
Picnic races
Race tracks
Showgrounds
Side shows (outdoor)
Speedways
Sporting arena, being a field, green, rink, or water
Stadiums (outdoor)
Swimming pools
Theatres (outdoor)
Trotting tracks
Zoological and/or botanical gardens;

"Park"—Any land used or intended for use for recreational purposes by members of the public;

"Professional Offices"—Any land, building or other structure or any part thereof used or intended for use for the provision of professional services or the giving of professional advice by qualified practitioners;

"Professional Offices" (Minor)—Any land, building or other structure or any part thereof used or intended for use for the provision of professional services or the giving of professional advice by qualified practitioners with not more than eight (8) persons occupied in the use for medical practices and not more than four (4) persons occupied in the use for other practices and which complies with the requirements for local shops;

"Refreshment services"—Any use included in Appendix V hereto:—

APPENDIX V

Cafes	Restaurants
Caterer's rooms	Restaurants (licensed)
Espresso bars	Snack bars
Kiosks	Tea gardens
Milk bars	Tea rooms;

"Scheme Maps"—The maps respectively forming part of this Town-Planning Scheme finally approved by the Governor in Council and signed for identification by the Clerk of the Executive Council, copies whereof are open for inspection at the office of Council and at the office of the Director of Local Government;

"Service Station"—Any land, building or other structure used or intended for use only for the sale by retail of petrol and automotive distillate or any derivative therefrom, acceptable for use in internal combustion engines, and for all or any of the following purposes, namely:—

- (a) Sale by retail of—
 - (i) lubricating oils and greases;
 - (ii) batteries and tyres;
 - (iii) accessories and other things associated with land or water-borne vehicles motivated by internal combustion engines;
 - (iv) power and lighting kerosenes;
 - (v) goods and services for the comfort and convenience of persons travelling by motor vehicle;
 - (vi) other products manufactured or distributed by oil companies and motor accessory manufacturers;
- (b) Carrying out of all or any of the following operations, namely:—
 - (i) The fitting, removal and exchange of tyres;
 - (ii) The repairing of tubes;
 - (iii) The supply of air;
 - (iv) The charging of batteries;
 - (v) The lubrication and greasing of motor vehicles;
 - (vi) The cleaning and adjustment and replacement of spark plugs;
 - (vii) The receipt of tyres for retreading and other processes and the re-delivery thereof;
 - (viii) Mechanical repairs of a minor nature;
- (c) The rendering of limited services incidental to any of the foregoing;

"Shop" includes any land, building or other structure or any part thereof used or intended for use for the purpose of displaying or offering goods for sale by retail; the term includes premises used for those purposes defined as Local Shops but excludes the requirements specified for Local Shops as herein defined; the term does not include any use otherwise classified by this scheme;

"Special Use" includes the use of any land or any building or other structure for—

- (a) ambulance and fire stations;
- (b) cemeteries, crematoria;
- (c) educational, cultural or religious purposes;
- (d) Federal, State, local or semi-governmental and public purposes;
- (e) libraries;
- (f) university purposes;
- (g) welfare organisations excluding institutions;

"Sports and Recreation"—Any use included in Appendix VI hereto:—

APPENDIX VI

Archery	Gardens
Athletics	Golf Courses
Boating	Picnic areas
Children's playgrounds	Playing fields, rinks or courts;

"Structure"—Any building, wall, fence or other structure or anything affixed to or projecting from any building, wall, fence, or other structures; the term includes any part of a structure.

2. Where any term used in this Town-Planning Scheme is not herein defined, but is defined in a Council By-law, the term shall, for the purposes of this Town-Planning Scheme and unless the context otherwise indicates or requires, have the meaning assigned to it by that By-law.

Part II

ZONING

Division I—Division of the City of Mackay into Zones

3. For the purposes of this Town-Planning Scheme, the City of Mackay is hereby divided into the following zones:—

- (a) Those parts of the City of Mackay defined under Zone 1 shown coloured dark blue on the scheme maps as Commercial Zones are hereby declared to be Commercial Zones;
- (b) Those parts of the City of Mackay defined under Zone 2 shown coloured light blue on the scheme maps as Local Business Zones are hereby declared to be Local Business Zones;
- (c) Those parts of the City of Mackay defined under Zone 3 shown coloured pink on the scheme maps as Residential Zones are hereby declared to be Residential Zones;
- (d) Those parts of the City of Mackay defined under Zone 4 shown coloured red on the scheme maps as Residential Low Density Zones are hereby declared to be Residential Low Density Zones;
- (e) Those parts of the City of Mackay defined under Zone 5 shown coloured dark red on the scheme maps as Residential Medium Density Zones are hereby declared to be Residential Medium Density Zones;
- (f) Those parts of the City of Mackay defined under Zone 6 shown coloured red with a dark red border on the scheme maps as Residential High Density Zones are hereby declared to be Residential High Density Zones;
- (g) Those parts of the City of Mackay defined under Zone 7 shown coloured light purple on the scheme maps as Light Industry Zones are hereby declared to be Light Industry Zones;
- (h) Those parts of the City of Mackay defined under Zone 8 shown coloured dark purple on the scheme maps as Medium Industry Zones are hereby declared to be Medium Industry Zones;
- (i) Those parts of the City of Mackay defined under Zone 9 shown coloured yellow on the scheme maps as Special Purposes Zones are hereby declared to be Special Purposes Zones;
- (j) Those parts of the City of Mackay defined under Zone 10 shown coloured yellow with a red border and with a particular use printed thereon on the scheme maps as Reserved Uses Zones are hereby declared to be Reserved Uses Zones for that particular use;
- (k) Those parts of the City of Mackay defined under Zone 11 shown coloured green on the scheme maps as Parks and Open Spaces Zones are hereby declared to be Parks and Open Spaces Zones;
- (l) Those parts of the City of Mackay defined under Zone 12 shown coloured orange on the scheme maps as Future Urban Zones are hereby declared to be Future Urban Zones;
- (m) Those parts of the City of Mackay defined under Zone 13 shown coloured light blue with red border on the scheme maps as Tourist Zones are hereby declared to be Tourist Zones.

4. Subject to the provisions of Part III and Part IV of this Town-Planning Scheme—

- (a) the purpose for which land in any zone may be used without the consent of the Council, shall be the purposes set out in Column 3 of the Table of Zones under the heading "Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of Council";
- (b) the purpose for which land in any zone may be used only with the consent of the Council shall be the purposes as set out in Column 4 of the Table of Zones under the heading "Purposes for which buildings or other structures may be erected or used, or for which land may be used only with the consent of and upon conditions imposed by the Council";
- (c) the purpose for which land in any zone may not be used shall be the purposes set out in Column 5 of the Table of Zones under the heading "Purposes for which buildings or other structures may not be erected or used or for which land may not be used".

5. Where any building or other structure or any land is used or is intended for use for more than one purpose, it shall be deemed, for the purposes of this Town-Planning Scheme, to be used or intended for use for each of those purposes.

6. In addition to the requirements of this Town-Planning Scheme, all buildings or other structures must comply with the Council By-laws.

Division II—Table of Zones

Column I	Column II	Column III	Column IV	Column V
Zone	Colour on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with the consent of the Council	Purposes for which buildings or other structures may not be erected or used or for which land may not be used
1. Commercial ..	Dark-blue ..	Car parks Commercial premises Hotels Indoor entertainments Professional offices Refreshment services Shops	All purposes other than those permitted by Column 3 or prohibited by Column 5	Agriculture Caravan parks Medium industries
2. Local Business ..	Light-blue ..	Local shops Professional Offices (minor)	Caretaker's flats Home occupations Indoor entertainments Parks	All purposes other than those referred to in Columns 3 and 4
3. Residential ..	Pink ..	Dwelling-houses	Day care centres Home occupations Motels fronting Nebo Road only Parks	All purposes other than those referred to in Columns 3 and 4
4. Residential Low Density	Red ..	Dwelling-houses	Day care centres Home occupations Multiple dwellings Parks	All purposes other than those referred to in Columns 3 and 4
5. Residential Medium Density	Dark-red ..	Dwelling-houses	Accommodation units Day care centres Home occupations Motels Multiple dwellings Parks Sports and recreation	All purposes other than those referred to in Columns 3 and 4
6. Residential High Density	Red with dark-red border	Accommodation units Dwelling-houses Multiple dwellings	Day care centres Home occupations Indoor entertainments Motels Parks Sports and recreation	All purposes other than those referred to in Columns 3 and 4
7. Light Industry ..	Light-purple ..	Car parks Light industries Professional offices	Caretaker's flats Commercial premises Dwelling-houses Funeral parlours Home occupations Hotels Indoor entertainments Local shops Outdoor entertainments Parks Refreshment services Service stations Shops Sports and recreation	All purposes other than those referred to in Columns 3 and 4
8. Medium Industry	Dark-purple ..	Car parks Light industries Medium industries	Caretaker's flats Dwelling-houses Home occupations Hotels Indoor entertainments Local shops Outdoor entertainments Parks Professional offices Refreshment services Service stations Shops Sports and recreation	All purposes other than those referred to in Columns 3 and 4
9. Special Purposes ..	Yellow	Day care centres Hospitals Institutions Parks Special uses	Agriculture Caretaker's flats Dwelling-houses Home occupations Indoor entertainments Outdoor entertainments Refreshment services Sports and recreation	All purposes other than those referred to in Columns 3 and 4
10. Reserved Uses ..	Yellow with red border and the particular use as indicated on the scheme maps	The particular use as indicated on the scheme maps	Caretaker's flats Home occupations	All purposes other than those referred to in Columns 3 and 4
11. Parks and Open Spaces	Green ..	Parks Sports and recreation	Agriculture Indoor entertainments Outdoor entertainments Refreshment services	All purposes other than those referred to in Columns 3 and 4

Division II—Table of Zones—continued

Column I	Column II	Column III	Column IV	Column V
Zone	Colour on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with the consent of the Council	Purposes for which buildings or other structures may not be erected or used or for which land may not be used
12. Future Urban ..	Orange	Agriculture	Dwelling-houses Home occupations	All purposes other than those referred to in Columns 3 and 4
13. Tourist	Light-blue with red border	Nil	Accommodation units Caravan parks Hotels Motels Multiple dwellings In combination with one or more of the above uses— Caretaker's flats Day care centres Home occupations Indoor entertainments Outdoor entertainments Parks Refreshment services Service stations Shops Sports and recreation	All purposes other than those referred to in Columns 3 and 4

Part III

EXISTING LAWFUL NON-CONFORMING USES

7. The following provisions shall apply to an existing lawful use which, had it not been in existence before the appointed day, would, having regard to the zone in which it is carried on, constitute a purpose for which any building or other structure may not be erected or used or land may not be used in that zone pursuant to Division II of Part II hereof. Such a use is hereinafter in this Part referred to as "an existing lawful non-conforming use".

8. (a) A person may continue an existing lawful non-conforming use of any building or other structure, but such use shall not be changed except with the prior consent of the Council pursuant to clause 10 hereof.

(b) Upon the demolition or destruction of any building or other structure in which an existing lawful non-conforming use was carried on, or upon the occurrence of damage to any such building or other structure which, in the opinion of the Council, is so substantial as to preclude the continuance of such existing lawful non-conforming use, or upon the discontinuance for a period of at least six (6) months from any cause whatsoever of such existing lawful non-conforming use, the right to continue such existing lawful non-conforming use shall cease and determine unless the Council otherwise determines pursuant to subclauses (c) or (d) of this clause.

(c) Where a building or other structure in which an existing lawful non-conforming use was carried on is demolished, destroyed or substantially damaged as aforesaid the Council may, upon application being made to it—

(1)—

(i) where such building or other structure is demolished or destroyed or so substantially damaged as, in the opinion of the Council to preclude its repair, consent to the erection of a new building or other structure upon the land on which the demolished, destroyed or substantially damaged building was erected; or

(ii) where such building or other structure is not so substantially damaged as, in the opinion of the Council, to preclude its repair, consent to the repair of such building or other structure; and

(2) Consent to the use of the new building or other structure or, as the case may be, the repaired building or other structure for the existing lawful non-conforming use carried on in the demolished, destroyed or substantially damaged building or other structure immediately prior to its demolition, destruction or substantial damage.

(d) Subject to the prior consent of the Council and to compliance with the provisions of this scheme and the By-laws any new building or other structure or any repaired building or other structure as aforesaid may have a greater floor area than that of the demolished, destroyed or substantially damaged building or other structure.

(e) Where an existing lawful non-conforming use of any land, building or other structure is discontinued for a period of at least six (6) months from any cause the Council may, upon application being made to it, consent to such land, building or other structure being again used for such existing lawful non-conforming use.

(f) The Council may, upon application being made to it, consent to the execution of repairs, alterations or additions to any building or other structure, and in exceptional circumstances the replacement with a new building or other structure, in which an existing lawful non-conforming use is carried on but any such alterations, additions or new building or structure shall be confined within the boundaries of the allotment upon which the building or other structure is erected. Subject to the prior consent of the Council, any alterations, additions or new building or structure as aforesaid may increase the floor area of the building or other structure concerned.

9. A person may continue an existing lawful non-conforming use of land upon which there is no building, but such use shall not be changed except with the prior consent of the Council pursuant to clause 10 hereof. Upon the discontinuance for a period of at least six (6) months from any cause whatsoever of such existing lawful non-conforming use, the right to continue such existing lawful non-conforming use shall cease unless the Council otherwise determines pursuant to subclause (e) of clause 8 hereof.

10. The Council may, upon application being made to it, consent to a change of an existing lawful non-conforming use to another non-conforming use if, in the opinion of the Council, such changed use will be less injurious to the amenity of the locality in question than the existing non-conforming use.

11. A person may not add to, rebuild or replace any building or other structure in which an existing lawful non-conforming use is carried on if such use is operated in conjunction with any other use on the same allotment.

Part IV

EXISTING LAWFUL FETTERED USES

12. The following provisions shall apply to an existing lawful use which had it not been in existence before the appointed day would, having regard to the zone in which it is carried on, constitute a purpose for which any building or other structure may be erected or used or land may be used only with the consent of the Council in that zone pursuant to subclause (b) of clause (4) hereof. Such a use is hereinafter in this Part referred to as "an existing lawful fettered use".

13. A person may continue an existing lawful fettered use of any building or other structure, or any land on which there is no building or other structure.

Part V**POPULATION DENSITY REQUIREMENTS**

14. The maximum allowable population densities shall be—

- (a) in a Residential Zone—50 persons per hectare;
- (b) in a Residential Low Density Zone—70 persons per hectare;
- (c) in a Residential Medium Density Zone—105 persons per hectare;
- (d) in a Residential High Density Zone and in a Commercial Zone—No restriction.

15. Population densities shall be based on an occupation density of—

- (a) 3.5 persons per dwelling house, caretakers flat, flat, home unit or vacant lot, and
- (b) 1 person per bed for accommodation units or motels.

16. For population density calculation purposes a unit of area shall be entirely within one zone and shall be taken as that area bounded by four streets or other suitable demarcation lines.

Part VI**Noise**

17. Permissible noise levels shall be in accordance with Australian Standard 1055—1973 "Noise Assessment in Residential Areas" and all its amendments.

18. The ambient levels as mentioned in the above standard shall be adopted by the Council and all noise levels shall be based on average readings as so determined.

19. The ambient levels adopted by the Council will be used by the Council to determine maximum permissible noise levels in other than Residential Zones.

Part VII**BEACH EROSION CONTROL DISTRICTS**

20. Notwithstanding any provision contained in this Town-Planning Scheme the right of any person to use any land, or to use any building or other structure, or to erect any building or other structure, or to change the use of any land, building or other structure in an area declared to be a Beach Erosion Control District pursuant to the provisions of the *Beach Protection Act 1968-1970* shall be subject to the provisions of that Act and this Town-Planning Scheme.

Part VIII**CONTRAVENTION OF SCHEME PROVISIONS**

21. A person who in any respect contravenes or fails to comply with any provision of this scheme or any condition attaching to a consent granted under this scheme shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars (\$100) and additionally in the case of a continuing offence, to a daily penalty not exceeding ten dollars (\$10) for each and every day on which the offence is continued.

22. Any offence under this scheme may be prosecuted in a summary way under the *Justices Act 1886-1977*.

23. Any right or remedy had by the Council in respect of any act or omission of or by any person shall not be prejudiced or affected in any way by the fact that such act or omission constitutes an offence under this scheme for which no person has been prosecuted.

MACKAY CITY COUNCIL

Department of Local Government,
Brisbane, 6th April, 1978.

HIS Excellency the Governor, acting by and with the advice of the Executive Council and in pursuance of the provisions of the *Local Government Act 1936-1977* has been pleased to approve of the following By-laws made by the Council of the City of Mackay.

R. J. HINZE.

WHEREAS by the *Local Government Act 1936-1977* a Local Authority is empowered to make By-laws for all or any of the purposes in the said Act mentioned, and whereas by section 33 of the said Act mentioned a Local Authority is empowered to make such By-laws as are necessary or convenient to implement a Town-Planning Scheme and to provide for, regulate and control the administration and execution of a Town-Planning Scheme, and it is further provided that a By-law may be amended or repealed at any time by the Local Authority: It is hereby resolved by the Council of the City of Mackay, with the approval of His Excellency the Governor in Council, that the following By-laws for the general good rule and government of the area and its inhabitants, and which the Council hereby determines are necessary for the proper exercise and performance of the functions of Local Government and the powers and duties of the Council and to implement and to provide for, regulate and control the administration and execution of any Town-Planning Scheme in force in the area, shall be in force from the date of publication hereof in the *Gazette*.

The By-laws of the Council of the City of Mackay published in the *Gazette* of the 18th December, 1930, as amended from time to time, are hereby further amended as follows:—

By—

- (1) repealing Chapter XXVIII—Town-Planning; and
- (2) inserting the following new Chapter XXXII:—

CHAPTER XXXII

TOWN-PLANNING

Definitions

746. In this Chapter unless inconsistent with the context, the following terms have the meanings set against them respectively:—

“Act”—The *Local Government Act 1936-1977*;

“Landscaped Space”—An area, which may at the Council's discretion include open car parking spaces, clear of all obstacles such as driveways, clothes drying areas and the like, suitably landscaped to provide attractive surroundings for the building;

“Town-Planning Certificate”—A certificate given pursuant to section 33 (9) of the *Local Government Act 1936-1977*.

Where a term used in this Chapter is not herein defined but is defined in the *Local Government Act 1936-1977* or in the Town-Planning Scheme in force in the area, the term shall, for the purposes of this Chapter and unless the context otherwise indicates or requires, have the meaning assigned to it by the Act or the Town-Planning Scheme, as the case may be.

Town-Planning Certificate

747. (1) An application for a Town-Planning Certificate shall be in such form as the town clerk may from time to time determine.

(2) The fee payable to the Council for the giving of a Town-Planning Certificate shall be such fee as the Council may fix by resolution.

Claim for Compensation

748. A claim for compensation under subsection 12 of section 33 of the Act shall be in or to the effect of the following form:—

Local Government Act 1936-1977

CLAIM FOR COMPENSATION

To Mackay City Council:

I (Full Name) , of
being a person

*Who has an estate or interest in the following land:—

Situation:

Parish:

Real Property Office description:

Area:

Title Deed , Volume , Folio

the nature of my estate or interest therein
being ;or

*Who has incurred expenditure pursuant to a town planning certificate given to me by the Mackay City Council, hereby claim that my said estate or interest has been injuriously affected (or, as the case may be, that I have incurred expenditure which has been rendered abortive) by reason of the following and consequently I claim as compensation for injurious affection (or, as the case may be for such expenditure) the sum of \$, which sum is made up as follows:—

I will produce documentary evidence of my title to the said land or of my estate or interest therein (or, as the case may be, of the expenditure which has been rendered abortive) if and when called upon to do so.

Dated this day of 19 .

Witness:

Signature of Claimant.

*Cross out whichever is inapplicable.

Refusal of Application to use Land or Buildings

749. The Council may refuse an application to use land or to erect or use a building or other structure for a purpose in a zone in which the consent of the Council to the use or erection in question is required under the Town-Planning Scheme in force in the area if—

- (1) the proposal would, if permitted, create or be likely to create a traffic hazard or increase an existing traffic hazard; or
- (2) the proposed building or use would or would be likely to detrimentally affect the amenity of the neighbourhood or an existing lawful use therein including, but without limiting the foregoing, by the emission of smoke, fumes, dust, noise, smell, ash, grit or oil, the discharge of waste products or the creation of vibration; or
- (3) the proposal is to erect a building or other structure on land which is low-lying and subject to flooding or should be drained or filled or drained and filled to make a satisfactory building site: Provided that the Council may consent to the proposal after the necessary drainage or filling or both has been carried out to its satisfaction; or
- (4) any other reason that the Council may deem fit.

Provision of Vehicular Entrances and Exits

750. Subject to the requirements of By-laws 756, 767 and 768 concerning the provision of industrial crossings in relation to a particular building or use, it shall be a condition of every consent granted by the Council pursuant to the Town-Planning Scheme in force in the area to use land or to erect or use a building on land that the applicant shall provide at his own cost, exits and entrances for vehicles to and from the site, whether by way of an existing or proposed road, to the standard required by the city engineer.

Draining and Filling of Land

751. (1) Where the consent of the Council is not required under the Town-Planning Scheme in force in the area for the use of land or for the erection or use of a building or other structure for any purpose the owner, before such use is commenced or plans of the proposed building or other structure are submitted for approval of the Council, shall ascertain the Council's requirements, if any, as to draining or filling or draining and filling the subject land to render it fit for such use or building or other structure, and construct floor levels in accordance with known levels from previous floods.

(2) The owner shall comply with all such requirements which shall be deemed to be a condition of approval of the building plan if the erection of a building or other structure as aforesaid is proposed.

Non-Conforming Use

752. (1) The town clerk shall keep a register to be called “The Register of Non-Conforming Uses”.

(2) Where on the appointed day a person is lawfully using any land, building or other structure for a purpose which, having regard to the zone in which such land, building or other structure is situated constitutes a purpose for which land may not be used or a building or other structure may not be erected or used in that zone pursuant to such Town-Planning Scheme, such person shall within six (6) months of such date, or within such further time as the Council may allow in a particular case, make application to the Council for the inclusion of such use in the Register of Non-Conforming Uses:

Provided that where an existing use is registered as non-conforming under the Town-Planning Scheme in force on the day preceding the appointed day and such use remains non-conforming the registration requirements shall be waived and the town clerk shall transfer such registration to the Register of Non-Conforming Uses:

Such application shall state the full Real Property Office Description of the land the nature of the non-conforming use being carried on thereon at the date of the coming into effect of the Town-Planning Scheme and shall be accompanied by a plan delineating the site of a building or other structure thereon in relation to the boundaries of the allotment of land.

(3) Where a person fails within the time allowed by this By-law to make application for the inclusion of a non-conforming use in the Register of Non-Conforming Uses the town clerk may serve notice on the owner and occupier of the land in question of the particulars of such non-conforming use which the Council decides to be the true and correct information relating thereto and which the Council proposes to enter in the said Register.

(4) In making an entry in the Register of Non-Conforming Uses the Council shall be bound by the determination of an appeal lodged pursuant to the provisions of the Act.

(5) Where an entry is not made in the Register of Non-Conforming Uses in respect of land or a building or other structure thereon, the onus of proving that there was a non-conforming use being carried on on such land or in such building or other structure at the date when the Town-Planning Scheme came into effect, the precise nature of that non-conforming use and the precise extent of the land, building, or other structure on or in which it was being carried on shall be upon the person alleging the existence of the non-conforming use.

Service Stations—Special Requirements

753. By-laws 754 to 761 inclusive, shall apply in addition to the requirements of any other By-law relating to service stations.

754. (1) Service stations established after the appointed day in any part of the Town-Planning Scheme Area other than the Commercial Zone shall be situated only on corner sites.

(2) The minimum frontages to a road or roads of any land upon which a service station may be erected shall be—

- (i) if the site is a corner site thirty (30) metres on one frontage and twenty-nine (29) metres on the other;
- (ii) in other cases thirty (30) metres.

755. (1) The set back from road frontages for buildings and other structures shall be—

- (i) walls of buildings thirteen point five (13.5) metres;
- (ii) motor fuel pumps seven point five (7.5) metres;
- (iii) other structures to the approval of the city engineer.

(2) Clearances from road frontages shall be measured from the new road frontage after any road widening or any truncation of the corner required under By-law 756 (ii).

756. The applicant for consent to erect a service station shall submit with his application a plan of layout showing the location and size of the proposed building, or in the case of a service station within a building, of such service station in relation to the Real Property Office description of the boundaries and roads fronting the service station and the position of motor fuel pumps and shall, if the Council consents to the application—

- (i) if the consent is to erect a service station building on land on which a service station was not being conducted at the date of the application, remove all existing structures before the new building is used as a service station;
- (ii) dedicate as a road free of cost to the Council such part of the land as the Council requires to be so dedicated for corner truncation, and for a deceleration lane not more than six (6) metres wide along the frontage of the site. The maximum area which may be required under this paragraph to be dedicated for the purpose of a corner truncation free of cost to the Council shall not exceed the area of a truncation at a right angled corner of ten (10) metres by three equal chords. If the Council requires a corner truncation of an area in excess of such maximum area, the Council shall make to the applicant compensation in respect of such excess area;
- (iii) form and grade the footway for the full length of the frontage of the site, form and grade the area of truncation, construct the footway in concrete and roadway on the truncated area and provide a concrete kerb and channelling all to the standard required by the city engineer;
- (iv) construct reinforced industrial crossings over water channelling and footways to the standard required by the city engineer;
- (v) provide to the satisfaction of the city engineer such drainage as is rendered necessary by the construction of the aforesaid works; and

(vi) meet the cost of any alterations to public utility mains and services rendered necessary in consequence of any roadworks, drainage works or crossings to be carried out as aforesaid or pursuant to any By-law of the Council or condition of consent imposed by the Council;

(vii) construct on the alignment for the full length of all frontages other than where industrial crossings are provided, a kerb, dwarf wall or similar vehicular barrier to the satisfaction of the city engineer.

(viii) provide for the discharge of wastes to the satisfaction of the city engineer.

757. A service station shall not be erected on a corner site if the intersection contains traffic islands or traffic signals, or if the Council considers the intersection may require either of these facilities in the future, or if the Council considers the proposal would, if permitted, create or be likely to create a traffic hazard or be likely to increase an existing traffic hazard.

758. Where the site of a proposed service station adjoins allotments which are used for residential purposes or could be used for such purposes under the provisions of the scheme a four point five (4.5) metres wide strip along the boundary with the residential allotments shall be planted with trees and shrubs to the satisfaction of the city engineer and permanently maintained.

759. The applicant may at his option, in lieu of carrying out such works, pay to the Council such sum as shall be approved by the Council for the carrying out thereof by the Council, in which event the Council shall, subject to the provisions of this Chapter complete such works within the time agreed upon by the parties.

760. Where an applicant is rebuilding or remodelling an existing, established service station, the requirements of By-laws 754, 755 and 757 may be waived with permission from Council.

761. Compliance by the applicant with the requirements of By-laws 754 to 760 inclusive and with any other relevant By-law shall be a condition precedent to the granting by the Council of any licence for the motor fuel pumps installed or to be installed on the subject land and such licence shall not be granted until all such requirements shall have been complied with in every respect.

Accommodation Units and Multiple Dwellings—Special Requirements

762. Multiple dwellings erected in Residential Low Density Zones shall be of single storey construction on a minimum site area of 700 square metres with a landscaped space of not less than 35 per cent of the site area.

763. Multiple dwellings and accommodation units erected in Residential Medium Density Zones shall be a maximum of four (4) storeys high on a minimum site area of 700 square metres with a landscaped space of not less than 35 per cent of the site area.

764. Multiple dwellings and accommodation units erected in Residential High Density Zones and Commercial Zones shall have a minimum site area of 950 square metres for buildings of not more than four (4) storeys and larger site areas, subject to Council approval for buildings of more than four (4) storeys. Landscaped space shall be not less than 30 per cent of the site area.

765. The minimum site area provisions of By-law 764 shall not apply to allotments 6 to 21 inclusive of section CXLVII.

766. All multiple dwellings and accommodation units shall have a site coverage ratio not greater than 40 per cent. Site coverage shall include the area occupied by the building, covered car accommodation, out buildings and the like.

Shops and Local Shops—Special Requirements

767. In addition to the requirements of any other By-law, the following conditions and requirements shall apply with respect to every building erected after the appointed day for the purpose of a shop or local shop, whether the building is for a purpose permitted by the Town-Planning Scheme or for which the consent of the Council is required under the Town-Planning Scheme. For the purposes of this By-law the term "shop" shall be deemed to include commercial premises, funeral parlours, hotels, indoor entertainments, professional offices, and refreshment services and the term "local shop" shall be deemed to include indoor entertainments and professional offices (minor):—

- (1) If a dwelling-house is on the site on which the proposed building is to be erected, it shall be removed from the site before the construction of such proposed building is commenced, unless

the Council consents to the inclusion of a caretaker's flat in the proposed building and such dwelling-house is constructed from similar materials to those required for the proposed building and in the Council's opinion, such dwelling-house is suitable for inclusion as an integral part of the proposed building, as a caretaker's flat;

- (2) A detached dwelling house shall not be erected in a Local Business Zone or on land on which a shop is erected or in respect of which consent for the erection of a shop has been applied for;
- (3) The owner of the land on which a building may be erected without the consent of the Council, or the applicant for consent where consent to erect a building is required under the Town-Planning Scheme and has been granted, shall—
 - (i) construct for shops a full width pedestrian pavement to the standard required by the city engineer, with a maximum of three point six (3.6) metres wide for the full length of the road frontage or frontages;
 - (ii) construct, for local shops, a pedestrian pavement to the width and standard required by the city engineer with a maximum width of three point six (3.6) metres for the full length of the road frontage or, where there is more than one such frontage, such frontages to the land the subject of the application;
 - (iii) construct concrete kerb and channelling to the standard required by the city engineer for the full length of the road frontage or, if there is more than one such frontage, such of these frontages as the city engineer shall determine;
 - (iv) where the road is paved, but is not paved for its full width, construct and pave with bitumen to the standard required by the city engineer the road between the existing pavement and the channelling referred to in paragraph (ii) of this clause;
- (4) Where the proposed development is on an allotment which adjoins an allotment or allotments that is/are being used for shops or local shops or can be used for shops of local shops, the location of the building and sealed parking area may be subject to Council approval;
- (5) Construct reinforced concrete industrial crossings to the standard required by the city engineer from the kerb and channelling to the property alignment at approved locations where vehicular access to the property is required;
- (6) Upon request by the applicant, and payment to the Council of the cost thereof, the Council may carry out the work specified in clause (3);
- (7) The works referred to in clause (3) shall be carried out before the new building is occupied;
- (8) The owner or applicant shall bear the cost of any alterations necessary to public utility mains, services or installations involved in the construction of the abovementioned works;
- (9) The materials used in and the execution of the abovementioned works shall be to the requirements and satisfaction of the city engineer;
- (10) A cantilever awning shall be provided in accordance with the relevant By-laws except that the Council may dispense with this requirement for local shops;
- (11) That part of the site on which vehicles may be parked and/or driven shall be surfaced to the standard required by the city engineer;
- (12) Where practicable, provision shall be made within the curtilage of the site for the loading and unloading of vehicles.

Industrial Uses—Special Requirements

768. In addition to the requirements of any other By-law the following conditions and requirements shall apply with respect to the use of any land or building on land or the erection of a building on land in a Medium Industry or a Light Industry Zone where such use or erection is commenced after the appointed day, whether or not the consent of the Council is required under the Town-Planning Scheme:—

- (1) The owner, or in the case where the consent of the Council is required, the applicant for such consent shall—
 - (i) construct reinforced industrial crossings from roadway to property alignment to the standard required by the city engineer; and
 - (ii) bear the cost of all alterations necessary to public utility mains and services involved in the construction of the industrial crossings or crossings as aforesaid;

(iii) on any land situated within the area of a fire zone in the City of Mackay, construct a full width pedestrian pavement to the standard required by the city engineer with a maximum width of 3.6 metres for the full length of the road frontage or, where there is more than one such frontage, such frontages to the land the subject of the application;

- (2) Upon request by such owner or applicant, as the case may be, and payment to the Council of the cost thereof, the Council may carry out the work specified in paragraphs (i) to (iii) of clause (1); and
- (3) Such work shall be carried out before the use in question of the land or building concerned is commenced or, in the case of an erection of a building pay to the Council, as a guarantee, the cost of such works before construction of such building is commenced.

Site requirements—Buildings

769. Except as is otherwise provided in these By-laws, the portion of any allotment to be covered by any building shall not exceed the following:—

- (1) For one and two storey buildings, 85 per cent. of the area of the allotment;
- (2) For buildings over two storeys $75 + \frac{20}{n}$ per cent. of the allotment area where "n" is the number of floors including the ground floor, but excluding basements.

770. In respect of a building or buildings which occupy and at the date of publication of By-law 769 in the *Gazette* occupied more than eighty-five per centum of the area of an allotment, and provided no increase in the area occupied by buildings is involved—

- (1) the city engineer may approve internal alterations, including internal alterations which will increase the floor area, and building work which will improve the exterior;
- (2) the Council may consent to applications to make additions which will increase the height of the building or the floor area or both, but in determining the application the following factors shall be taken into consideration:—
 - (a) Any likely increase in the number of occupants;
 - (b) Any likely increase in the number of vehicles that the use of the building or buildings as altered may generate;
 - (c) Any change in use or increase in existing use which would indicate the need for greater open space about the building or buildings.

771. In respect of the erection of a new building, if the building incorporates provision for basement car parking the Council may permit that part of the building which is proposed to be used for such car parking to extend to all boundaries of the allotment, providing the roof structure is at or below the permanent level of the adjacent road or roads.

772. Service Access—Every building shall be so designed and located that there shall be means of access for the removal of rubbish and servicing to every separate occupation and the means of servicing shall be provided in such a manner that the building can be serviced without passing through the front entrance thereof or through any other occupation. This means of access may be by a clear space outside the wall of the building or by an enclosed corridor within the building.

773. Notwithstanding the provisions of By-laws 769 to 772 inclusive, the Council may dispense with or modify all or any of these requirements if it considers that dispensation or modification is necessitated by the exceptional circumstances of the particular case.

Policy Plan

774. (1) For the purpose of the orderly development of land in the whole or part of a Town-Planning Scheme Area the Council may from time to time cause to be prepared a Policy Plan. This plan shall consist of—

- (i) maps on which may be designated a road system, interim zone classifications of land, and any other matters which are needed to show the Council's intent in respect of future development of the area concerned;
- (ii) a report which explains the maps and which shall among other things set out the goals which the plan is intended to achieve, the reasons why the various markings are shown on the maps and the standards which were used in the preparation of the plan;
- (iii) statements of policy which are to be used in assessing the intent of the plan.

(2) A resolution adopting the Policy Plan shall be passed at a special meeting of the Council called for that purpose and shall be confirmed at a subsequent special meeting of the Council.

(3) After a Policy Plan prepared in accordance with this By-law has been sealed a copy shall be made permanently available for inspection at the office of the Council during the Council's normal hours of business.

775. The Council may at any time and from time to time amend a Policy Plan, subject to the same procedures set out in By-law 774.

776. After a Policy Plan has been approved by the Council it shall be deemed to express the policy of the Council in relation to the desirable development of land in that part of the Town-Planning Scheme area to which it relates but it shall not for any purpose be deemed to be a rezoning of the land comprised therein: Provided however that the Council in determining any application for approval for development or for subdivision of land included in a Policy Plan shall have regard thereto.

Parking Areas

777. The parking requirements of this Chapter shall apply to those classes of buildings or other structures or part of any such building or other structure to which the provisions of the Table to By-law 778 apply, which are erected in the city after the date of publication of this By-law in the *Gazette*.

778. (1) One or more parking areas shall be provided in respect of every building or other structure to which the provisions of this By-law apply, the minimum number of parking spaces in each such parking area or parking areas being calculated as set out in the following Table:—

TABLE

Purpose for which Buildings or other Structures are to be Used	Minimum Parking Spaces
Accommodation units (not otherwise specifically provided)	One parking space for every two persons to be accommodated in the building or one parking space for each guest room whichever is the greater
Clubs (licensed)	One parking space for each 20 square metres or part thereof of the total floor area
Commercial premises, professional offices and professional offices (minor)	One parking space for each 100 square metres or part thereof of total floor area
Hospital	One parking space for every 8 beds; in addition one parking space for every ten employees (except where employees' quarters are located in close proximity to the hospital) and a further one parking space for each staff doctor
Hotel	One parking space for each 7.5 square metres or part thereof of the bar floor area; in addition one parking space for each 20 square metres or part thereof of the lounge and beer garden floor area, and a further one parking space for every two guest suites
Indoor bowling centre	Two parking spaces for each mat or lane
Indoor entertainments (not otherwise specifically provided)	One parking space for each 40 square metres or part thereof of the total floor area
Industries (all classes)	Two parking spaces for the first 200 square metres of floor area and one parking space for each additional 200 square metres or part thereof of the total floor area
Motel	As specified by Chapter XXX—Motels
Multiple dwelling	As specified in paragraph (xvi) of By-law 362 in Chapter XII for flat buildings
Place for religious purposes	One parking space for each 100 square metres or part thereof of the total floor area
Serviced apartments and tenements	One parking space for each apartment or tenement in accordance with the provisions of paragraph (xvi) of By-law 362 in Chapter XII for tenements
Service station	Three parking spaces for the first lubricating bay and two parking spaces for each additional lubricating bay
Shop, local shop and refreshment services	One parking space for each 50 square metres or part thereof of gross floor area
Squash court	Three parking spaces for each squash court
Any other use not specified in this Table other than agriculture, dwelling-house and home occupation	Sufficient parking spaces to accommodate the amount of vehicular traffic likely, in the opinion of the Council, to be generated by the particular use

(2) The parking space referred to in clause (1) of this By-law shall be a space of at least fifteen (15) square metres in area and at least two point five (2.5) metres wide.

(3) The owner and occupier of any land, building or other structure which is used for a purpose specified in the Table to clause (1) of this By-law shall ensure that all of the requirements of By-laws 777, 778 and 779 are complied with at all times.

779. (1) Subject to clause (3) of this By-law, a parking area shall be—

- level or of such a gradient as in the opinion of the city engineer to be suitable for vehicular parking;
- laid out to the satisfaction of the city engineer in such manner as to provide adequate access to each parking space and to permit free circulation of vehicles entering, leaving and parking;
- constructed, sealed, marked, and maintained to the satisfaction of the city engineer and continue as such until such time (if at all) as the Council permits a modification of such parking area;
- readily accessible for vehicular use;
- indicated by means of a sign or signs to the satisfaction of the city engineer;
- no closer than three (3) metres from the alignment of any structure, if in the Council's opinion space is necessary for pedestrian traffic. If directed, a concrete kerb shall be erected at the boundary of a parking area.

(2) A parking area shall be located upon the allotment upon which the building is to be erected unless—

- if on an adjoining allotment or part thereof the owner has the allotment or part thereof amalgamated by survey with the allotment upon which the building is to be erected;
- by special consent, which the Council is hereby empowered to give, the Council approves the location of the parking area upon an allotment or allotments so that such parking area is, in the opinion of Council, within a reasonable distance from the allotment upon which the building is to be erected. As a condition of the special consent the owner of such allotment or allotments shall apply for rezoning the allotment or allotments to Reserved Uses (Car Park).

(3) The Council may require that access to the parking area be provided from two (2) dedicated roads.

(4) A parking area required by this Chapter shall be—

- kept exclusively for parking;
- used exclusively for parking; and
- maintained in a fit and proper condition for parking purposes.

780. In exceptional circumstances, the Council may on request and in its absolute discretion from time to time in any particular case forego all or any of its parking space requirements and accept from the person carrying out the proposed development a monetary contribution towards the cost of establishing public car-parking facilities. Such contribution shall be determined by resolution of Council in accordance with an appropriate formula and shall be expended by Council on the establishment of car-parking facilities at such time as it is convenient to the Council to do so.

Offences

781. A person who, in any respect, contravenes or fails to comply with the provisions of this Chapter, shall be guilty of an offence.

782. Any right or remedy had by the Council in respect of an act or omission of or by a person shall not be prejudiced or affected in any way by the fact that such act or omission constitutes an offence under this By-law for which no person has been prosecuted.

Certificate

The foregoing resolution was passed on the twenty-fifth day of October, 1976, at a Special Meeting of the Council of the City of Mackay called for that purpose and the requirements of subsection (27) of section 31 of the *Local Government Act 1936-1976* have been complied with in respect of the By-law, the subject of such resolution.

C. S. JOHNSTONE, Acting Mayor.

L. A. PAYNE, Town Clerk.

MACKAY CITY COUNCIL

Department of Local Government,
Brisbane, 6th April, 1978.

HIS Excellency the Governor, acting by and with the advice of the Executive Council and in pursuance of the provisions of the *Local Government Act 1936-1977*, has been pleased to approve of the following By-laws made by the Council of the City of Mackay.

R. J. HINZE.

WHEREAS by the *Local Government Act 1936-1977*, a Local Authority is empowered to make By-laws for all or any of the purposes in the said Act mentioned, and it is further provided that a By-law may be amended or repealed at any time by the Local Authority: It is hereby resolved by the Council of the City of Mackay, with the approval of His Excellency the Governor in Council, that the following By-law for the general good rule and government of the area and its inhabitants, and which the Council hereby determines is necessary for the proper exercise and performance of the functions of Local Government and the powers and duties of the Council, shall be in force from the date of publication hereof in the *Gazette*.

The By-laws of the Council of the City of Mackay, published in the *Gazette* of 18th December, 1930, as amended from time to time, are hereby further amended as follows:—

CHAPTER IV

BUILDINGS

(1) By in By-law 100 omitting the words "so that the total area of the parcel divided by the number of such building is less than twenty-four perches and which land must have a minimum frontage of forty feet to a road for each building" and inserting in their stead the words "unless such land is capable of being subdivided in accordance with By-law 643 and unless clearances from future boundaries conform with the requirements of the "Standard Building By-law 1975"."

(2) By repealing By-law 101A to 101F inclusive.

CHAPTER XII

BOARDING-HOUSES, FLAT BUILDINGS AND TENEMENT BUILDINGS

(3) By in By-law 362 omitting paragraph (ii).

(4) By in By-law 362 paragraph (xvi)—

(a) Inserting after the word "covered" the words "and open".

(b) Omitting the words "Boarding Houses—Accommodation for one vehicle for every three (3) persons to be accommodated in the building" and inserting the words "Boarding Houses—Covered space for one vehicle for every two (2) persons to be accommodated in the building or one covered space for each guest room whichever is the greater" in their stead.

(c) Omitting the words "Flat Buildings—Accommodation for one vehicle per flat" and inserting the words "Flat Buildings—One covered space for each flat and in addition one open space for each two flats except that in special circumstances the Council may reduce the requirements for open spaces but shall not reduce it to less than one open space for each four flats" in their stead.

(d) Omitting the words "Tenement Buildings—Accommodation for one vehicle for every three (3) tenements in the building" and inserting the words "Tenement Buildings—One covered space for each tenement in the building" in their stead.

(e) Omitting the words "The space provided for each vehicle shall be at least one hundred and sixty (160) square feet in area and at least ten feet (10') wide" and inserting the words "The space provided for each vehicle shall be at least fifteen (15) square metres in area and at least two point five (2.5) metres wide" in their stead.

Certificate

The foregoing resolution was passed on the twenty-fifth day of October, 1976, at a Special Meeting of the Council of the City of Mackay called for that purpose and the requirements of subsection (27) of section 31 of the *Local Government Act 1936-1976* have been complied with in respect of the By-law, the subject of such resolution.

C. S. JOHNSTONE, Acting Mayor.

L. A. PAYNE, Town Clerk.