

"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 holds 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,

6.6. 24.7.82 *** "Dual purpose dwelling-house"—Any land, building or other structure which comprises or is intended to comprise self contained accommodation for building, mining, exclusive use of one (1) family, but which is or under land, also provide a separate area of not more than one third (1/3) of the total floor area for purpose of self contained accommodation for more than two (2) persons".

* "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 the Council's by-law 8 of Chapter IV for the exclusive use of one (1) family including such outbuildings as are incidental to and necessarily associated with a dwelling-house; the term shall be deemed to include a detached or semi-detached residential unit situated upon land which meets all requirements for subdivision in group title under the By-laws, whether so subdivided or not;

(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 *G.C. 24.7 5-2*
 Furniture storage *Garages and/or places for the storage and/or parking of motor vehicles of tare exceeding two (2) tonnes and/or tractors and/or machinery.*
 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 hereinbefore 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 <i>Dual purpose dwelling-houses 66 24. 7. 82</i>	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 <i>Dual purpose dwelling-houses 66 24. 7. 82</i>	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 <i>Dual purpose dwelling-houses 66 24. 7. 82</i>	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 <i>Dual purpose dwelling-houses 66 24. 7. 82</i>	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 <i>66 24. 7. 82</i> 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 <i>66 24. 7. 82</i> 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 <i>66 24. 7. 82</i> 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	<i>Dual purpose dwelling-houses</i> 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

Residential Density Requirements

14. The maximum allowable number of residential units per hectare shall be:—

- (a) In a Residential Zone—fourteen (14) residential units.
- (b) In a Residential Low Density Zone—twenty-five (25) residential units of which not more than ten (10) may be in multiple dwellings.
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24.7.82 (c) In a Residential Medium Density Zone—forty (40) residential units of which not more than twenty (20) may be in multiple dwellings.
- (d) In a Residential High Density Zone and in a Commercial Zone—no limit.

15. Residential units shall be calculated on the following scale:—

- 17.11.83 (a) One (1) unit for each dwelling house, flat, caretaker or manager's flat, home unit, vacant lot or lot used for non-residential purposes.
- (b) One (1) unit, plus one (1) unit for each two (2) guests for motels.
- (c) One (1) unit, plus one quarter ($\frac{1}{4}$) of one (1) unit for each bedroom for accommodation units.
- (d) Provided that in calculating population densities for a unit of area fronting Nebo Road, land on which a motel has been erected shall not be included in such calculation.

16. For the purpose of calculation of residential density, a unit of area shall be entirely within one (1) zone, and shall be a continuous area bounded by streets or other suitable demarcation lines."

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 continued.

22. Any offence under this scheme may be prosecuted 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.

"15. Residential units shall be calculated on the following scale:—

- 17.11.83 (a) One (1) unit for each dwelling house, flat, caretakers flat or home unit and for each vacant parcel or potential parcel of land capable of being created under Chapter XXIII, Subdivision of Land, of the by-laws;
- (b) One (1) unit for each motel, plus one (1) unit for each two (2) guest suites contained therein;
- (c) One (1) unit for each set of accommodation units, plus one quarter ($\frac{1}{4}$) of one (1) unit for each bedroom contained therein;

Provided that in calculating population densities for a unit of area fronting Nebo Road, land on which a motel has been erected shall not be included in such calculation."