

"Building" - Any fixed structure, which is either wholly or in part enclosed by walls and which is roofed. The term includes any part of a building;

"Bulk store" - Any premises used or intended to be used for the bulk storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership. The term does not include a warehouse as herein defined;

"Bus depot" - Any premises used or intended for use for the overnight storing of buses or other road transport passenger vehicles;

"Caravan" - A wheeled unit capable of being registered under the *Motor Vehicles Control Act 1975-1988* for towing or a unit which does not comply with the provisions of the *Building Act 1975-1988* for a Class 1 or Class III building which is capable of being readily transported by trailer or other vehicle, designed for use for residential purposes. The term includes self-propelled units of a similar nature and any approved annexe attached thereto and used in conjunction with such unit, provided that the gross floor area of such annexe does not exceed the gross floor area of such unit. The term does not include a relocatable home as herein defined;

"Caravan park" - Any premises used or intended for use for the parking thereon of caravans, relocatable homes and the pitching of tents. The term includes the erection and use of cabins for providing overnight or holiday accommodation and the erection and use of a kiosk for the exclusive use of the patrons of the caravan park where such kiosk and cabins are provided within a caravan park;

"Car repair station" - Any premises used or intended for use for the purpose of carrying out motor vehicle repairs other than -

- (a) body building; or
- (b) panel-beating which involves dismantling; or
- (c) spray painting other than of a touching up character.

The term does not include a motor vehicle showroom as herein defined;

"Caretaker's residence" - Any premises used or intended for use for caretaking purposes, in connection with an industry or other use conducted on the same parcel of land. The term includes any dwelling-house or flat provided for a person engaged in a use lawfully established on the same site;

"Caterer's room" - Any premises used or intended for use for the holding of receptions at which food is served. The term does not include a catering shop or hotel as herein defined;

"Catering shop" - Any premises used or intended for use as a shop included in Appendix I hereto:-

APPENDIX I

Cafes
Expresso bars
Milk bars
Restaurants
Snack bars
Tea gardens
Tea rooms

"Commercial industry" - Any premises used or which is intended for use for a purpose which is

- (a) included in but not limited to Appendix II hereto; or
- (b) in the opinion of the Council consistent with the purposes so listed in Appendix II and which -
 - (i) is carried on in a building or other structure occupying not more than two hundred (200) square metres of the area of the land upon which such building or other structure is situated;
 - (ii) does not, in the opinion of the Council, impose a load on any local utility or public utility undertaking greater than that which is required for the normal development of the locality in which the industry is carried on; and
 - (iii) does not, in the opinion of the Council, by reason of the carriage of goods or materials used or produced thereby, create traffic upon public roads in the locality which is prejudicial to the amenity of the locality or which cause congestion or danger to users of such roads or requires roads of a higher standard of construction than those required for the normal development of the locality in which the use is carried on:-

APPENDIX II

Boot and shoe repairing
Bread, cake and pastry manufacturing
Cycle repairing
Dancing teaching

Dressmaking
Drycleaning and dyeing
Duplicating and copying services
Electrical or electronic equipment or appliance repairing or servicing
Film developing and printing
Laundromats
Locksmiths' establishments
Millinery manufacturing
Photographic studios
Piano tuner's and repairer's establishments
Saddlery
Sports goods repairer's establishments
Tailor's workshops
Watchmaker's establishments;

"Commercial premises" - Any premises used or intended for use as a business office or a professional office or for other business or commercial purposes not otherwise particularly defined in this Part;

"Council" - The Council of the Shire of Mirani;

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

"Domestic pets" - Any premises used or intended for use to accommodate animals, birds, insects, reptiles or fish which are kept for the protection, pleasure or recreation of the residents therein and which are included in but not limited to Appendix III hereto:-

APPENDIX III

Caged birds (not more than thirty five (35))
Cats (not more than four (4) over the age of four (4) months)
Dogs (not more than two (2) over the age of three (3) months)
One (1) hive of bees
Ornamental fish
Poultry (not more than twenty (20) mature birds)

"Dwelling-house" - Any premises used or intended for use for the purpose of providing only self-contained accommodation for the exclusive use of one (1) family on any one (1) allotment, or group of adjoining allotments. The term includes such buildings or other structures as are incidental to and necessarily associated with a dwelling-house. The term does not include a relocatable home erected in a Caravan park or Accommodation unit or a multiple dwelling as herein defined;

"Dwelling unit" - Any premises providing only self-contained residential accommodation for the exclusive use of one (1) family or household;

"Educational establishment" - Any premises used or intended for use as a boarding school, kindergarten, child minding centre, day care centre, college, technical college, academy, lecture hall, cultural centre, gallery or museum. The term does not include an Institution as herein defined;

"Erect" - includes -

- (a) erect or commence or continue to erect; or
- (b) do, or commence or continue to do, any work in the course of or for the purpose of erecting; or
- (c) perform any structural work or make any alteration, addition or rebuilding; or
- (d) move from one position on an allotment to another position on or partly on the same allotment or another allotment; or
- (e) re-erect with or without alteration on or partly on the same or another allotment; or
- (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;
 - (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" - Any premises used or intended for use for the purpose for which it was lawfully used immediately before the Appointed day or for which a consent has been granted by the Council before the Appointed day and the consent has not expired or been revoked by the Council;

"Building
Site"
amd 1.
14/6/96

see
amd 1
14/6/96

"Extractive industry" - Any premises used or intended for use for the purpose of carrying on an industry involving the extraction of sand, gravel, turf, soil, rock, stone or similar substance as such and when carried out on such land from which such substances are extracted or on land adjacent thereto, the treatment of such substances and the manufacture of materials from such substances. The term does not include the removal of materials authorised by Section 32(13) of the *Local Government Act 1936-1990* nor a mine within the meaning of the *Mining Act 1968-1986* or regulations made pursuant thereto;

"Farmstay Accommodation" -
cmtl 3
6/3/98

"Freight terminal" - Any premises used or intended for use as a terminal for the receipt or despatch of goods and the storage for short periods of such goods. The term includes parcel delivery depots, courier depots, furniture removal depots and the like but does not include a Noxious transport depot or a Transport terminal as herein defined;

"General industry" - Any premises used or intended for use for the purpose of carrying on an industry which does not fall within the other categories of industry as herein defined;

"Heavy Industry" - Any premises used or intended for use for the purpose of carrying on an industry which is -

- (a) included in but not limited to Appendix IV hereto; or
- (b) included in Appendix VI but does not comply with the provisions applicable to Light industry; or
- (c) not, in the opinion of the Council, a Noxious or hazardous industry:-

APPENDIX IV

Bottle depot and works
Caravan manufacturing
Cement products works
Coach builders
Concrete products manufacturing and depots
Contractor's yards (heavy equipment)
Dairy products manufacturing
Diecasting
Distilleries
Engineering works (heavy)
Fibreglass manufacturing
Foundries
Fruit and vegetable processing works
Glass works
Grinding mills (cereal)
Hardware manufacturing
House-removing depots
Ice-cream manufacturing
Industrial bin contractors depot
Ice works
Iron and steel works
Marble and terazzo works
Machinery and implement manufacturing
Motor body works
Nail manufacturing
Paint spraying
Panelbeating works
Piping manufacturing
Plywood mills
Radiator manufacturing
Roofing materials manufacturing
Sand, gravel and stone crushers, screening plants and depots
Sawmills, timberyards, fencing posts and palings depots
Scrap metal merchants
Sheet metal works
Sports goods manufacturing
Steel fabricating works
Stock food manufacturing
Stonemasons
Tool manufacturing
Tile works
Welding
Wire products manufacturing

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

- (a) no source of power other than one (1) or more single-phase electric motors of not more than point four (0.4) kW power is used provided that the total power drawn by all motors does not exceed one point five (1.5) kW;
- (b) the floor area used (whether temporarily or permanently) does not exceed more than one third (1/3) of the total floor area of the dwelling-house, except with and in accordance with the condition of an express permission of the Council;

- (c) no load is imposed on any local utility or public utility greater than that which is normally required by other uses permitted in the zone in which the dwelling-house is situated;
- (d) no sign other than a sign not exceeding zero point three (0.3) square metres in area and bearing only the name of the occupier and of the occupation is displayed;
- (e) not more than three (3) persons, one (1) of whom is the registered proprietor, are engaged; and
- (f) there is no public display of goods on the premises and no sale of goods manufactured or fabricated at locations other than on the premises.

The term does not include any occupation or profession which causes injury to or has a prejudicial effect on the amenity of the locality in which it is carried on due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste products or thing whatsoever;

"Hospital" - Any premises used or intended for use as a hospital, sanatorium, nursing home or home for infirm, incurable or convalescent persons. The term includes buildings and other structures associated with such uses, but does not include an Institution as herein defined;

"Hotel" - Any premises used or intended for use for a purpose specified in a licensed victualler's license, a limited hotel license, or a tavern license issued under the *Liquor Act 1912-1989*;

"Indoor entertainment" - Any premises used or intended for use 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 premises for any of the activities, purposes or pursuits included in Appendix V hereto:-

APPENDIX V

Amusement halls
Association halls
Bazaars (indoor)
Bowling centres
Broadcasting studios
Cinemas
Circuses (indoor)
Clubs (non-residential)
Concert halls
Courts (covered)
Dance halls
Exhibitions (indoor)
Friendly society halls
Gymnasiums
Lodge halls
Meeting halls (other than places of worship)
Music halls
Premises specified in a cabaret license issued under the *Liquor Act 1912-1989*
Public halls
Schools of Arts
Side shows (indoor)
Skating rinks (indoor)
Squash courts
Stadiums (indoor)
Theatres (indoor)

"Industry" - Any premises used or intended for use for any of the following operations -

- (a) (i) any manufacturing process whether or not such process results in the production of a finished article; or
- (ii) the breaking up or dismantling of any goods or any articles for trade, sale or gain, or ancillary to any business; or
- (iii) the extraction of sand, gravel, turf, soil, rock, ore, stone, or similar substances from land; or
- (iv) repairing and servicing of articles including vehicles, machinery, buildings or other structures; or
- (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 or land; or
- (vi) the dismantling of motor vehicles, whether the dismantling is carried out by one (1) operation or by a series of operations; and
- (b) When conducted 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; or

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

(c) Any industry or any class of industry, particularly described or defined in this scheme;

(d) A branch of an industry or a group of industries;

"Institution" - Any premises used or intended for use as -

- (a) a home or other institution for mentally or physically handicapped persons; or
- (b) a mental hospital; or
- (c) a penal or reformatory institution; or
- (d) an orphanage, childrens home; or
- (e) a home or institution for poor or disadvantaged persons;

"Junk yard" - Any premises used or intended for use in the collection, storage, abandonment or sale of scrap materials or scrap goods, or used for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery and for the sale of parts thereof;

"Kennels" - Any premises used or intended for use for the breeding or boarding of dogs or cats or both for commercial gain;

"Licensed club" - Any premises used or intended for use for a purpose specified in a sporting or registered club license issued under the *Liquor Act 1912-1989*;

"Light industry" - Any premises used or intended for use for the purpose of an industry which is -

- (a) included in but not limited to Appendix VI hereto; or
- (b) in the opinion of the Council consistent with those industries so listed; or
- (c) included in Appendix II but does not comply with the provisions applicable to commercial industry; and which complies with the following provisions, that is to say:-
 - (i) it, together with any similar or associated use on the same land or any adjacent land owned by any company, person, firm or undertaking associated with the person conducting the light industry does not occupy an area of more than one (1) hectare;
 - (ii) it does not require a special rail siding;
 - (iii) it is not, in the opinion of the Council, likely to cause nuisance or annoyance to persons or adversely affect property not associated with the occupation by reason of the emission of noise, light (whether steady or flashing), interference with radio or television transmission or reception, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste liquids, waste products, grit, oil or for any other reason;
 - (iv) it does not, in the opinion of the Council, involve the disposal of such quantities of waste as, in the opinion of the Council would be likely to overload the Council's sewerage reticulation system in the locality or other waste disposal systems;
 - (v) it does not, in the opinion of the Council, by reason of the carriage of goods or materials used or produced thereby create traffic upon public roads in the locality in which the industry is carried on which causes congestion or danger to users of such roads or requires roads of a higher standard of construction than those required for the normal development of the locality in which the industry is carried on:-

APPENDIX VI

Auction marts
Bakeries
Bottle depots
Builder's workshops and yards
Bus repair workshops
Carpentry, joinery and furniture manufacturing
Clothing manufacturing
Cold stores
Drycleaning works
Electrical appliances materials and signs manufacturing
Electrical repair works
Electrician's works and depots
Engineering works (light)
Gas appliance workshops
Glazing works and glaziers' depots
Ice-cream depots

Laundries
Lawn mower repairing
Milk depots
Plumber's yards and workshops
Printing works
Soft drink and cordial factories
Shopfitters' depots
Tool repairing and sharpening
Tyre repair stations
Upholstering

"Liquid fuel depot" - Any premises used or intended for use for -

- (a) the storage of petrol, oil, petroleum products and other flammable or combustible fuels for commercial distribution;
- (b) the storage of drums containing petrol, oil, petroleum products or other flammable or combustible fuels for commercial distribution.

The term does not include a Service station as herein defined;

"Local store" - Any building or other structure or part thereof not exceeding one hundred and fifty (150) square metres in gross floor area which is attached to a dwelling-house and -

- (a) is used or intended to be used primarily for the sale, by retail, of a wide range of food-stuffs; and
- (b) at no time contains more than three (3) shop assistants;

"Local utilities" - Undertakings for the supply of water, electricity or gas or the provision of telephone, sewerage or drainage services provided that this shall not include the erection and operation of any of the following -

- (a) electricity power lines, transformers or switching stations operating at or in excess of one hundred and thirty two thousand (132,000) volts;
- (b) any building or other structure (other than a pole or mast supporting electricity or telephone lines) having a floor area greater than five (5) square metres.

The term does not include Public utility or Special use as herein defined;

"Lot feeding of stock" - Any premises used or intended for use for the keeping of more than one hundred (100) animals in an enclosure where vegetation growing in the enclosure is not intended to be used to feed the animals and the density within the enclosure is greater than fifty (50) animals per hectare. The term does not include Animal husbandry, a Piggery, a Poultry farm or a Stable as herein defined;

"Machinery showroom" - Any premises used or intended for use for the display or sale of agricultural, pastoral and stock handling machinery or implements and their accessories. The term includes the storage for sale purposes of any petroleum products, agricultural or horticultural preparations in sealed containers and the servicing of agricultural, pastoral and stock handling machinery or implements and their accessories when carried out in conjunction with such display or sale;

"Motor vehicle showroom" - Any premises used or intended for use for the display or sale by retail of motor vehicles and accessories or caravans and accessories or boats and accessories. The term includes, when carried out on the same land, the servicing of motor vehicles, caravans or boats and their accessories. The term does not include a Car repair station, Machinery showroom or Showroom as herein defined.

"Multiple dwelling" - Any premises used or intended for use for the purpose of two (2) or more dwelling units and divided into the following classes:-

see
and 1. Multiple dwelling - Class "A" - A multiple dwelling comprising two (2) dwelling units,

14/6/96 Multiple dwelling - Class "B" - A multiple dwelling comprising two (2) or more dwelling units having a site population density of not more than one hundred (100) persons per hectare. The term does not include an Accommodation unit as herein defined.

"Noxious or hazardous industry" - Any premises used or intended for use as an industry which is included in but not limited to Appendix VII hereto:-

APPENDIX VII

Abattoirs
Acid manufacturing
Animal by-products manufacturing
Aqua-ammonia depots
Asbestos products works
Asphalt works
Battery smelters and works
Bitumen works
Blood and bone mills
Boiling down works

Brick, earthenware and pottery works
 Canneries
 Cement and lime works
 Chemical works
 Concrete batching plants
 Crushing mills
 Disinfectant, pest destroyers and germicide manufacturing
 Distilleries
 Explosives manufacturing and storage depots
 Fertiliser works
 Flammable liquid manufacturing
 Food preserving works
 Galvanised-iron works
 Gas works
 Hide, skin and tallow stores
 Knackeries
 Meat preserving and processing works
 Paint manufacturing
 Paper mills
 Plastic manufacturing
 Poison manufacturing
 Poultry abattoirs and dressing houses
 Slaughter-houses
 Smelting works
 Soap works
 Sugar mills
 Tanneries
 Turpentine manufacturing

"Noxious transport depot" - Any premises used or intended for use as a depot connected with the transport of stock or animal products or human or industrial wastes of a noxious or offensive nature. The term includes premises used to store vehicles or containers connected with such use but does not include a Freight terminal or a Transport terminal as herein defined;

"Off-street carparking" - Any premises used or intended for use solely for the temporary parking and/or temporary storage of motor vehicles. The term does not include off-street parking required in association with uses permitted by the Scheme;

"Outdoor entertainment" - Any premises used or intended for use for the purpose of 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 premises for any of the activities, purposes or pursuits included in Appendix VIII hereto:-

APPENDIX VIII

Children's playgrounds
 Circuses (outdoor)
 Coursing tracks
 Courts (uncovered)
 Drive-in theatres
 Exhibitions
 Fairs
 Fauna and/or flora sanctuaries
 Model car, boat or aeroplane operations
 Parks
 Picnic races
 Race tracks
 Showgrounds
 Side shows (outdoors)
 Speedways
 Sporting arenas, being a field, green, rink, or water
 Stadiums (outdoor)
 Theatres (outdoor)
 Theme parks
 Trotting tracks
 Zoological and/or botanical gardens

"Piggery" - Any premises used or intended for use for the keeping, depasturing, feeding or watering of pigs;

"Place of worship" - Any premises used or intended for use as a church, chapel or other place of worship or religious instruction or place used for the purpose of religious training;

"Premises" - Any land, building or other structure or any part thereof;

"Public utility" - Any premises used or intended for use for any of the following undertakings, namely:-

- (a) a railway, tramway, road or air transport, wharf, harbour, sea or river undertaking;
- (b) major undertakings for the supply of water, hydraulic power, electricity or gas or the provision of radio broadcasting, television, telephone, sewerage, or drainage services;

"Relative's apartment" - Any premises used or intended for use as a flat annexed to a dwelling-house where the flat is occupied or intended for occupation by a relative of the owner who is the occupant of the said dwelling-house;

"Relocatable home" - A residential unit that complies in all respects with the provisions of the *Building Act 1975-1988* for a Class I or Class III building, factory assembled or built in components and assembled onsite, capable of being transported by trailer or other vehicle, for which building approval has been granted on an approved site within a caravan park;

"Roadside stall" - Any premises, whether fixed or moveable, fronting a road and used or proposed to be used or capable of being used, for the purpose of displaying for sale to the general public of rural produce, excluding manufactured or processed goods, when such manufactured or processed goods are not ancillary to the sale of rural produce;

"Rural building" - Any premises used or intended for the storage of farm implements or produce for the farm on which the building or other structure is sited. The term does not include any building or other structure for use as a dairy, or a stable, or for use in association with animal husbandry or any use separately defined in the town planning scheme;

"Scheme maps" - The maps forming part of this town planning scheme approved by the Governor in Council and signed for identification by the Clerk of the Executive Council, copies whereof are open at the office of the Director of Local Government and at the office of the Council;

"Service station" - Any premises used or intended for use only for the sale by retail of petrol and automotive distillate or any derivatives therefrom, capable of use in internal combustion engines and for all or any of the following purposes, namely:-

- (a) The sale by retail of -
 - (i) lubrication oils and greases; or
 - (ii) batteries and tyres; or
 - (iii) accessories and other things associated with vehicles motivated by internal combustion engines; or
 - (iv) power and lighting kerosenes; or
- (b) The carrying out of all or any of the following operations, namely -
 - (i) the fitting, removal and exchange of tyres; or
 - (ii) the repairing of tubes; or
 - (iii) the supply of air; or
 - (iv) the charging of batteries; or
 - (v) the lubrication and greasing of motor vehicles; or
 - (vi) the cleaning and adjustment and replacement of sparkplugs; or
 - (vii) the receipt of tyres for retreading and other processes and the redelivery thereof; or
 - (viii) running repairs of a minor nature and of a type which do not normally immobilise a vehicle for a period longer than two hours; or
 - (ix) the washing of motor vehicles; or
- (c) The rendering of minor services incidental to any of the foregoing;

"Shop" - Any premises used or intended for use for the purpose of displaying or offering goods for sale to members of the public. The term includes incidental storage of such goods on the same premises but does not include an Agricultural showroom, Bulk store, Car repair station, Catering shop, Hotel, Junk yard, Local store, Motor vehicle showroom, Service station, Warehouse as herein defined;

"Showroom" - Any premises used primarily for the display of goods whether or not any such goods are sold thereat. The term includes, when carried out on the same site, the use of any office in connection with such premises and the servicing or minor repairing of goods displayed or sold thereat. The term includes showroom for the display of camping goods, carpets, electrical goods and furniture but does not include a Machinery showroom, a Shop, or Motor vehicle showroom as herein defined;

"Site population density" - The population density of a site used for accommodation units and multiple-dwellings based upon two (2) persons per bedroom for the first bedroom and one (1) person per bedroom for each additional bedroom per unit;

"Special use" - The use of any land, building or other structure for:-

- (a) cemeteries, crematoria;
- (b) Federal Government purposes;

Plan of
 Development
 and
 19/6/96

- (c) Local Government purposes;
- (d) State Government purposes;
- (e) Statutory Authority; or
- (f) any other public purposes not specifically included in any other definition contained in this Part. The term does not include Local utilities and Public utilities as herein defined;

"Sports and recreation" - Any premises used or intended for use for any activity which is -

- (a) included in, but not limited to Appendix IX hereto;
- (b) not in the opinion of the Council, likely to cause nuisance or annoyance to persons or adversely affect property not associated with the activity; The term includes the erection of club-houses and ancillary buildings associated with the activities listed:-

APPENDIX IX

Archery
Basketball
Boating (land facilities)
Bowling
Croquet
Cycling tracks
Golf courses
National fitness centres
Pony club areas
Pony trekking
Riding schools
Commercial or community swimming pools (indoor and outdoor)
Tennis courts
Youth centres

"Stable" - Any premises used or capable of being used for the stabling or keeping of a horse or other quadruped, and includes any shed, loose box or stall used or capable of being used for the keeping, stabling, feeding, watering, grooming, shoeing or veterinary treatment of a horse or other quadruped. The term includes a roofed yard;

"Stockyard" - Any premises used or intended for use for the holding of livestock for commercial purposes. The term does not include a Stable or Rural building as herein defined;

"Stock salesyard" - Any premises used or intended for use for the purpose of offering animals for sale and includes a public livestock market;

"Transport terminal" - Any premises used or intended for use as an aerodrome, a road transport passenger terminal, a water transport passenger terminal, a bus station or heliport. The term does not include the storing of buses or other road transport passenger vehicles;

"Use" - In relation to land, includes the carrying out of excavation work in or under land and the placing on land of any material or thing which is not a building or other structure. The term includes any use which is incidental to or associated with the use of the land in question;

"Veterinary clinic" - Any premises used or intended for use in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets where animals or pets are not retained overnight;

"Veterinary Hospital" - Any premises used or intended for use for the long term treatment of sick animals and pets and includes the accommodation of such animals and pets, overnight or longer;

"Warehouse" - Any premises used or intended for use for the storage of goods, merchandise or materials in large stocks whether or not such storage is required for an adjoining shop or other commercial premises, pending their distribution or sale to persons who purchase for the purpose of resale only;

"Zone" - The divisions respectively into which the town planning scheme area is divided by this town planning scheme for the purposes thereof.

2. Where any term used in this town planning scheme is not herein defined but is defined in a 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.
3. Any questions as to whether a use or proposed use falls within a definition of a class of uses defined in this Part shall be determined by the Council.

PART II

ZONING

Division I - Division of Town Planning Scheme Area into Zones

1. For the purposes of this town planning scheme, the town planning scheme Area is hereby divided into zones as set out in the following Table and the areas so designated on the scheme maps are hereby declared to be within the zones as indicated by the designation given in the Table:-

THE TABLE

Number of Zone	Name of Zone	Colour Code
1	Business	Dark blue
2	Residential "A"	Pink
3	Residential "B"	Pink with black diagonal hatch
4	Rural Residential	Light brown with red border
5	Village Residential	Pink with a blue edge
6	Light Industry	Light purple
7	Heavy Industry	Dark purple
8	Noxious or Hazardous Industry	Dark purple with a yellow border
9	Public Open Space	Dark green
10	Private Open Space	Light green
11	Special Purposes	Yellow
12	Special Facilities	Yellow with a red border and the use indicated in red lettering
13	Rural "A"	Light brown
14	Rural "B"	Dark brown

2. Subject to the provisions of Parts III and IV of this town planning scheme:-

- (a) The purposes for which any building or other structure may be erected or used or for which land may be used without the consent of the Council in each zone shall be the purposes set forth in Column III of the Table of Zones herein opposite the name of the relevant zone under the heading "Purposes for which buildings or other structures may be erected or used or for which land may be used without consent of the Council";
- (b) The purposes for which any building or other structure may be erected or used or for which land may be used only with the consent of the Council in each zone shall be the purposes set forth in Column IV of the Table of Zones herein opposite the name of the relevant zone 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 the Council";
- (c) The purposes for which any building or other structure may not be erected or used or for which land may not be used in each zone shall be the purposes set forth in Column V of the Table of Zones herein opposite the name of the relevant zone under the heading "Purposes for which buildings or other structures may not be erected or used or for which land may not be used".

3. 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.

4. Subject to the provisions of Part III of this town planning scheme, no person shall:-

- (a) without the consent of the Council, erect or use any building or other structure or use land in any zone for a purpose set forth in Column IV of the Table of Zones herein opposite the name of that zone; or
- (b) erect or use any building or other structure or use land in any zone for the purpose set forth in Column V of the Table of Zones herein opposite the name of that zone.

5. Notwithstanding that, pursuant to this town planning scheme, a building or other structure may be erected or used, or land may be used, in any zone without the consent of the Council, or that, because of consent of the Council, any building or other structure may be erected or used or land may be used in any zone for a purpose specified in such consent, nevertheless, the proposed development shall comply with the specific conditions set out in Part VI hereto relating to the particular purpose and, subject to this scheme, all relevant by-laws shall apply and be in force in respect of such erection or use.
6. Notwithstanding any other provisions of this scheme or the by-laws no person shall without the consent of the Council change or cause to be changed the natural surface levels of any allotment or any group or combination of adjoining allotments having an area of more than two thousand (2000) square metres by more than point five (0.5) metres.
6. Light Industry - The intent of this zone is to provide for light industrial activities. This zone is to have full urban services and is to be located so that it does not interfere with the amenity of residential areas.
7. Heavy Industry - The intent of this zone is to provide for heavy industries and for industrial or manufacturing activities involving large parcels of land or which by the nature of their operation are likely to be detrimental to the amenity of an area.
8. Noxious or Hazardous Industry - The intent of this zone is to provide for any activities which would be likely to severely affect the amenity of surrounding areas. The use of this zone is to be limited and must be remote from residential localities. The wastes from these types of activities must be able to be disposed of to the satisfaction of the Council.
9. Public Open Space - The intent of this zone is to provide areas of open space which may serve any functions to the community including recreation and sporting facilities, informal social areas, conservation of areas of outstanding interest, amelioration of climatic effects, improvement or enhancement of the visual amenity of the Shire's environment.
10. Private Open Space - The intent of this zone is to provide areas of open space for entertainment and recreation conducted primarily as a business venture.
11. Special Purposes - The intent of this zone is to primarily identify and accommodate all forms of Government and public land use associated with urban and rural development.
12. Special Facilities - The intent of this zone is to accommodate those uses which do not readily fit into the nature of other zones. The location of this zone will depend on the particular nature of the use which is to be developed in the zone, and the nature of this use will also determine the degree of urban services which are to be provided. It is anticipated that this zone will be located as required throughout the Shire.
13. Rural "A" - The intent of this zone is to provide areas which are used or are suitable for use for rural production for commercial purposes. In this zone, those defined uses which are associated with the farming of land are by right uses. Unless exceptional circumstances exist, land zoned Rural is reserved for rural production.
14. Rural "B" - The intent of this zone is to allow hobby farmers and similar persons sufficient land to erect a dwelling-house and pursue rural activities without prejudicing the orderly development of any land for rural production for commercial purposes.

Division II - Intent of the Zones

Subject to the provisions of this town planning scheme, the intent of zones and the preferred dominant land use within those zones is listed hereunder:-

1. Business - The intent of this zone is to provide for the shopping, commercial, personal services and entertainment needs of the community.

Uses permitted as-of-right and permitted with the consent of the Council in the Business Zone are often uses which generate visual effects, noise, pedestrian activity and vehicular activity and which require parking space and access to sites and satisfactory road systems.

2. Residential "A" - The intent of this zone is to provide single family dwelling-houses at low densities to the general exclusion of other types of land use.

see and 19/6/96
Residential "B" - The intent of this zone is to provide for a mix of housing types at a higher density than that of the Residential "A" Zone to the general exclusion of non-residential types of land use.

4. Rural Residential - The intent of the zone is to provide areas wherein dwelling-houses can be erected on small rural allotments without necessarily requiring the provision of all urban services except that of electricity.

An important aspect of this zone, with its very low population density, is the need to select areas which have recognised visual amenity and to preserve this amenity. To this end, some rural-type pursuits will be permitted. However, because the nature of the zone is essentially residential, albeit on a larger scale, the size and scope of rural activities will be limited.

5. Village Residential - The intent of this zone is to accommodate a wide range of land uses appropriate to a small country town to service the immediate hinterland and to ensure that the village area develops in an orderly manner.

Division III - 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 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 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. Business	Dark blue	Caterers' rooms Catering shops Commercial industries Commercial premises Domestic pets Local stores Local utilities Shops	Any purposes other than those permitted by Column III or prohibited by Column V	Agriculture Animal husbandry Bulk stores Bus depots Caravan parks Car repair stations Dwelling-houses (other than those required for use and occupation in conjunction with a use specified in Column III or Column IV and situated on the land on which such use is conducted) Extractive industries Freight terminals General industries Heavy industries Institutions Junk yards Kennels Light industries Liquid fuel depots Lot feeding of stock Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious or hazardous industries Noxious transport depots Outdoor entertainments Piggeries Roadside stalls Rural buildings Stables Stock saleyards Stockyards Transport terminals Veterinary hospitals Warehouses

*Farm stay accommodation
and 3 6/3/78*

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 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 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
2. Residential "A"	Pink	Domestic pets Dwelling houses Local utilities	Any purposes other than those permitted by Column III or prohibited by Column V	Accommodation units Animal husbandry Bulk stores Bus depots Caravan parks Car repair stations Caterers' rooms Catering shops Commercial industries Commercial premises Extractive industries Freight terminals General industries Heavy industries Hospitals Hotels Indoor entertainment Institutions Junk yards Kennels Light industries Liquid fuel depots Lot feeding of stock Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious or hazardous industries Noxious transport depots Outdoor entertainment Piggeries Places of worship Roadside stalls Rural buildings Service stations Shops Showrooms Sports & recreation Stables Stock saleyards Stockyards Transport terminals Veterinary clinics Veterinary hospitals Warehouses

see amd 1
14/6/94

Farm stay accomodation
amd 3 6/8/93

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 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 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
3. Residential "B"	Pink with black diagonal hatch	Domestic pets Dwelling houses Local utilities Multiple dwellings - Class "A" see and 1 14/6/96	Any purposes other than those permitted by Column III or prohibited by Column V	Agriculture Animal husbandry Bulk stores Bus depots Caravan parks Car repair stations Commercial industries Commercial premises Extractive industries Freight terminals General industries Heavy industries Hotels Junk yards Kennels Light industries Liquid fuel depots Lot feeding of stock Machinery showrooms Motor vehicle showrooms Noxious or hazardous industries Noxious transport depots Outdoor entertainment Piggeries Places of worship Roadside stalls Rural buildings Service stations Shops Showrooms Sports & recreation Stables Stock saleyards Stockyards Transport terminals Veterinary clinics Veterinary hospitals Warehouses Farm stay Accommodation and 3 6/3/98

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 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 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
4. Rural Residential	Light brown with red border	Agriculture Domestic pets Dwelling-houses Local utilities Bed + Breakfast Accomodation and 3 ↑ 6/3/98 ↓ Farm stay Accomodation	Animal husbandry Carctaker's residence Educational establishments Home occupations Institutions Kennels Local store Public utilities Roadside stalls Rural buildings Special uses Sports & recreation Stables Veterinary clinic Veterinary hospital	Any purpose other than those permitted by Column III or with the consent of the Council by Column IV Fair
5. Village Residential	Pink with a blue edge	Agriculture Domestic pets Dwelling-houses Home occupations Local store Local utilities see and 1. 19/6/96 Bed + Breakfast Accomodation see and 3 6/3/98	Any purposes other than those permitted by Column III or prohibited by Column V	Animal husbandry Bulk stores Car repair stations Extractive industries Freight terminals Hotels Heavy industries Junk yards Kennels Light industries Liquid fuel depots Lot feeding of stock Noxious or hazardous industries Noxious transport depots Piggeries Service stations Stables Stock saleyards Stockyards Transport terminals Warehouses

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 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 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
6. Light industry	Light purple	Agriculture Bus depots Caretaker's industries Domestic pets Indoor entertainment Light industries Local utilities Machinery showrooms Motor vehicle showrooms Outdoor entertainment (staff amenities only in conjunction with an industry and situated on the land on which such industry is conducted)	Any purpose other than those permitted by Column III or prohibited by Column V	Accommodation units Dwelling-houses Extractive industries Heavy industries Lot feeding of stock Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious and hazardous industries Noxious transport depots Piggeries Roadside stalls Rural buildings Shops Stables Stock saleyards Stockyards
7. Heavy Industry	Dark purple	Agriculture Bulk stores Bus depots Caretaker's residence Domestic pets Heavy industries Indoor entertainment (staff amenities only in conjunction with an industry and situated on the land on which such industry is conducted) Junk yards Local utilities Outdoor entertainment (staff amenities only in conjunction with an industry and situated on the land on which such industry is conducted)	Any purpose other than those permitted by Column III or prohibited by Column V	Accommodation units Caravan parks Caterers' rooms Commercial industries Commercial premises Dwelling-houses Educational establishments Hospitals Hotels Indoor entertainments (except as specified in Column III) Institutions Kennels Local stores Lot feeding of stock Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious or hazardous industries Noxious transport depots Outdoor entertainments (except as specified in Column III) Piggeries Industry Places of worship Roadside stalls Rural buildings Shops Showrooms Sports & recreation Stables Stockyards Stock saleyards Veterinary clinics Veterinary hospitals

Bed +
Breakfast
Accom.
Farm stay
Accom.
(and 3
6/3/98)

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 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 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
8. Noxious or Hazardous Industry	Dark purple with yellow border	Agriculture Caretaker's residence Domestic pets Junk yards Local utilities Noxious or hazardous industries Noxious transport depot	Any purpose other than those permitted by Column III or prohibited by Column V	Accommodation units Bulk stores Bus depots Caravan parks Car repair stations Caterers' rooms Catering shops Commercial industries Commercial premises Dwelling-houses Educational establishments Hospitals Hotels Indoor entertainment Institutions Kennels Light Industries Local stores Lot feeding of stock Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Outdoor entertainment Piggeries Places of public worship Roadside stalls Rural buildings Service stations Shops Showrooms Sports & recreation Stables Stock saleyards Stockyards Veterinary clinics Veterinary hospitals

Bed + Breakfast Accommodation
Farm stay Accommodation
and 3 6/3/98

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 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 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
9. Public Open Space	Dark green	Local utilities Sports & recreation	Any purpose other than those permitted by Column III or prohibited by Column V	Accommodation units Agriculture Animal husbandry Bulk stores Bus depots Car repair stations Commercial industries Commercial premises Dwelling-houses Educational establishments Extractive industries Freight terminals General industries Heavy industries Hospitals Hotels Institutions Junk yards Kennels Light industries Liquid fuel depots Local stores Lot feeding of stock Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious or hazardous industries Noxious transport depots Piggeries Roadside stalls Rural buildings Service stations Shops Showrooms Stables Stock saleyards Stockyards Transport terminals Veterinary clinics Veterinary hospitals Warehouses

Bed + Breakfast Accom

Farm Stay Accom

(and 3 - 6/3/98)

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 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 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
10. Private Open Space	Light green	Agriculture Caterer's rooms Catering shops Domestic pets Local utilities Sports & recreation	Any purpose other than those permitted by Column III or prohibited by Column V	Accommodation units Bulk stores Bus depots Car repair stations Commercial industries Commercial premises Dwelling-houses Extractive industries Freight terminals General industries Heavy industries Hospitals Hotels Institutions Junk yards Kennels Light industries Liquid fuel depots Local stores Lot feeding of stock Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious or hazardous industries Noxious transport depots Piggeries Roadside stalls Rural buildings Service stations Shops Showrooms Stables Stock saleyards Stockyards Transport terminals Warehouses
11. Special Purposes	Yellow	Agriculture Caretakers' residence Domestic pets Educational establishments Hospitals Institutions Local utilities Public utilities Special uses	Any purpose other than those permitted by Column III or prohibited by Column V	Bus depots Car repair stations Caterer's rooms Freight terminals General industries Heavy industries Hotels Junk yards Local stores Lot feeding of stock Machinery showrooms Motor vehicle showrooms Noxious or hazardous industries Noxious transport depots Piggeries Service stations Veterinary clinics Warehouses
12. Special Facilities	Yellow with red border	Uses indicated by red lettering on the scheme map	When carried out in conjunction with a purpose referred to in Column III, any other purposes which in the opinion of the Council, is allied and compatible with, but supplementary to that particular purpose.	Any purpose other than those permitted by Column III or with the consent of the Council in Column IV

Red + Breakfast
Accom.
Farm stay accom
(and 3 - 6/3/98)

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 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 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
13. Rural "A"	Light brown	Agriculture Animal husbandry Domestic pets Dwelling-houses Local utilities Rural buildings Sports & recreation Stables Stock saleyards Stockyards •	Any purpose other than those permitted by Column III or prohibited by Column V	Accommodation units Bulk stores Bus depots Caravan parks Car repair stations Caterers' rooms Catering shops Commercial industries Commercial premises Freight terminals General industries Heavy industries Hospitals Institutions Junk yards Liquid fuel depots Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious or hazardous industries Noxious transport depots Off street car parking Service stations Shops * Showrooms Transport terminals Warehouses
14. Rural "B"	Dark brown	Agriculture Animal husbandry Domestic pets Dwelling-houses Local utilities Rural buildings Stables •	Any purpose other than those permitted by Column III or prohibited by Column V	Accommodation units Bulk stores Bus depots Caravan parks Car repair stations Caterers' rooms Catering shops Commercial industries Commercial premises Freight terminals General industries Heavy industries Hospitals Institutions Junk yards Liquid fuel depots Machinery showrooms Motor vehicle showrooms Multiple dwellings - Class "A" Multiple dwellings - Class "B" Noxious or hazardous industries Noxious transport depots Off street car parking Service stations * Shops Showrooms Transport terminals Warehouses

* Bed + Breakfast Accommodation
 • Farm Stay Accommodation
 (Amnd 3 6/3/98)

PART III

EXISTING LAWFUL NON-CONFORMING USES

1. The following provisions shall apply to an existing 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 subclause (c) of clause 2 of Division I of Part II hereof. Such a use is hereinafter in this Part referred to as "an existing non-conforming use".
2. (a) A person may continue an existing non-conforming use of any building or other structure but such use shall not be added to or the use in anyway changed to another non-conforming use except with the prior consent of the Council pursuant to Clause 4 hereof;
- (b) Upon the demolition or destruction of any building or other structure in which an existing 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 non-conforming use, or upon the discontinuance for a period of at least six (6) months from any cause whatsoever of such existing non-conforming use, the right to continue such non-conforming use shall cease and determine unless the Council or otherwise determines pursuant to subclauses (c) or (d) of this clause;
- (c) Where a building or other structure in which an existing non-conforming use was carried on is demolished, destroyed or substantially damaged as aforesaid the Council may, upon application being made to it:-
 - (i) (A) 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
 - (B) 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
 - (ii) Consent to the use of the new building or other structure or, as the case may be, the existing 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) Where an existing non-conforming use of any premises 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 premises being again used for such existing non-conforming use;
- (e) 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;
- (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 in which an existing non-conforming use is carried on but any such alterations or additions shall not increase the floor area of the non-conforming use by more than twenty (20) per centum and shall be confined within the boundaries of the allotment upon which the building or other structure is erected.
3. A person may continue an existing 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 4 hereof. Upon the discontinuance for a period of at least six (6) months from any cause whatsoever of such existing non-conforming use, the right to continue such existing non-conforming use shall cease unless the Council otherwise determines pursuant to subclause (d) of clause 2 hereof.
4. The Council may, upon application being made to it, consent to a change of an existing 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.

PART IV

EXISTING LAWFUL FETTERED USES

1. The following provisions shall apply to an existing 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 for which any building or other structure may be erected or used only with the consent of the Council in that zone pursuant to subclause (b) of clause 2 of Division I of Part II hereof. Such a use is hereinafter in this Part referred to as "an existing fettered use".
2. A person may continue an existing fettered use of any building or other structure or any land on which there is no building or other structure.

PART V

PROVISIONS APPLYING TO ALL DEVELOPMENT WHETHER CONSENT IS REQUIRED UNDER THIS SCHEME OR NOT

Division I - Preliminary

1. Without limiting the generality of any provision herein or in the by-laws contained, no provision of this Scheme shall be deemed to confer any right to erect or use a building or other structure or any part thereof for any purpose otherwise than subject to the conditions specified in this Part or in the by-laws provided that the provisions of Divisions II to X inclusive of this Part shall not apply to uses which were existing lawful uses on the Appointed day.

Division II - Parking Requirements

1. (a) A person shall not erect or cause to be erected a building or other structure or use land or cause land to be used for any purpose set out in Column I of the Table hereunder unless it complies with the minimum parking space requirements shown in Column II of the said Table opposite that purpose;
- (b) For the purposes of this Division the term "parking space" shall mean an area with dimensions not less than five (5) metres by two point eight (2.8) metres except as provided in subclause 2(h) herein.

THE TABLE * See and 3 6/3/98

Column I Purpose	Column II Minimum Parking Areas
Accommodation units (Where not specifically mentioned elsewhere in this table)	One (1) space per unit; in addition one (1) space for each ten (10) units or part thereof, and one paved washing bay six (6) metres by four (4) metres for each development of more than ten (10) units.
Bowling alley	Three (3) spaces for each bowling lane
Caterer's room or Catering shop	One (1) space for each fifteen (15) square metres or part thereof of gross floor area
Car repair station	One (1) space for each ninety (90) square metres or part thereof of gross floor area
Club (licensed)	One (1) space for each fifteen (15) square metres or part thereof of the total floor area
Club (unlicensed)	One (1) space for each forty-five (45) square metres or part thereof of the total floor area
Hospital	One (1) space for every four (4) beds; in addition one (1) space for every two (2) employees, and a further space for each staff doctor
Hotel	One (1) space for each three (3) square metres or part thereof of the net bar room area; in addition one space for each three (3) square metres or part thereof of the net lounge and beer garden floor area, and a further one (1) space for each guest suite and one (1) further space for each three (3) employees
Indoor entertainment (other than bowling alley, squash court or place of assembly)	One (1) space for every twenty (20) square metres or part thereof of the total area

THE TABLE - continued

Column I	Column II
Purpose	Minimum Parking Areas
Industry (all classes)	One (1) space for every two (2) workers at the time of peak accumulation (two heaviest over-lapping shifts) or two (2) spaces for each one hundred (100) square metres or part thereof of the total floor area whichever is the greater
Motel	One (1) space for each motel unit. An additional one (1) space for each three (3) employees
* Multiple dwellings	One point five (1.5) covered spaces for each dwelling unit.
Office or commercial premises	One (1) space for each forty-five (45) square metres or part thereof of the total floor area
Place of worship or assembly	One (1) space for every ten (10) seats or places
Service station	Five (5) spaces for the first lubricating bay and four (4) spaces for each additional lubricating bay
Shops and shopping centres	One (1) space for every twenty five (25) square metres of gross leasable floor area where the gross leasable floor area does not exceed 700 square metres; and One (1) space for every ten (10) square metres by which the gross leasable floor area exceeds seven hundred square metres. The gross leasable floor area shall be measured to include any group of shops, shopping centre or local store
Sports fields	Ten (10) spaces per zero point four (0.4) hectare
Showroom (agricultural showroom, electrical showroom, furniture showroom, or motor vehicle showroom)	One (1) space for each thirty (30) showroom square metres or part thereof of gross floor area
Squash court	Four (4) spaces for each squash court
Tyre repair station	One (1) space for each ninety-six (96) square metres or part thereof of gross floor area
Warehouse or bulk store	One (1) space for every two (2) employees
Any other use not specified in this Table	Sufficient space/s to accommodate the amount of vehicular traffic likely, in the opinion of the Council to be generated by the particular development

2. (a) The requirements of this Division shall not apply to any dwelling-house wherein any home occupation is conducted or carried on unless the area upon which the home occupation is conducted or carried on is more than thirty (30) square metres. A parking area shall be:-

- level or at such a gradient as in the opinion of the Council is suitable for vehicular parking;
- laid out to the satisfaction of the Council in such a manner as to provide adequate access to each parking space and to permit the free circulation of vehicles entering, leaving and parking;
- constructed, drained, sealed, marked and maintained to the satisfaction of the Council;
- readily accessible for vehicular use; and
- indicated by means of a sign or signs to the satisfaction of the Council;

- (b) A parking area shall be located upon the allotment upon which the development is to be carried out; provided that the Council may by special consent, approve of a parking area located upon an adjacent allotment or allotments in cases where no part of the parking area is more than two hundred (200) metres from the allotment upon which the development is to be carried out;

- (c) The Council may require that access to the parking area be provided from two (2) roads, in which case the access ways and roads shall be at least six and one half (6.5) metres wide;

- (d) A parking area required by this Division shall be:-

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

- (e) Adequate space shall be provided within the site of the building or development for the loading, unloading and fuelling of vehicles (where applicable) and for the picking up and setting down of passengers;

- (f) Any parking space the side of which is located against a wall or similar obstruction shall have a minimum width of three (3) metres;

- (g) A building or other structure shall not be erected or used and land shall not be used for any purpose in an industrial zone where the site has an area greater than six hundred (600) square metres unless:-

- there is provided at least one (1) truck bay with a minimum width of three point five (3.5) metres a minimum depth of fifteen (15) metres exclusive of driveways and a minimum clear height of three point five (3.5) metres; and

- provision is made for the turning of vehicles on the land to enable them to move in a forward direction when being driven from and to the adjoining road;

- (h) Notwithstanding the provisions of this Division the Council may dispense with or may modify all or any of the parking requirements herein if it considers that dispensation or modification is necessitated by the exceptional circumstances of the particular use and the Council may, upon request being made to it in that behalf, and in its absolute discretion from time to time in any particular case, forego all or any of its car parking space requirements and accept a cash payment (of such amount as the Council may from time to time determine by resolution) in lieu thereof to enable the Council to provide alternative off-street car parking space.

new clause (1)

Division III - Residential Uses

ACCOMMODATION UNITS AND MULTIPLE DWELLINGS

- 2 x. The provisions of this Division shall apply to buildings and appurtenant structures which are to be used wholly, or in part for the purpose of Accommodation units, ~~Multiple dwellings - Class "A"~~, or Multiple dwellings - Class "B" and which are to be erected after the Appointed day (whether or not the consent of the Council to the use of any premises for the purpose is required under this town planning scheme).

- 3 x. The following conditions shall apply to all Accommodation unit buildings or Multiple dwellings - Class "B" unless the Council in view of the exceptional circumstances of a particular development and upon application being made to it for a variation of the conditions grants approval to the variation of the conditions contained hereunder:-

Minimum clearance from a road frontage - seven point five (7.5) metres;

Minimum clearance from a rear boundary - four point five (4.5) metres;

Minimum clearance from a side boundary

For a building not exceeding four point five (4.5) metres in height - one point five (1.5) metres

For a building which exceeds four point five (4.5) metres in height - Two (2) metres (plus an additional zero point five (0.5) metres for every three (3) metres or part thereof by which the building exceeds seven point five (7.5) metres in height.

- 4 x. Where a proposed building is not parallel to a side boundary and the distance from such side boundary is less than the minimum permitted by clause 2 hereof then such distance may, at the discretion of Council be determined to be-

- (a) the average distance between the building and the site boundary in question. However, no part shall be less than half the distance prescribed in this Division; or

- (b) the distance from the central point of a straight line drawn from the two (2) points of the buildings which are nearest to the boundaries in question but no portion of the buildings shall be less than half the distance prescribed by this Division from that boundary.

* see amnd 1. 14/6/96

5 In the case of Accommodation unit buildings or Multiple dwelling - Class "B" buildings which contain or are proposed to contain non-residential uses which are considered by the Council not to be ancillary to the residential usage of the premises, the foregoing provisions of this Division shall not apply to that portion of the premises used for non-residential purposes.

6. Any outbuilding appurtenant to a building subject to the provisions of this Division shall be subject to those provisions provided that a single storey outbuilding may be erected on or nearer than one point five (1.5) metres to the side boundary or on or nearer than four point five (4.5) metres to rear boundaries of the land if such outbuilding does not abut any building which is subject to provisions of this Division.

6. (a) For the purposes of this Division any question as to -
 (i) the number of storeys contained in any building; or
 (ii) whether any building or type of building is of one, two or more storeys; or
 (iii) whether any floor or floor area is a basement or sub-basement,
 shall be determined by the Council or an authorised officer of the Council in accordance with a policy of the Council in such regard which is adopted by the Council by resolution from time to time;

(b) An application for the erection of a building or other structure for use as Accommodation units or a Multiple dwelling - Class "B" received by the Council prior to the date of the coming into force of this Division which application had not been rejected or approved (either unconditionally or with conditions) by the Council before that date shall be dealt with and decided by the Council and the erection of a building or other structure pursuant to an approval by the Council of such application may proceed as if the provisions of this Division were not in force;

(c) Where prior to the date of the coming into force of this Division approval had been obtained from the Council for the erection of a building or other structure for use as Accommodation units or a Multiple dwelling - Class "B" and the rights conferred by that approval had not been exercised at the said date such rights may be exercised in accordance with that approval.

7. The following provisions shall apply to the erection of a building or other structure for use as an Accommodation unit, a ~~Multiple dwelling - Class "A"~~, a Multiple dwelling - Class "B":-

(a) the site on which the building or other structure is to be erected shall have an area of at least eight hundred (800) square metres: Provided that this subclause shall not apply to an allotment in existence on the appointed day;

(b) the width of the site on which the building or other structure is to be erected, measured along a line six (6) metres from and parallel to the road frontage shall be at least twenty (20) metres. In the case of a corner allotment the road frontage shall be taken to be the frontage to the principal road; For the purposes of this subclause the term "Principal road" means the road determined by the Council in a particular case to be the principal road;

(c) a landscaped open space area of eleven (11) square metres per habitable room shall be provided on the site and landscaped to the satisfaction of the Council; Provided that the Council may vary the area of eleven (11) square metres per habitable room having regard to the particular circumstances of the location or the topography of the site. For the purpose of this Division the term "Habitable room" shall have the meaning assigned to that term by the Standard Building by-laws made pursuant to the *Building Act 1975-1988*. At least fifty (50) per centum of the total landscaped open space area required pursuant to this subclause shall be provided in one area, and the dimensions of such an area shall not exceed a maximum ratio of length to breadth of two point five to one (2.5:1). The remaining landscaped open space area to be provided to the satisfaction of the Council;

(d) the landscaped open space area provided pursuant to subclause (c) shall at all times be kept clear of all obstacles such as clothes hoists, driveways, parking spaces and receptacles;

(e) a landscaped open space area provided pursuant to subclause (c) shall at all times be maintained in usable condition for that purpose and except in the case of dwelling units shall be available for the use of all residents of the building or other structure.

8. There shall be marked on the plans submitted to the Council pursuant to the provisions of the Standard Building by-laws or of this town planning scheme for approval to erect a building or other structure for use as an Accommodation unit or Multiple dwelling - Class "B" the space or spaces, which it is proposed to reserve for vehicle accommodation and the proposed access thereto from a road.

8. For each building or other structure to be erected in Residential "B" Zone for use as accommodation units, the residential site population density shall not exceed 133 persons per hectare.

10. Where a building or other structure is to be erected on land included in the Residential "B" Zone for use as Accommodation units or a Multiple dwelling - Class "B", provision shall be made for all vehicles to be accommodated within the boundaries of the site coverage of the proposed building or underground in which case the ceiling of the underground parking area shall be at least zero point five (0.5) metres below the natural ground level, land-filled and suitably landscaped.

Relative's Apartments

11. (a) A building or other structure or part thereof shall not be erected or used and land shall not be used for the purposes of a relative's apartment where:-

(i) the gross floor area of the relative's apartment exceeds forty (40) square metres; and

(ii) more than one (1) bedroom is contained therein;

(b) One (1) relative's apartment only shall be annexed to any dwelling-house;

(c) Upon completion of a relative's apartment and upon certification that the work has been carried out in accordance with the Council's consent approval and the approved building permit, the relative's apartment shall be recorded with the Council for the purpose of annual inspection;

(d) The Council shall cause premises at which a relative's apartment has been erected to be inspected annually to determine whether such apartment is being occupied in accordance with the provisions of the town planning scheme;

(e) The Council may levy a charge on the owner of the premises containing a relative's apartment for the carrying out of inspections referred to in paragraph (d) hereof, and where it decides so to do it shall determine the amount of such charge by resolution and may vary such charge from time to time in the same manner.

Division IV - Industrial Uses - General

1. A building or other structure shall not be erected or used and land shall not be used for any purpose within the Noxious and Hazardous Industry Zone or the Heavy Industry Zone unless -

(a) a minimum area of fifteen (15) per centum of the site, not including any area to be used by vehicles, is provided for recreational use and landscaping, to the satisfaction of the Council;

(b) a landscaped area at least six (6) metres in depth and adjoining the main street frontage is provided. Access to the remainder of the site may be provided through this landscaped area, and the area so landscaped to the satisfaction of the Council, shall form all or part, as the case may be, of the recreation and landscaped area set out in subclause (a) hereof;

(c) the storage of any material or vehicle or machinery is visually screened, to the satisfaction of the Council, from any road to which it has frontage;

(d) the owner or applicant shall to the Council's requirements and satisfaction -

(i) construct reinforced concrete industrial crossings from kerb and channelling to property alignment at approved locations where vehicular access to the property is required;

(ii) construct concrete kerb and channelling to meet the requirements and satisfaction of the Council for the full length of the road frontage or if there is more than one frontage such frontages as the Council may determine;

(iii) bear the cost of all alterations necessary to public utility mains, services or installations involved in the construction of the abovementioned works;

(iv) where the road is paved but is not paved for the full width, construct and pave with bitumen the road between the existing pavement and the channelling referred to in paragraph (ii) of this subclause;

(v) where the road is not paved, construct and pave with bitumen the road for a width of three (3) metres measured from the lip of the channel referred to in paragraph (ii) of this subclause;

(vi) pave that part of the site on which vehicles will be parked and/or driven;

(e) the owner or applicant may at his option, in lieu of carrying out the work specified in paragraphs (i) and (ii) of subclause (d) hereto, pay to the Council such sum as may be approved by the Council for the carrying out of such works by the Council, in which event the Council should, subject to the provisions hereof, complete such works within the time agreed between the parties;

(f) such works shall be carried out before the use in question of the land or building concerned is commenced or, in the case of the erection of a building before such building is occupied;

- (g) provision shall be made within the curtilage of the building for the loading and unloading of all vehicles in an area specifically set aside for the purpose;
- (h) any two points of vehicular access from the same road to or from the one parcel of land shall be separated by a distance of at least fifteen (15) metres. The width of any such vehicular access shall not exceed six (6) metres;
- (i) if semi-trailers are to be used on the site, provisions shall be made to enable the turning of such within the boundaries of the site.

Division V - Extractive Industry

1. In considering an application to erect a building or other structure or to use land for the purpose of an extractive industry the Council shall take into consideration whether -
 - (a) the proposed site is in a locality which, in the opinion of the Council, is or is likely to become a residential locality; and
 - (b) the roads giving access to the proposed site area in the opinion of the Council, are constructed to a standard sufficient to carry traffic of the nature that the extractive industry would be likely to generate.
2. The following conditions and requirements shall apply with respect to the use of any land or building or other structure or the erection of any building or other structure for the purpose of extractive industry:-
 - (a) Each entrance to or exit from a site of an extractive industry shall be not less than six (6) metres wide and not greater than nine (9) metres wide and be situated at least nine (9) metres from any other entrance to or exit from the site;
 - (b) Each entrance to or exit from a site of an extractive industry shall be so located as to not, in the opinion of the Council, create or be likely to create a new traffic hazard or to increase an existing traffic hazard;
 - (c) Where the site contains a proposed excavation that will be one point two five (1.25) metres or more below the level of the unexcavated ground immediately alongside or where the ponding of water is likely to occur, such areas shall be enclosed by a manproof fence at least two (2) metres in height and constructed to the satisfaction of the Council;
 - (d) Every gate in the fence required by the preceding subclause shall be a manproof gate constructed to the satisfaction of the Council;
 - (e) Every gate shall be kept locked except when the person conducting the extractive industry, or an employee of such person, is on the site;
 - (f) Water shall not be allowed to accumulate so as to exceed one (1) metre in depth in an uncovered excavation of the site;
 - (g) All blasting and explosions shall be so conducted that stone, rock or other materials are wholly contained within the site;
 - (h) Blasting and explosions shall not be conducted -
 - (i) before the hour of seven o'clock in the morning (7 a.m.); or
 - (ii) after the hour of six o'clock in the evening (6 p.m.); or
 - (iii) on Anzac Day, Christmas Day, Good Friday or Sunday;
 Application of the provisions of this subclause may be suspended in cases of emergency provided the prior approval of the Council is granted in that behalf.
 - (i) A person carrying out blasting, shall erect and keep clearly exhibited on the approaches to, and not less than four hundred (400) metres from the site of the blasting, notices or warning which shall be of a type to be approved by the Council and shall provide adequate warning to those working in the excavation and to passers-by. Such person, before blasting shall give sufficient advance warning of that danger by operating a warning bell, whistle or other device approved by the Council, at least five (5) minutes prior to commencement of blasting. Such bell, whistle or other device shall operate continuously until blasting is completed.
 - (j) No process of extractive industry shall be carried out within -
 - (i) twenty (20) metres of a road; or
 - (ii) nine (9) metres of any land that is not being used for extractive industry purposes.
 - (k) A person shall not cause nor allow any clay, gravel, ore, rock, sand, silt, sludge, soil, stone or overburden resulting from extractive industry to -
 - (i) enter a swamp, watercourse or water storage;
 - (ii) enter a drain or sewer;
 - (iii) enter a drainage or sewerage easement; or
 - (iv) cause injury to or interference with the use of any land that is not being used for the purpose of extractive industry.

- (l) All buildings or other structures and stockpiles shall be located and maintained so as to prevent dust, sand or soil blowing on to any road or on to land that is not being used for the extractive industry.

- (m) A person shall not take an excavation to a greater depth or extent than is authorised by the Council in respect of such excavation.
 - (n) Shrubs and trees shall be so planted and maintained as to effectively screen, to the satisfaction of the Council, the activities on the site from any person standing at ground level on any part of any land used for residential purposes; provided that the Council may permit the planting of young shrubs and trees which when planted are not of sufficient height or development to comply with the provisions of this paragraph.
3. Where it is proposed to use any premises for the purpose of carrying on an extractive industry and the Council is of the opinion that reclamation of any excavation will be necessary, the person proposing to carry out such excavation shall -
 - (a) prior to the commencement of the excavation, deposit with the Council such amount as the Council may by resolution determine to be retained by the Council until the extractive industry ceases on the subject land and until such person shall have complied with the provisions of this Division; provided that the Council may accept a Bank Guarantee in lieu of such deposit.
 - (b) progressively reclaim such excavation to the satisfaction of the Council and ensure that the excavation remaining to be reclaimed shall not at any time by measurement exceed the excavation that could be reclaimed if the deposit referred to in subclause (a) of this clause were used to pay for such reclamation at a rate on a per cubic metre basis as the Council may from time to time by resolution determine.

If such excavation is to be filled, an agreement to accept from the Council refuse and rubbish as filling upon its being delivered to the site may be negotiated. If vegetable or other matter likely to attract vermin or flies is used in the filling of such excavation, cover such vegetable or other matter as directed by the Council if suitable material for the purpose is available on the site. Where reclamation is to be carried out by this means, the Council shall have due regard to the benefit resulting therefrom and allowance shall be made when determining the amount of deposit, guarantee, or rate determined pursuant to the provisions of this clause.

 - (c) Ensure that -
 - (i) any face permitted to remain in the excavation is so sloped or battered as to remain stable, with all loose material removed therefrom;
 - (ii) such slopes are planted with protective vegetation as directed by the Council.
 - (d) Within three (3) years after extractive industry ceases on the subject land complete the reclamation to the satisfaction of the Council.
 - (e) A deposit paid to the Council pursuant to subclause (a) hereof shall be placed in a Trust Fund of the Council for the purpose.
 - (f) Where a person convicted of a breach of the provisions of subclause (b) hereof fails to comply with the provisions of subclause (c) or (d) hereof the Council may cause the necessary work to be carried out and may deduct the cost thereof from the moneys deposited by such person and if such cost exceeds the amount of the deposit and moneys lodged with the Council on a rate per cubic metre basis, if any, such person shall forthwith, on demand, pay to the Council the amount of such excess.
 - (g) Upon the completion of the works referred to in subclause (a) the deposit and moneys lodged with the Council on a rate per cubic metre basis (if any) or the balance thereof, or the guarantee, as the case may be, shall be paid to the person entitled to receive such moneys or guarantee.

Division VI - Business and Commercial Uses

1. A building or other structure shall not be erected or used and land shall not be used for any purpose in the Business Zone unless -
 - (a) except as hereinafter prescribed, the ratio of floor area (excluding all floor area on basement or sub-basement levels as may be determined by the Council) to site area is not greater than 6:1;
 - (b) where arcades are provided for the free and unobstructed movement of pedestrian traffic, the Council shall determine the width of the space required and the maximum permissible floor area shall be increased by an amount equal to twice the area provided for pedestrian arcades at ground floor level;
 - (c) the building or other structure covers not more than eighty (80) per centum of the site at ground floor level: the remaining uncovered area of twenty (20) per centum shall not be construed to be pedestrian arcade space;

- (d) the location of the area not covered by buildings or other structures at ground floor level is considered satisfactory by the Council, which shall have regard to the future servicing of the site and the adjacent sites, the loading and unloading of goods and materials, the passage of vehicles, the provision of light and air and the movement of pedestrians;
 - (e) the area required to be not covered by buildings or other structures at ground floor level is not used for parking purposes or for the storage of goods and materials, unless the Council so determines;
 - (f) the height of any space required for the movement of vehicles is at least that determined by the Council to be necessary;
 - (g) 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 in force in the Shire and has been granted, shall to Council's specification -
 - (i) construct a pedestrian pavement four (4) metres wide or such lesser width as the Council may determine for the full length of the road frontage;
 - (ii) construct concrete kerb and channelling for the full length of the road frontage, or, if there is more than one such frontage, such of those frontages as the Council shall determine;
 - (iii) where the road is paved but is not paved for the full width construct and pave with bitumen the road between the existing pavement and the channelling referred to in paragraph (ii) of this subclause;
 - (iv) where the road is not paved, construct and pave with bitumen the road for a width of three metres measured from the lip of the channel referred to in paragraph (ii) of this subclause;
 - (v) construct reinforced concrete industrial crossings from the kerb and channelling to the property alignment at approved locations where vehicular access to the property is required;
 - (vi) provide drainage works as necessary in connection with the work set out in paragraphs (i) and (iv) of this subclause;

The Council shall not be authorised hereby to require drainage works to be provided otherwise than in respect of the land the subject of the application and the road frontage or frontages to such land;

If the Council is satisfied that the drainage works which it may require will not be adequate and that the completion of adequate drainage works will be unreasonably costly, the Council may refuse the application.
 - (h) The applicant enters into an agreement with the Council in lieu of carrying out the works specified in paragraphs (i) to (vi) inclusive of subclause (g) of this clause and pays to the Council such sum as shall be approved by the Council for the carrying out of the said works by the Council, which event the Council shall, subject to the provisions hereof, complete such works within the time agreed between the parties.
 - (i) The works referred to in paragraphs (i) to (vi) inclusive of subclause (g) of this clause shall be carried out before the new building is occupied.
 - (j) The owner or applicant shall bear the cost of all alterations necessary to public utility mains, services or installations involved in the construction of the abovementioned works.
 - (k) The materials used in and the execution of the abovementioned works shall be to the requirements and satisfaction of the Council.
 - (l) That part of the site on which vehicles will be parked and/or driven shall be surfaced to requirements and satisfaction of the Council.
 - (m) Provision shall be made within the curtilage of the building for the loading and unloading of vehicles, unless otherwise required by the Council.
 - (n) Where the proposed development is on a site(s) that is (are) being used for shops or can be used for shops, the locations of the building and scaled parking area shall be determined by the Council in accordance with an overall plan for the whole shopping area.
 - (o) Where the proposed development is on a site which is over 0.2ha in area then -
 - (i) a landscaped buffer strip at least two (2) metres wide shall be provided along all property boundaries (except for ingress and egress points) and shall be both planted and maintained in accordance with the Council's requirements;
 - (ii) all on-site carparking areas shall be planted with trees and shrubs and maintained in accordance with the Council's requirements;
 - (iii) a minimum of 10% of the area of the site is to be set aside for landscaping and pedestrian access in a manner suitable to the Council.
 - (p) The requirements set out in paragraphs (ii), (iii) and (iv) of subclause (g) and in subclauses (n) and (o) of this clause shall not apply to a Shop or Local store to be erected on a single allotment not exceeding 600m² in area, if the gross ground floor area of the shop is less than 45m².
 - (q) This clause is limited in its application to buildings, the erection whereof is commenced after the Appointed day and -
 - (i) which are new buildings; or
 - (ii) where the erection is connected with any existing building or buildings on the site in question, the floor space or aggregate of the floor space thereof will be increased by more than 40% by reason of the erection.
2. A building or other structure shall not be erected or used and land shall not be used for the purpose of a Local store within the Residential "A" Zone or the Residential "B" Zone, where the proposed use is within a radial distance of four hundred (400) metres of land for which approval has been granted for the erection of a building or other structure for use as a general store, or within four hundred (400) metres of any land within a Business Zone.

Division VII - Service Stations

1. A building or other structure shall not be erected or used and land shall not be used for the purpose of a Service station or a Car repair station unless -
 - (a) the site is more than ninety (90) metres from the junction or intersection of two (2) or more Main Roads declared pursuant to the provisions of the *Main Roads Act 1920-1988* or from the junction of two (2) or more roads which the Council considers will have, within a period of twenty (20) years, an average daily traffic flow of more than five thousand (5,000) vehicles, or from the junction of a Main Road declared pursuant to the provisions of the *Main Roads Act 1920-1988* and a road which the Council considered will have, within a period of twenty (20) years, an average daily traffic flow of more than five thousand (5,000) vehicles;
 - (b) the site has frontage to a Main Road declared pursuant to the provisions of the *Main Roads Act 1920-1988* or has frontage to a road which the Council considers will have within a period of twenty (20) years, an average daily traffic flow of more than five thousand (5,000) vehicles, and
 - (i) where the site is a corner lot, the frontage to such road is at least thirty-six (36) metres; or
 - (ii) where the site is not a corner lot, the frontage to such road is at least forty (40) metres;
 - (c) the site has frontage to any road, other than as specified in subclause (b) hereof of at least thirty-six (36) metres;
 - (d) the width of a vehicular crossing over a footpath is less than nine (9) metres;
 - (e) any vehicular crossing over a footpath is at least seven (7) metres to a road intersection;
 - (f) any vehicular crossing over a footpath is at least nine (9) metres from any other such vehicular crossing;
 - (g) separate entrances to and exits from the site are provided and such entrances and exits are separated by physical barriers constructed on the road alignment and so identified by suitable signs readily visible to persons using the adjoining road or entering upon or leaving the site;
 - (h) where the site is a corner lot, and if the Council so requires, separate entrances and exits are provided to and from each of the adjoining roads and a physical barrier is erected so that a vehicle entering the site shall, when leaving it, use an exit leading only to the road from which entrance was gained;
 - (i) inlets to bulk fuel storage tanks are so situated on the site as to ensure that tankers, while discharging fuel into such tanks, shall stand wholly within the site;
 - (j) fuel pumps are within the site and not closer than five (5) metres to the road alignment;
 - (k) the layout of the site is such as to facilitate the movement of vehicles entering upon or leaving the site with the flow of traffic on the adjoining road;
 - (l) vehicular access to or from the site or to an adjoining road is situated at least twenty-four (24) metres from any traffic lights on such road;

Division VIII - Hotels

1. A building or other structure shall not be erected or used and land shall not be used for the purpose of an hotel unless -

- (a) where the site is located within the Business Zone or the Light Industry Zone, the site size is at least six thousand (6,000) square metres;
- (b) any open parking area is landscaped to the satisfaction of the Council.

Division IX - Caravan Parks

1. (a) Where application is made for a caravan park on land within the Shire, the applicant, in addition to meeting certain minimum criteria, must demonstrate that the proposed development -

- (i) satisfies the stated planning requirements for the site;
- (ii) has due regard to the existing and proposed amenity of the area and the physical character of the site;
- (iii) provides an attractive development with a range of facilities for patrons; and
- (iv) provides good access to urban facilities including schools, shops, places of employment, community services, major roads and public transport, or enjoys a unique scenic or recreational locational advantage.

- (b) The following conditions and requirements shall apply with respect to the use of any premises for the purpose of a Caravan park:-

- (i) The area of an allotment or parcel of land which may be used for a Caravan park shall be not less than ~~two (2)~~ ^{one (1)} hectares and capable of being connected to Council's sewerage system. The Council shall not generally permit Caravan parks to be developed on sites not able to be connected to the Council's sewerage system provided that Council may, at its discretion, approve a Caravan park with a package sewerage treatment plant where the location of such park complies with performance standards in paragraphs (i) to (iv) of subclause (a) of this clause. An environmental impact study report and statement of impact addressing issues in accordance with guidelines formulated by the Council for each application shall be submitted in respect of every application for a Caravan park on land not able to be connected to the Council's sewerage system;
- (ii) The requirements of the Council including requirements as to water supply, power supply, drainage, disposal of waste water, and sewerage shall be complied with at all times;
- (iii) No part of any site allotted to a caravan or relocatable home shall be within twenty (20) metres of any road frontage or within seven (7) metres of any other boundary of the Caravan park, provided that Council may increase the side and rear boundary setback required where the Caravan park is adjacent to land in a Rural or Rural Residential Zone or where the Council considers a greater setback is required to maintain the amenity of an area. The areas contained within the setbacks are to be developed solely as tree planted landscaped buffer strips provided that the Council, at its discretion, may permit the erection of a Caretaker's dwelling and where provided in conjunction with such dwelling, an office, kiosk, and storage facilities, and recreational buildings or structures to within ten (10) metres of a road frontage, where the Council is satisfied that such structure or structures would not by reason of location, design, orientation, or construction materials used, have a detrimental effect on the amenity of the area. Additional landscaping would be required to adequately screen such structures from the road;
- (iv) The total number of sites to be set aside for longer term occupancy within a Caravan park shall be in the order of fifty (50) per centum. However, the Council, at its discretion, may vary this percentage taking into consideration locational and other criteria in determining each application. Each site so designated shall contain a minimum area of one hundred and ninety-five (195) square metres and not more than one caravan or relocatable home shall be parked or erected at any one time on an area so allotted. The minimum dimensions of each site shall be thirteen (13) metres in width and fifteen (15) metres in depth provided that for caravans and relocatable homes exceeding eleven (11) metres in length, proportionately larger sizes shall be provided to maintain two (2) metres setbacks for all site boundaries;

- (v) The remainder of the sites shall contain a minimum area of one hundred and thirty-two (132) square metres and not more than one caravan shall be parked at any one time on an area so allotted. The minimum dimensions of each site shall be eleven (11) metres in width and twelve (12) metres in depth and no caravan parked thereon shall exceed eight (8) metres in length;

- (vi) All sites specified in (iv) above shall be provided with underground services including drainage, sewerage connection, waste disposal, water supply, power, telephone, and television outlets to the requirements and satisfaction of the Shire Engineer;

- (vii) All sites specified in (v) above shall be provided with underground services including drainage, waste disposal, water supply, and power to the requirements and satisfaction of the Shire Engineer;

- (viii) Not less than five (5) per centum of the total site area of the Caravan park shall be provided as a landscaped recreation area for the use of occupants; such area to be provided in one or more locations of not less than five hundred (500) square metres in area with a minimum dimension of fifteen (15) metres. This area is to be additional to access and parking areas, buffer strips, and clothes drying areas, and shall be located, landscaped, and maintained to the satisfaction of the Shire Engineer;

- (ix) A landscaping plan is to be submitted showing the proposed landscaping details and specifying suitable tree types in respect of all landscaping within the park including all buffer strips and recreation areas;

- (x) Within the recreation area, a fenced childrens' playground shall be provided to the satisfaction of the Shire Engineer and Shire Health Surveyor;

- (xi) In addition to the recreation area, a recreation building shall be provided to the satisfaction of the Shire Engineer and Shire Health Surveyor. The area of the recreation building shall be assessed at not less than one (1) square metre per caravan or relocatable home site and shall be provided in one or more buildings of not less than thirty (30) square metres in area. The building(s) shall provide areas for both active and passive recreation;

- (xii) Where there are no shopping facilities or land zoned or approved for shopping facilities within eight hundred (800) metres of the Caravan park, a kiosk, maintained for the exclusive use of occupants of the Caravan park, shall be provided on site to the satisfaction of the Shire Engineer and Shire Health Surveyor;

- (xiii) Structures, other than caravans, campervans, relocatable homes or approved annexes attached thereto shall not be permitted within a Caravan park without the Council's approval;

- (xiv) The area allotted to a caravan or relocatable home shall be not less than three times the floor area of such caravan or relocatable home. The floor area as calculated shall include an attached annexe;

- (xv) No part of any caravan or relocatable home, or any annexe or other approved structure attached or ancillary thereto shall be situated within two (2) metres of any boundary of the area allotted to the site;

- (xvi) Each site within a Caravan park shall be clearly delineated on the ground. Where required by the Council, provisions shall be made for the planting of shrubs along the site boundaries to define each individual site and to provide shade, privacy and visual improvement;

The area within each site shall be landscaped and treated to the Council's satisfaction to provide an attractive, low maintenance surface;

- (xvii) Provision shall be made for the tying down of all caravans as protection against cyclones and tempests;

- (xviii) Internal roadways shall not be less than seven (7) metres in width, six (6) metres of which is to be fully sealed with concrete edging or, where necessary, kerb and channelling, and shall where necessary, incorporate speed-bumps to the satisfaction of the Shire Engineer;

- (xix) No sites, internal roadways, buildings or other structures shall be located below the Adopted Flood Line unless the consent of the Council is obtained and all sites shall have flood-free access to the satisfaction of the Shire Engineer;

- (xx) Internal street lighting shall be provided to the satisfaction of the Shire Engineer. Such lighting shall be of a low profile providing illumination for the internal roadways only. All external lighting including advertising shall be controlled by master switching and shall be shut off at 10.30 p.m.;

- (xxi) Motor accessways shall be laid out to avoid vehicular and pedestrian congestion both on the site and at points of access to public roads;
- (xxii) Noise shall be controlled within the caravan park so that no nuisance is caused to persons beyond the boundaries of the caravan park. No amplified noise system shall be installed or permitted to be used;
- (xxiii) Fire fighting facilities shall be installed to the requirements of the relevant Fire Control Authorities;
- (xxiv) A permanent manager's residence shall be established within the Caravan park to supervise, at all times, the operation of the Caravan park and to ensure compliance with the Council's requirements;
- (xxv) No animal shall be permitted to be kept in a Caravan park other than domestic pets kept within a manager's residence;
- (xxvi) All sites shall be suitably numbered and each number shall be prominently displayed on the site;
- (xxvii) Approved refuse receptacles shall be provided and the collection and removal of refuse shall be undertaken to the satisfaction of the Shire Engineer and Shire Health Surveyor;
- (xxviii) Laundry facilities shall be provided in accordance with the provisions of the Council's Health By-laws relating to Caravan Parks;
- (xxix) Toilet and ablution facilities shall be provided to the requirements of the Council and shall be located not less than fifteen (15) metres from any site within a caravan park; provided that this provision does not apply to ensuite facilities located wholly within a caravan site for the exclusive use of the occupants of a relocatable home or caravan located on that site;
- (xxx) All toilet and ablution facilities shall be artificially lit during the hours between sunset and sunrise to the satisfaction of the Shire Engineer and the Shire Health Surveyor;
- (xxxi) Concrete pads for the stationing of a caravan and the erection of an annexe shall be provided on every site within a Caravan park provided the Council may waive this requirement for the erection of a relocatable home;
- (xxxii) Provision shall be made for one paved carspace on every site within a Caravan park;
- (xxxiii) All caravans other than those for which the Council approval has been granted for a longer term residency, shall be readily movable at all times; where fitted, wheels shall not be removed and tyres shall be retained in good order at all times;
- (xxxiv) Storage facilities shall be provided in a central location for the use of residents. No individual storage sheds or structures shall be permitted on a site allotted to a caravan; provided that the Council may grant building approval to a storage shed ancillary to a relocatable home;
- (xxxv) Not more than twenty-five (25) per centum of the total number of sites shall be occupied by on-site caravans and/or relocatable homes owned by persons other than those residing therein;
- (xxxvi) Notwithstanding the provisions of the above, the applicant shall, if the Council consents to the application for a caravan park -
 - (A) comply with or make provision for required external works including roadworks, drainage and alterations to public utility mains and services rendered necessary as a result of the development;
 - (B) dedicate as road, free of cost to the Council, such part of the land as the Council required to be so dedicated for road widening or truncation and for egress and ingress in the site;
 - (C) comply with any other requirements which the Council may reasonably and relevantly impose.

Division X - Drive-in Theatres

1. A building or other structure shall not be erected or used and land shall not be used for the purpose of a drive-in theatre unless -
 - (a) any vehicular entrance to or exit from such drive-in theatre is located not less than ninety (90) metres from a Main Road declared pursuant to the provisions of the *Main Roads Act 1920-1988*;
 - (b) there is within the site of the drive-in theatre, a vehicular driveway, at least sixty (60) metres in length and twenty (20) metres in width, leading from the entrance to the site of the ticket office;

- (c) the screen of the drive-in theatre is so located or protected that no image projected thereon shall be visible and identifiable from a Main Road declared pursuant to the *Main Roads Act 1920-1988*.

Division XI - Other Uses

1. (a) In addition to the provisions of any Council by-law the provisions of this clause shall apply to the developments listed in subclause (b) below which are commenced after the Appointed day.
- (b) A person shall not erect or cause to be erected a building or other structure or use land or cause land to be used for any purpose set out in Column I of the Table hereunder in contravention of any of the requirements set out in Column II of the said Table opposite that development.

THE TABLE

Column I Development	Column II Requirements
Bird aviary, pigeon loft and poultry pen	All buildings and structures shall be so located that they are not less than twelve point one-nine (12.19) metres from any residential building.
Cattery	(a) A cattery shall not be established on a parcel of land, the area of which is less than one (1) hectare. (b) No part of the cattery or sick bay attached to that cattery shall be constructed within thirty-three (33) metres of any dwelling-house, habitable building or thirty (30) metres of any property boundary.
Church, place of public worship and church hall	(a) New buildings to be erected on land in a Residential or Village Residential Zone shall be so located that no part thereof is within seven (7) metres of any external boundary of the land on which they are located. This requirement does not apply to a building for use as a residence. (b) Car parking for worshippers shall be provided within the curtilage of any new building in a Residential or Village Residential Zone at the rate required in clause 1 of Division II of this Part.
Crematoria	When located on land in a Residential or Village Residential Zone or on land adjoining a Residential or Village Residential Zone, the crematorium and associated buildings shall be sited so that they are not less than fifteen (15) metres from any property alignment and shall be screened to the satisfaction of the Council from the road or adjoining properties.
Dairy	No dairy shall be located so that any part of it is nearer than fifty (50) metres from any residence on the same holding or nearer than two hundred (200) metres from any other residence and so that it meets the requirements of the Department of Primary Industries.
Forestry	Forestry plots shall only be permitted in cases where the coverage of the proposed site by natural vegetation (i.e. trees and shrubs) is less than twenty (20) per centum of the total site area.
Kennel	(a) A kennel shall not be established on a parcel of land containing an area of less than four (4) hectares. (b) No kennel or sick bay shall be constructed within thirty-three (33) metres of any dwelling-house or habitable building or fifty (50) metres of any property boundary.

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Column I	Column II
Development	Requirements
Sawmill	The system of collection and disposal of all sawdust and other waste matter resulting from the use shall be determined by the Council.
Stable	No horse shall be stabled less than fifteen (15) metres from a residential building or within fifteen (15) metres of any boundary of the allotment or parcel of land on which the stable is erected.
Zoological garden	Buildings and other structures associated with this use shall be so located that they are not less than sixty (60) metres from any residential buildings on the same holding, or nearer than two hundred (200) metres from any other residence, and not less than sixty (60) metres from a road and not less than fifteen (15) metres from any other boundary of the allotment or parcel of land on which the zoological gardens are located, and so that it shall not pollute any watercourse.

Save as is otherwise described in this Part every building or structure erected after the Appointed day on land in a Residential or Village Residential Zone, or which abuts a Village Residential or Residential Zone shall conform to the same boundary clearances as are required for dwellings in the Building by-laws.

PIGGERIES, DAIRIES, FEEDLOTS AND POULTRY FARMS

2. In Clauses 3 and 4 the term "Watercourse" has the following meaning:-

Includes land on which rainwater or stormwater runoff concentrates and land on or over which rainwater or stormwater runoff usually or occasionally flows in concentration in a defined channel, whether -

- (a) a natural channel; or
- (b) a natural channel artificially improved; or
- (c) an artificial channel that has changed the course of a natural channel.

The term does not include a closed conduit conveying stormwater.

3. (a) Subject to subclause (b), a new piggery, dairy, feedlot or poultry farm or an expanding existing piggery, dairy, feedlot or poultry farm shall not be located at lesser distances than the separation requirements set out in Table 1 to this clause.

- (b) A person may be permitted by the Council to establish or expand an existing piggery, dairy, feedlot or poultry farm at a lesser distance than that set out in Table 1 if, in the opinion of the Council following consideration of any or all of the matters contained in paragraphs (i) to (vi) of this subclause, special circumstances exist which warrant such modification: Provided that no piggery, feedlot or poultry farm shall be located closer than one thousand (1,000) metres to a Residential "A" Zone, Residential "B" Zone, Village Residential Zone, Rural Residential Zone, Public Open Space Zone and Private Open Space Zone and provided further that no dairy shall be located closer than five hundred (500) metres to a Residential "A" Zone, Residential "B" Zone, Village Residential Zone, Rural Residential Zone, Public Open Space Zone and Private Open Space Zone:-

- (i) prevailing winds;
- (ii) topography of the area;
- (iii) number of pigs, cattle, poultry to be kept;
- (iv) soil condition of the land;
- (v) waste disposal methods; or
- (vi) any other matter relevant to the proposal.

Division XII - Bed + Breakfast Accom.

Division XIII Farm Stay Accom.

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TABLE 1: Separation of Buildings, Ponds, Manure Storage, Pens and Land Disposal Areas from the Boundary of Land Used for Specific Purposes (Distance in Metres).

USE	RANGE OF ANIMAL NUMBERS	DISTANCE FROM CONSTRUCTED AND OR MAINTAINED ROADS (See Note 1)	DISTANCE FROM OTHER BOUNDARIES OF THE LAND AND DRY GULLIES AND CHANNELS (See Note 2)	DISTANCE FROM WATER COURSES WELLS OR BORES (See Note 3)	DISTANCE FROM RESIDENTIAL BUILDINGS NOT ASSOCIATED WITH THE SITE
Piggery	20- 80	100	20	100	100
	81- 200	150	20	100	150
	201-1000	200	20	100	200
	1000-5000	200	20	100	200
	> 5000	200	20	100	200
Dairy	10- 20	20	10	30	20
	21- 200	40	10	50	30
	> 200	60	20	100	60
Feedlot	10- 20	60	20	50	50
	21- 40	100	20	100	100
	41- 80	200	50	100	150
	81-1000	400	100	100	200
	> 1000	400	100	100	400
Poultry	100- 200	20	10	50	60
	200- 500	50	20	50	60
	> 500	100	20	100	150

Note 1 Excluding "no through roads" less than 500 metres.

Note 2 Other than constructed or maintained roads or where there is neighbouring residential buildings.

Note 3 Except dry gullies and channels.

4. (a) Subject to subclauses (b) and (c) of this clause, no person shall establish a piggery, poultry farm, feedlot or dairy on a site which is less than eight (8) hectares in area.

(b) A piggery, poultry farm, feedlot or dairy established or expanded after the date of the coming into force of this amendment to the town planning scheme shall include an area for the application of wastes in accordance with Table 2 of this clause.

TABLE 2: Areas required for the application of waste.

USE	WASTE TYPE	APPLICATION RATE
Piggery	Raw Manure Slurry	25 pigs/ha (0.04 ha/pig)
	Treated Solids	100 pigs/ha (0.01 ha/pig)
	Waste Liquids	500 pigs/ha (0.002 ha/pig)
Dairy	Liquids and Solids	50 beasts/ha (0.02 ha/beast)
Feedlot	Manure	40 beasts/ha (0.025 ha/beast)
Poultry	Layer	1 000 birds/ha (0.001 ha/bird)
	Broiler	10 000 birds/ha (0.0001 ha/bird)

For the purposes of calculating the land disposal area as required by Table 2, any areas which are steep, rocky, low-lying or used as accessways shall not be included.

(c) Notwithstanding the provisions of subclauses (a) and (b), a person may be permitted by the Council to establish a piggery, poultry farm, dairy or feedlot on a lesser area or keep more pigs, poultry, dairy or beef cattle than required by this clause, if, in the opinion of Council following consideration of any or all of the matters contained in paragraphs (i) to (vi) of subclause (b) of clause 2, special circumstances exist which warrant such modification.

STRATEGIC PLAN

PART A

1. INTRODUCTION

This Strategic Plan forms part of the town planning scheme for the Shire of Mirani. It has been prepared in accordance with the provisions of the *Local Government Act 1936-1990* and consists of three (3) parts as follows:

- (a) PART A containing a statement of objectives of Mirani Shire Council in relation to preferred dominant land uses together with other criteria for determining the type, scale or distribution of other uses required as an integral component to service the preferred dominant land uses;
- (b) THE STRATEGIC PLAN MAP which identifies the preferred dominant land uses; and
- (c) PART B SUPPORTING INFORMATION containing information used or in connection with the preparation of this Strategic Plan.

The Strategic Plan Map and Part A (statement of objectives) are contained in this document.

Copies of Part B Supporting Information, which copies have been signed for identification by the Clerk of the Executive Council, are held at at the office of the Director of Local Government and at the office of Mirani Shire Council.

2. PRINCIPAL AIM

The preparation of both the Strategic Plan Map and objectives follow from one principal aim for the Shire, which is in essence a planning ideal:

"To enhance and safeguard the health, safety, convenience and the economic, cultural, social and general welfare of the people and the amenities of the district and promote developer confidence through consistent development control of the Shire."

3. PREFERRED DOMINANT LAND USES

The Strategic Plan Map consists of an overall map of Mirani Shire showing the preferred dominant land uses, details of which are as follows:

(a) Urban

This is shown in pink on the Map and indicates those areas which are considered suitable for development for urban purposes. The term urban is used to indicate that the area is not only confined to residential uses but will include those commercial centres and other uses which service the residential area and are normally found as an integral part of that area.

(b) Rural - Canegrowing

This is shown in light brown on the Map and essentially comprises those areas of valuable sugar cane lands which should preferably be retained for that purpose to the exclusion of other uses. These areas are also shown on Queensland Department of Primary Industries maps contained in Part B.

(c) Rural - Dairying

This is shown in grey on the Map and essentially comprises those areas of importance to the dairying industry which should preferably be retained for that purpose to the exclusion of other uses.

(d) Rural - Other

This is shown in dark brown on the Map and essentially comprises grazing areas and balance area of the Shire not required for other preferred dominant land uses.

(e) Industry

Areas within the Shire which are considered to be suitable for industrial purposes are shown by a purple circle on the Map.

(f) Special Government Purposes

Land within the Shire which is used or proposed to be used for a substantial Government or semi-Government function (be it Commonwealth, State or Local Government) is shown in yellow on the Map.

(g) Educational Facility

Existing and anticipated future primary and secondary school locations are shown by a yellow triangle on the Map.

(h) Public and Private Open Space

Areas within the Shire which are existing or proposed as public and private open space are shown by dark green on the Map.

(i) National Park, State Forest and Timber Reserve

These areas cover a large part of the Shire and are shown in light green on the Map.

(j) Tourist Facility

An orange triangle is used to indicate those areas which are existing significant tourist facility areas.

(k) Possible Tourist Facility

Areas within the Shire which are considered to be possible tourist facility growth areas are shown by a broken triangular orange symbol.

(l) Extractive Industry

Existing or proposed areas within the Shire which are suitable for use by extractive industries are shown by a red circle on the Map.

(m) Possible Major Water Storage Area

The proposed Finch Hatton Creek Dam is shown on the Map by means of a broken blue triangle.

4. PRINCIPAL GOALS

Mirani Shire Council has four (4) principal goals for land uses in the Shire:-

- (a) Provision of basic community facilities to all urban settlements to ensure public health, safety and community development;
- (b) Promotion of development in the cane growing, dairying and tourist industries;
- (c) Provision of an adequate transportation network for both industry and general use;
- (d) Conservation of the natural resources which provide enjoyment and economic sustenance for residents of the Shire.

5. OBJECTIVES AND IMPLEMENTATION

The following are the objectives and criteria relating to preferred dominant land uses intended to support the principal aim of the Strategic Plan as expressed in Clause 2:

URBAN

Objective

To encourage urban development in areas which are capable of being adequately serviced.

Implementation

- (a) Council shall encourage urban expansion in the towns of Mirani and Marian where the necessary facilities and services can be best provided.
- (b) Council recognises constraints upon urban expansion at Finch Hatton; where there are serious water supply infrastructure deficiencies and major flooding problems from adjacent Cattle Creek.
- (c) Council may permit urban expansion at Eungella as a result of increased tourism activities.
- (d) Other townships within the Shire shall not be permitted to expand unless the necessary infrastructure is provided.

RURAL - CANEGROWING

Objective

To protect the Shire's prime cane-growing land from unnecessary and undesirable intrusions by other land use activities.

Implementation

The Rural Canegrowing areas shown as preferred dominant land use on the Strategic Plan Map have been supported by Rural "A" zoning on the town planning scheme Maps. These Rural "A" Zones will be maintained, with rezonings generally prohibited in order to achieve this objective.

The rezoning of Rural Canegrowing areas will only be proposed to be approved by the Council if the land is unassigned as caneland, unsuitable for canegrowing as classified by the Department of Primary Industries and suitable for the proposed use.

RURAL - DAIRYING

Objective

To protect the Shire's prime dairying land from unnecessary and undesirable intrusions by other land use activities.

Implementation

The Rural Dairying areas shown as preferred dominant land use on the Strategic Plan Map have been supported by Rural "A" zoning on the town planning scheme Maps. These Rural "A" Zones will be maintained, with rezonings generally prohibited in order to achieve this objective. Development proposals which lie within the Rural Dairying area shown on the Strategic Plan Map will be subject to an assessment of the suitability of the land for dairying.

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The rezoning of Rural Dairying Areas will only be proposed to be approved by the Council if the land is not suitable for dairying as determined by the Department of Primary Industries and suitable for the proposed use.

RURAL - OTHER

Objective

To protect the balance area of the Shire's agricultural land not used for canegrowing or dairying from unnecessary and undesirable intrusions by other land use activities.

Implementation

The Rural Other uses shown as preferred dominant land use on the Strategic Plan Map have been supported by Rural "A" zoning on the town planning scheme Maps.

The rezoning of Rural Other areas will be considered by the Council in preference to rezoning of Rural Canegrowing or Rural Dairying areas. Any proposals for rezoning of Rural Other areas are to be suited to the area.

RURAL RESIDENTIAL

Objective

To permit subdivision in suitable attractive rural locations within the Shire to meet the demands for rural residential living, whilst ensuring that their location is not prejudicial to existing and potential cane-growing and dairying activities.

Implementation

Lands which are used for, or are potentially suitable for use for cane-growing or dairying shall be conserved by permitting a subdivision or rezoning under the town planning scheme only where it has been shown that -

- the land can be used for the intention of the zone in which the land is proposed to be included;
- the purpose of the subdivision is consistent with the intention of the zone;
- the land has been classified by the Department of Primary Industries as unsuitable for existing or potential canegrowing or dairying purposes.

A rezoning of the land to the Rural Residential Zone shall only be considered where -

- (a) the proposed rural residential lots emanating therefrom are appropriate to the needs and demands of the Shire area, services, population and community facilities. Proposals that would lead to subdivisions that are not required to meet building industry requirements in the foreseeable future or which would lead to inappropriately located developments with respect to the Council's services and community facilities or which may lead to environmental problems are liable to rejection;
- (b) the land is not existing or potentially suitable cane-growing land, and in the Council's opinion will not be required for future dairying purposes;
- (c) the land is not likely to be required for urban development;
- (d) the land will not require stormwater drainage and sewerage schemes;
- (e) in the Council's opinion the land is reasonably accessible to community facilities such as schools and shops;
- (f) practical, constructed road access located within a road reserve is available to the subject land or will be provided;
- (g) the subdivision is serviced by or capable of being serviced by an adequate supply of electricity;
- (h) the subdivision to be designed so as to preserve existing rainforest or other timbered areas, and to prevent soil erosion;
- (i) evidence is provided that feasible building sites are available within each individual lot;
- (j) the land in the vicinity of the subject land is not being used for a purpose deemed by the Council to be incompatible with rural residential uses;
- (k) the subdivisional design shall be suitable to permit ease of access to all allotments by fire and emergency vehicles and the subdivisional layout shall be designed to minimise fire hazard.
- (l) adequate physical access to individual lots can be obtained from the adjacent constructed road;
- (m) at least 50% of each lot is above the estimated one (1) in fifty (50) years return period flood level in adjacent creeks or streams, and such area is capable of containing a dwelling, sheds and such other structures which may reasonably be expected to be associated with the development;

(n) proof of the adequacy of the subject land to dispose of domestic effluent by means of absorption trenches is submitted;

(o) any new roads to be provided fronting proposed new lots are to be constructed to bitumen standard, and the longitudinal gradient of such roads shall not exceed 16%, except where in the opinion of the Council the uniqueness of the character or terrain warrants adoption of a steeper grade, in which case such steeper grade shall only be permitted under special conditions to be fixed by the Council;

(p) 10% of the subject land is proposed to be set aside for parkland contribution; and

(q) evidence of the availability of a potable water supply to or within the subject land is submitted.

OPEN SPACE

Objective

(a) To retain the areas of natural and environmental significance within their natural state, and where practicable, to consolidate and secure such areas as public reserves.

(b) To ensure that development proposals have a minimal effect upon the natural environment by preserving natural forest areas and by minimising any soil erosion caused by the development.

(c) See amd 1 14/6/96

The destruction of trees and excavation or filling of land in a Rural Zone shall be minimised so as to protect and preserve the natural environment;

(a) There is no potential nuisance caused through erosion of soil, ground slippage or accelerated stormwater runoff;

(b) There is no substantial loss of amenity caused by the loss to the public of an important element of the landscape.

Application for the approval of the Council to carry out excavation or filling of land shall be made in accordance with the provisions of the town planning scheme Schedule Part II Division I, Clause 6, or Section 37 of the Act, as the case may be.

When dealing with rezoning and subdivision applications, the Council will have regard to the need to have dedicated as public open space those areas included in the subject land which are of natural and environmental significance.

TRANSPORT

Objective

To create a functional road system to enable people and goods to move throughout the Shire conveniently and safely.

Implementation

Upgrading of Council and declared roads and bridges within the Shire is required in order to provide all weather roads to service the canegrowing, dairying, timber and tourist industries.

Objective

The capacity and function of the major arterial roads in the Shire will be reinforced.

Implementation

Proposals for rezoning or subdivision of land in ribbon developments which will propagate the obtaining of direct access onto the following declared Main Roads will not be approved:-

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* Mackay - Eungella Road
Marian - Eton Road
Marian - Hampden Road

TOURIST INDUSTRY

Objective

To provide areas for recreation and tourist activities and to encourage the consolidation and expansion of the tourist industry within the Shire as a vital link in the overall tourist package available to visitors to the Mackay region.

Implementation

The Strategic Plan Map designates areas for the location of tourist and recreation activities.

There is a need to protect the natural features of the Shire and to foster man-made tourist attractions to permit the overall growth of the tourist industry in the Mackay region. In this regard, the scenic Eungella National Park complements the tourist beaches and island resorts in adjacent coastal Shires and the new mining settlements of inland Shires, which together provide opportunities for an extended sojourn for tourists visiting the Mackay region. The Council will consider each application for development with regard to land use and design factors including carparking, landscaping, the management, functioning and buffering of the proposal from adjoining developments.

The town planning scheme Schedule provides for a zone for Special Facilities. This Special Facilities Zone is able to provide the Council with sufficient flexibility to permit a variety of uses within a tourist project. When considered to be desirable, the Council will approve applications for rezoning to the Special Facilities Zone in response to the requirements of specific tourist and recreation projects. The requirements in relation to each development will be determined by the Council on the circumstances of each application.

INDUSTRIAL

Objective

To direct any industrial growth which may occur to areas which are suitable for such development.

Implementation

Any future industrial growth which may occur will be encouraged in those areas which -

- are designated on the Strategic Plan Maps as Industry and shown as a purple dot;
- are flat or can be developed without excessive excavation;
- have a high level of accessibility;
- are adequately serviced, or capable of being so, with such facilities as water supply, electricity and suitable effluent disposal facilities;
- are so located as not to detrimentally affect the amenity of surrounding residences; and
- do not conflict with existing or proposed cane growing lands.

MAJOR WATER STORAGE

Objective

To encourage the early investigation and feasibility study of a possible dam on Finch Hatton Creek to serve the urban and industrial water supply requirements of the Mackay region as well as the irrigation needs of the sugar cane industry and to prevent pollution of Eungella and Kinchant Dams.

Implementation

The possible dam site has been indicated by a broken blue triangle on the Strategic Plan Map. The Council is aware of the regional importance of the proposed dam, but is also aware that there are environmental and ecological considerations to be addressed as well as the economic implications of the project in comparison to other nearby State Government commitments such as the Eton Irrigation Area and Proserpine Dam.

It is the Council's desire that all these matters be addressed prior to the feasibility of the proposed dam being established, and that should the Dam proceed, the retention of areas of natural and environmental significance in the Finch Hatton Creek area be maximised.

To prevent pollution of Eungella and Kinchant Dams, the Council shall not approve applications for rezoning or consent of subdivisions which may cause detriment to the dams as a result of effluent discharge, siltation, discharge of any chemical or from any other cause. Any subdivision or development applications affecting the Eungella and Kinchant Dams catchment areas will be referred to the Queensland Water Resources Commission for comment prior to any decision being made by the Council. The Council may require an environmental impact statement of any proposed subdivision or development which is considered to have a harmful impact on Eungella or Kinchant Dams.

MIRANI SHIRE COUNCIL

Department of Housing and Local Government
Brisbane, 20th December, 1990

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 1936-1990*, has been pleased to approve the following by-laws made by the Council of the Shire of Mirani.

T. J. BURNS

WHEREAS by the *Local Government Act 1936-1990*, 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 Shire of Mirani 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, shall be in force from the date of publication hereof in the *Gazette*.

The by-laws of the Council of the Shire of Mirani, published in the *Government Gazette* of 30 August 1969, as amended from time to time, are hereby further by repealing existing Chapter 28 - Subdivision of Land and inserting the following new Chapter in its stead:-

"CHAPTER 28**SUBDIVISION OF LAND**

By-law No.	Description
1	Definitions
2	Application of Chapter
3	Approval Required
4	Application to Council
5	Particulars on Proposal Plan
6	Subdivisional Design
7	Subdivision for Lease Purposes
8	Consideration of Application
9	Refusal of Application
10	Notification of Disapproval or Approval
11	Documents
12	Plan of Survey
13	Notification of Amendments as required by the Registrar of Titles
14	Lapse of Approval - Proposal Plan Application
15	Minimum Frontages, Depths and Areas for Allotments
16	Truncation
17	Submission of Engineering Plans
18	Road Design and Construction
19	Drainage Design and Construction
20	Water Supply and Sewerage Services
21	Services in Roads
22	Boundary Roads
23	Subdivision of Land Abutting on to an Access Restriction Strip
24	Building
25	Relocation of Public Utilities
26	Grading of Allotments
27	Public Garden and Recreation Space
28	Council Engineer's Certificate of Completion of Construction
29	Easements
30	Power of Entry
31	Road Names
32	Practical Access
33	Fees

- 35 Electricity
36 Penalty Clause

Definitions

1. In this by-law unless the context otherwise indicates or requires, the following terms have the meanings set against them respectively, that is to say:-

"Access" - Means the practical means of entry of persons and vehicles onto each proposed allotment from a constructed road which abuts the frontage thereof or, where approved by the Council, such means of entry by way of easement;

"Allotment" - Means 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 1861-1986* 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 1861-1986*, or in the case of land under the provisions of the *Miners' Homestead Leases Act 1913-1986*, the boundaries of which are separately defined by metes and bounds on the relevant plan of such land held by the Division of Information, Department of Lands under and in accordance with the *Miners' Homestead Leases Act 1913-1986*. The term does not include a lot held under the *Building Units and Group Titles Act 1980-1988*.

"Applicant" - Means a private person or company who or which has made application to the Council under this Chapter for approval to subdivide land or open a new road;

"Approved" - Means approved by the Council;

"Approved design" - A design approved of, or prepared by the Council, for the future subdivision of land pursuant to the subdivisional design requirements of this Chapter;

"Licensed surveyor" - A registered surveyor whose registration is endorsed under the *Land Surveyors Act 1977-1983*;

"Building site" - That part of an allotment on which, in the opinion of the Council, a building may be satisfactorily erected;

"Business Zone" Includes all land in that part of the Shire declared to be a Business Zone, under any town planning scheme in force in the Shire;

"Construction" - In the case of a road, lane or pathway includes provision for draining, levelling, grassing, paving, sealing, kerbing, channelling, turn-outs and crossovers and otherwise making and building such road, lane or pathway in accordance with the specifications laid down in this Chapter;

"Council Engineer" - The person appointed by the Council to be Engineer for the purposes of this Chapter. The term includes an engineer or any officer of the Council from time to time authorised by the Council to carry out the duties of the Council Engineer for the purposes of this Chapter;

"Cul-de-sac" - A street in which one (1) end has no direct vehicular connection with another street; a street is classified as one (1) cul-de-sac when it reaches a point beyond which there is no other exit. This definition applies regardless of the number of small cul-de-sacs which branch off from that point;

"Frontage" - Any boundary line or part thereof, of a property or allotment, which coincides with the alignment of a road;

"Industrial Zone" - Includes all land in that part of the Shire declared to be a Light Industry, Hazardous, Noxious or Offensive, Heavy Industry or other Industrial Zone under any town planning scheme in force in the Shire;

"Plan of subdivision" - Any Plan which divides or subdivides any land into allotments or otherwise whether or not such division or subdivision includes any new road, pathway, lane or reserve;

"Plan" - Includes any map, diagram, drawing, section or detail;

"Proposed allotment" - Each of several parts of any land which is proposed to be subdivided into an allotment;

"Radial distance" - The distance measured in a straight line from the nearest points of the land to be subdivided;

"Residential Zone" - Includes all land in that part of the Shire declared to be a Residential "A" Zone, Residential "B" Zone or Rural Residential Zone under any town planning scheme in force in the Shire;

"Rural Zone" - Includes all land in that part of the Shire declared to be a Rural "A" Zone, or Rural "B" Zone or other Rural Zone under any town planning scheme in force in the Shire;

"Subdivision", "Subdivide" - And similar expressions mean and refer to dividing into parts whether the dividing is -

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- (b) by any agreement, dealing or instrument inter vivos (other than a lease for any term not exceeding five (5) years without right of renewal) rendering different parts thereof immediately available for separate disposition or separate occupation; or
- (c) by procuring the issue of a certificate of title under the *Real Property Act 1861-1986* in respect of a part of the land.

Where any term used in this Chapter is not herein defined but is defined in the Act or in any town planning scheme in force in the Shire, 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.

Application of Chapter

- 2. The provisions of this Chapter shall apply throughout the Area of the Shire of Mirani.

Approval Required

- 3. A private person or company shall not subdivide any land whether such subdivision provides for the opening of a road or not, otherwise than in accordance with an approval granted by the Council under this Chapter.

Application to Council

- 4. (a) Every owner of land desiring to open a new road on, or to subdivide such land, shall himself or by his authorised agent make application to the Council in accordance with the form of application required by the Council and shall at the time of making application lodge the fee determined by the Council from time to time by resolution.
- (b) The application shall be accompanied by a proposal plan, and when required by the Council, the proposal plan shall be prepared by a licensed surveyor which shall be submitted in triplicate.
- (c) The proposal plan shall be a black and white print or shall be drawn in ink on tracing cloth or drawing paper, and not on tracing paper, and accurately plotted with the northpoint upwards, and drawn to the scales (which shall be endorsed on the plan) as set out hereunder:-

Area of Allotment Size in Subdivision	Scale
(i) Less than 0.1 hectare a scale not less than	1: 1 000
(ii) Greater than 0.1 hectare but not exceeding 0.5 hectare a scale not less than	1: 2 000
(iii) Greater than 0.5 hectare but not exceeding 2 hectares a scale not less than	1: 5 000
(iv) Greater than 2 hectares but not exceeding 30 hectares a scale not less than	1:10 000
(v) Greater than 30 hectares a scale not less than	1:20 000

The plan shall be properly drafted and shall be coloured so as to show all new roads and reserves tinted pink, existing roads and reserves tinted brown, and the boundaries of the land to be subdivided edged green. Where separate ownerships are involved in the proposed subdivision such shall be indicated clearly on the plan by the light shading of all separately owned parcels in other distinctive colours.

- (d) Prior to the Council granting its approval or consent to a proposed development, it shall have due regard to the effect that such a proposal, if implemented, will have on the environment. Any application lodged with the Council for approval or consent which is for a development of a type included in the policy statement for works requiring Environmental Impact Studies adopted by the Council from time to time by resolution shall be deemed to be incomplete unless it is accompanied by such a study report and statement of impact. A copy of the policy statement so adopted by the Council shall be available for purchase at the Office of the Council upon payment of a fee determined by the Council from time to time by resolution, which fee shall not exceed the cost of reproduction or printing.

Particulars on Proposal Plan

- 5. (a) The proposal plan shall be lodged in triplicate, be signed and dated by the person who prepared it, and shall show the following information and particulars:-
 - (i) The full real property description of the land and the name and postal address of the owner of the land;
 - (ii) The location of all watercourses, waterholes and creeks and all known flood and inundation levels correlated to Australian Height Datum;

- (iii) The position of an existing building on or within ten (10) metres of the subject land (provided that the Council may require particulars of the building further than ten (10) metres further from such land) and whether the building on such land is to be retained or demolished;

- (iv) The lines of all existing sewers and drains and/or all existing pipes or means for the supply of water, electricity or telecommunications;

- (v) All roads, with their respective names and widths, onto which the land to be subdivided abuts, and all allotments adjoining the land, all easements over the land, and all allotments properly numbered into which the land is proposed to be subdivided, together with the approximate measurements and area of each proposed allotment, reserve, road, lane and pathway, as determined by preliminary survey and design;

- (vi) If applicable, the area to be transferred to the Council as trustee for public garden or recreation space shall be shown in the location proposed by the subdivider;

- (vii) All proposed drainage easements; and

- (viii) Where the subdivision involves a new road or where no new road is involved, but the method of surface drainage is important, sufficient levels to enable proper consideration of the proposal shall be obtained. Unless the Council agrees otherwise, these levels shall be referred to as Australian Height Datum and shall be shown in the form of contours. In addition, the plan shall show the catchment areas of all drainage upon the property properly defined. In the case of a subdivision of land within a Residential Zone the contours of the land shall be shown at a contour interval of point five (0.5) metre but if the gradient of the ground is steeper than one to five (1:5) the contour interval may be two (2) metres;

- (ix) The extent of filling proposed to be carried out on the subject land;

- (x) Where the longitudinal grade along the centre line of a new road as indicated by the contours or levels shown under subclause (viii) of this subclause exceeds five (5) per centum, a longitudinal section of such road shall be plotted from the contours or levels showing the natural surface and the details of the proposed vertical alignment of the road;

- (xi) Where the transverse grade of the natural surface of a new road exceeds seven (7) per centum as indicated by the contours or levels shown under subclause (viii) of this subclause, cross sections of such road, in addition to the longitudinal section, shall be plotted. The cross sections shall show clearly the profile of the new road in question, the location of the crown of such road, the crossfalls provided, the location of table drains, catch drains, or kerb and channel, the extent of the cuts or fills, and the slope of the batters to be provided;

In each case involving the opening of a new road a typical cross section of such road shall be plotted;

Each longitudinal or transverse section of a new road shall clearly show the horizontal and vertical scales adopted in the plotting thereof;

- (xii) In every case involving the opening of a new road, a typical cross section of such road shall be plotted; and

- (xiii) Every longitudinal or transverse section of a new road shall clearly show the horizontal and vertical scales adopted in the plotting thereof.

- (b) In the case of a subdivision containing one (1) or more residential allotments, whether in a Residential Zone or not, but in which the whole of the land is not proposed to be immediately subdivided, the balance of the land shall be designed and shown by broken lines on the proposal plan, together with all the necessary topographical information, so as to show the existing and proposed means of access to each separate parcel and the situation of the separate parcels in relation to public convenience present and prospective. Where necessary, the road system shall be shown through and over adjoining lands.

In the case of rural subdivision, the proposed layout of the road system for the future development of the whole subdivision shall be indicated, together with all other relevant information. Where necessary the road system shall be shown over adjoining lands to indicate the proper relationship of roads with the future road systems of the locality generally.

- (c) In addition to the foregoing particulars, the applicant shall furnish any further particulars which the Council deems necessary.

Subdivisional Design

6. (a) It shall be unlawful to subdivide -
- (i) any land so that any boundary or the area of any allotment would cause any existing building to contravene the relevant by-laws of the Council; or
 - (ii) any parcel of land on which an existing building is situated, so that a subdivision line passes through the building, except where Council may approve upon application for dispensation being made to it, of such subdivision where the applicant gives to the Council an undertaking and such security as may be required, that such part of the building will be removed, within a period stipulated by the Council as will leave the remainder of the building situated on one (1) allotment and in conformity with the provisions of the by-laws of the Council.
- (b) With regard to this clause, nothing shall be construed to prevent the erection of any building partly on two (2) or more contiguous, vacant allotments held under the same ownership.
- (c) (i) In any case where in its opinion the complete subdivision of land would involve the construction and drainage of a road or roads, the Council, when considering any proposal for subdivision of such land which proposal does not include a road or does not in its opinion include a full road system for the complete subdivision of the land, may, whether it approves such proposal or not, require the applicant to submit for its consideration a design for the complete subdivision of the land, and may approve such design or substitute another design for it, and if the applicant does not submit a design within ninety (90) days after being required to do so, may itself prepare such a design. A design which has been so approved or substituted or prepared by the Council is hereinafter referred to as "the approved design". The further subdivision of the land or any part thereof shall not, save with the approval of the Council, be effected otherwise than in conformity with the approved design. An approved design shall be deemed to be a decision of the Council and an applicant shall have a right of appeal in respect thereof.
- (ii) The approved design or a design substituted for it by an order of the Local Government Court, on appeal from the Council's decision (the making of which substituted design is hereby authorised, and which shall thereupon be deemed to be the approved design), shall be recorded by the Shire Clerk and shall be binding on the owner of the land and his successors in title, and on any person hearing and determining an appeal against the Council's decision on an application for a further subdivision of the parcel or any part of the parcel. A copy of the approved design certified by the signature of the Shire Clerk shall be admissible in evidence.
- (iii) If such design is so prepared by the Council then at such time as the owner proceeds with the subdivision of the land, or part thereof, whether he be the owner at the time of the preparation of the plan or otherwise, he shall pay to the Council its cost in preparing such design, and the plan shall not be sealed by the Council until such payment is made.
- (iv) When an approved design has been made, the Council Engineer may prepare an estimate of the cost of construction of roadworks and drainage in the land the subject of such design, and the Council when considering any proposal before it respecting the subdivision of such land or part of such land, which does not include a full road system for such land, may require as a condition of approval of such proposal, that the subdivider shall pay to the Council such sum as in the opinion of the Council is a fair proportion of such estimated cost, having regard to the nature of the proposal before it. Such sum shall be held by the Council in trust for the purpose of making, or of contributing to the cost of making, the necessary roads and drainage in the land, as it shall think fit.
- (v) A person shall not erect, re-erect or commence to erect or re-erect a building on any part of the parcel of land shown on the approved design as a future road or so that any part of the building is within six (6) metres from any such road.

Subdivision for Lease Purposes

7. In the case of an application for approval of a subdivision where such subdivision is by any agreement, dealing or instrument *inter vivos* (other than a lease for any term not exceeding five (5) years without right of renewal) rendering different parts thereof immediately available for separate disposition or separate occupation, the applicant shall submit with such application the relevant agreement dealing or instrument in triplicate executed by the parties concerned, together with one (1) unsigned copy for the Council's records and one (1) further copy of the plan of the subject land as incorporated in such agreement, dealing or instrument.

Such plan shall be in a form acceptable to the Registrar of Titles. The boundaries of the proposed subdivision shall be coloured red and shall be shown in relation to the boundaries of the whole of the allotment of which the subdivision forms part. The boundaries of the whole allotment shall be shown in green.

The correct Real Property Office description of all of the relevant land shall be shown on the copies of the plan submitted to the Council.

If the Council approves such application for approval the consent of the Council shall be endorsed on the three (3) executed copies of the relevant agreement, dealing or instrument which shall then be returned to the applicant.

Consideration of Application

8. (a) In respect of an application for approval of the opening of a road, the Council shall take into consideration -
- (i) the situation and planning of the road in relation to public convenience, present and prospective and to inter-communication with neighbouring localities within or without the Area;
 - (ii) the method of draining the road necessary in the circumstances, present and prospective, and the disposal of the drainage;
 - (iii) whether or not the owner will transfer or convey to the Council in fee-simple for a nominal consideration necessary drainage reserves;
 - (iv) the character or construction of the roads necessary in the circumstances, present and prospective;
 - (v) whether or not kerbing, guttering and footpaths should be provided;
 - (vi) the treatment of junction or intersection of roads;
 - (vii) the classification of the road as hereinafter provided;
 - (viii) whether the locality is a residential locality; and
 - (ix) if a proposed new road will be a lane, whether or not a lane should be permitted in the circumstances.
- (b) In respect of an application for approval of a subdivision of land (whether the subdivision involves the opening of a road or not) the Council shall take into consideration -
- (i) the size and shape and utility of each separate parcel;
 - (ii) the length of road frontage of each separate parcel;
 - (iii) the situation and planning of the separate parcels in relation to public convenience, present and prospective;
 - (iv) the existing and proposed means of access to the subject land and to each separate lot proposed to be subdivided therefrom;
 - (v) whether or not the owner will transfer or convey to the Council in fee-simple free of cost necessary drainage reserves;
 - (vi) whether the locality is or probably will become a residential locality;
 - (vii) whether the land or part thereof is low lying so as not to be reasonably capable of being drained, or is not fit to be used for residential purposes;
 - (viii) the minimum area, frontage and depth of each separate parcel of land as prescribed in by-law 15 of this Chapter;
 - (ix) the amount of public garden and recreation space to be provided in the land to be subdivided;
 - (x) the truncating of land abutting on road junction or intersection of roads;
 - (xi) the situation and planning of the separate parcels in relation to the costs of supplying water, gas and electricity to the several parcels including in particular whether the subdivision could be redesigned so as to reduce those costs or any thereof, and either to the supplier or to the consumer or both;
 - (xii) the availability of essential services including electricity to each separate parcel;
 - (xiii) whether in accordance with this Chapter, the applicant, in respect of electricity supply, should be required to provide, by arrangement with the electric authority, for the undergrounding of such supply; and
 - (xiv) the suitability of the subject land to dispose of domestic liquid wastes by means of absorption trenches if applicable.

(xv) see and 1 : 14/6/96

- (c) Provided that the Council shall not take into consideration the matters set out in subclauses (v), (vii), (ix), (x), (xii), (xiii) and (xiv) of clause (b) of this by-law unless, in its opinion, the land the subject of the application is situated in a part of the area which is being used or will, if the subdivision is effected, be used for residential, commercial or industrial purposes.

Refusal of Application

9. Without in any way limiting the discretion of the Council, it shall be a sufficient reason for refusing approval of any proposal plan if -

- (a) a new road within the subject land or any existing road or street bounding the land to be subdivided is of less width than the minimum standard width prescribed by the Act for the classification of such road as determined under the Act, or in the case of a cul-de-sac the turning area is of lesser dimensions than will adequately accommodate the turning of vehicles and the provision of services;
- (b) provision is not made for public garden and recreation space in accordance with the provisions of by-law 27 of this Chapter;
- (c) provision is not made for the availability of essential services, including electricity, in each separate lot;
- (d) except where the zoning is Rural "A" or Rural "B" or Special Purposes, the land therein comprised is intersected by or is bounded or partly bounded on any side by a line of railway, and a road is not shown on such plan adjacent to such line of railway on each side thereof, or on the side of such line which is adjacent to such land, as the case may be;
- (e) the site or orientation of any existing building or any building which could be erected on such land would be for any reason unsatisfactory;
- (f) provision is not made for the transfer free of cost to the Council of any drainage reserves or drainage easements of a width which in the opinion of the Council may be necessary to enable the allotments or parcels of land and any new or existing roads, to be sufficiently drained into a public drain or onto an existing road or water course to or along which the drainage from such land or any such road may lawfully be discharged or caused to flow;
- (g) provision is not made for the granting, free of all cost to the Council, of all other easements which may be required by the Council for the laying of any utility service mains and for the provision of access and for the maintenance thereof;
- (h) any allotment proposed is so low-lying as not to be, in the opinion of the Council, reasonably capable of being drained by gravitation at all times; or in the case of an allotment which is low-lying but is capable of being filled and drained, provision is not made in the proposal to effect such filling and drainage, to the satisfaction of the Council;
- (i) the proposal includes any low-lying allotment capable of being filled and/or drained, but which cannot be so filled and/or drained, without requiring filling or drainage on an existing road or roads, and/or adjacent properties;
- (j) provision is not made for such connecting or other roads as may be considered necessary by the Council within the subdivision or to connect up with similar roads or proposed roads in adjoining subdivisions, or possible roads in the future subdivisions or adjoining land, to ensure the proper development of the surrounding locality;
- (k) every road corner shown therein and upon which abuts or abut only an allotment or allotments comprised therein is not rounded or truncated to the satisfaction of the Council;
- (l) provision is not made to carry out such works on the land proposed to be subdivided as will provide proper drainage of proposed allotments;
- (m) provision is not made for vehicular access from constructed roads into each proposed allotment;
- (n) provision is not made for any improvement in aspect or grade of any allotment deemed desirable by the Council to preserve the amenity of the locality;
- (o) in accordance with this by-law provision is not made for the reticulation of water supply, or sewerage, or both water supply and sewerage, to the land to be subdivided;
- (p) the depth of any allotment exceeds four (4) times the frontage to a road or the mean width of the allotment or parcel if such allotment or parcel is irregular in shape;
- (q) in the case of a proposed Rural Residential allotment, a potable water supply suitable for domestic use cannot be provided;
- (r) a proposed allotment shown thereon does not conform with the clauses of this by-law;
- (s) any aspect of the application is, in the opinion of the Council, contrary to good town planning practice or good traffic engineering practice;

- (t) the applicant does not propose to provide the Council with a signed certificate from the Mackay Electricity Board stating that electricity supply has been made available to the proposed allotments in the proposed subdivision in accordance with clause 35 of this Chapter and Section 34(12GG) of the *Local Government Act 1936-1990*;

- (u) an existing road which provides access to the development is not adequate in size, strength and state of repair to support the type of traffic which will be encouraged or caused by the development of such road; or

- (v) in the case of hillside subdivision, evaluation based on tests of the soil and underlying rock strata carried out by a qualified soils engineer on those sections having slopes greater than fifteen (15) per centum have not been submitted with the application.

(w) *see and 14/6/96*
Notification of Disapproval or Approval

10. (a) If the application and proposal plan are not approved, the Clerk shall notify the Council's decision to the applicant accordingly in writing pursuant to the provisions of subsection (15) of section 34 of the *Local Government Act 1936-1990* and shall return the proposal plan to the applicant.

- (b) If the application and proposal plan are approved subject to conditions, the Clerk shall notify the Council's decision to the applicant accordingly in writing pursuant to the provision of subsection (15) of section 34 of the *Local Government Act 1936-1990* and shall return the proposal plan to the applicant.

The duplicate copy of the proposal plan shall be retained by the Council. In the case of a proposal plan approved subject to certain amendments the Council may either mark the required amendments on the copy of the proposal plan and return it to the applicant, or it may require the applicant to prepare new plans incorporating the amendments, and submit them in triplicate to the Council.

Documents

11. The cost of preparation and duty stamping of all contracts and agreements required by this by-law shall be borne by the applicant.

Plan of Survey

12. (a) Within a period of two years after notification of approval, or approval subject to conditions, of the proposal plan, or such extended period as may be approved by the Council, the applicant shall submit to the Council an accurate plan of survey in accordance with the proposal plan approved by the Council, suitable for deposit in the office of the Registrar of Titles, complying with the directions contained in the by-law gazetted under the *Land Surveyors Act 1977-1983*, and containing all particulars which may be required by the Registrar of Titles, and duly certified by a licensed surveyor. The applicant shall also submit to the Council three copies of the said plan of survey as certified by a licensed surveyor. Such copy plans shall be printed or reproduced on a medium which is durable and stable in dimension.

- (b) It shall be unlawful for a licensed surveyor to amend any plan of survey after it has been submitted to the Council for endorsement and sealing, without informing the Council of such amendments, and amending the relevant copies to conform therewith. In no case shall such amendments be made as would contravene the terms and conditions of the Council's approval.

- (c) If the survey plan conforms with the Council's approval and if all the terms and provisions of this by-law have been complied with, it shall be approved and sealed by the Council and returned to the applicant. The applicant shall, within six (6) months after the date of the notation of approval of the Council on the plan, lodge the said plan, together with a fee for deposit in the office of the Registrar of Titles for registration.

Notification of Amendments as Required by the Registrar of Titles

13. In the event of the Registrar of Titles, upon lodgement of a plan of subdivision approved by the Council, requiring the alteration of such plan in any particular, the licensed surveyor who prepared such plan, shall within a period of one (1) month from the date of effecting such required alterations notify the Council accordingly in writing, and shall forward to the Council copies of the altered plan.

Lapse of Approval - Proposal Plan Application

14. (a) After a period of two (2) years from the date of notification of approval (or approval subject to conditions) of the proposed plan, or such extended period as may be approved by the Council, the approval shall lapse unless the applicant within such period or such extended period shall either -

- (i) execute to the satisfaction of the Council and in accordance with the conditions of approval the work of constructing and draining the roads, the provision of water supply or sewerage services involved in the proposal and other works the execution of which is a condition of approval; or

(ii) subject to subsection (7) of section 34 of the Act, pay to the Council such sum as may be agreed upon with the Council, as the cost of executing such work and agreed with the Council as to when such work shall be executed by the Council; or

(iii) give to the Council security to its satisfaction that he will execute such work mentioned in subclause (i) of this clause to its satisfaction within such time as may be fixed by the Council.

(b) Unless the applicant complies with the foregoing requirements of clause (a) of by-law 14, the approval or approval subject to conditions, of the application shall be deemed to have lapsed.

(c) If the approval for the application and proposal plan should lapse and the subdivider desires to have the proposal plan approved, a fresh application shall be required to be lodged, together with the necessary application fee. In such case, the Council shall not be bound by its previous decision and shall reconsider the proposal and impose such new conditions as it may deem fit in accordance with the provisions of this Chapter.

Minimum Frontages, Depths and Areas for Allotments

15. (a) Within the Area of the town planning scheme for the Shire of Mirani land shall not be subdivided into allotments of smaller area or of smaller dimension than area respectively set forth opposite the zone indicated in the following Table:-

THE TABLE

ZONE	MINIMUM FRONTAGE	MINIMUM DEPTH	MINIMUM AREA	SPECIAL PROVISIONS
Business	15m	-	500m ²	As determined by the Council.
Residential "A"	20m 15	30m 20	800m ² 700	In the subdivision of land in the Residential "A" Zone the Council may permit - 700 (i) any corner allotment having a minimum area less than eight hundred (800) square metres provided that the lesser area has been caused by a road truncation on a corner of that allotment; (ii) a subdivision fronting the turning circle of a cul-de-sac or the alignment of a curved road 15 where the frontage is less than twenty (20) metres at the road alignment then it must be demonstrated that the allotment is capable of enclosing a square of four hundred (400) square metres in area.
Residential "B"	20m	35m	800m ²	In the subdivision of land in the Residential "B" Zone the Council may permit - (i) any corner allotment having a minimum area less than eight hundred (800) square metres provided that the lesser area has been caused by a road truncation on a corner of that allotment; (ii) a subdivision fronting the turning circle of a cul-de-sac or the alignment of a curved road where the frontage is less than twenty (20) metres at the road alignment then it must be demonstrated that the allotment is capable of enclosing a square of four hundred (400) square metres in area.
Rural Residential	100m	-	2 ha	As determined by the Council.
Village Residential	20m	30m	800m ²	As for Residential "A" and "B" Zones above.
Light Industry	25m	30m	1000m ²	As determined by the Council.
Heavy Industry	30m	40m	1500m ²	As determined by the Council.
Noxious and Hazardous Industry	30m	-	2000m ²	As determined by the Council.
Private Open Space	30m	-	1000m ²	As determined by the Council.
Public Open Space	30m	-	1000m ²	As determined by the Council.
Special Purposes	30m	-	1000m ²	As determined by the Council.
Special Facilities	As determined by Council	As determined by Council	As determined by Council	As determined by the Council.
Rural "A"	-	-	60 ha	<u>Rural "A" and Rural "B":</u>
Rural "B"	-	-	15 ha	Where evidence is given to the complete satisfaction of the Council that the subdivision of land is required to enable an allotment to be provided to be used for residential purposes by the owner of the land or spouse, child or parent of the owner then the Council may permit an allotment having an area between two (2) ha and one thousand (1000) square metres to be subdivided from the original parcel of land provided that -

ZONE	MINIMUM FRONTAGE	MINIMUM DEPTH	MINIMUM AREA	SPECIAL PROVISIONS
				(i) the proposed allotment is in the opinion of the Council suitable for residential purposes; (ii) that access to the proposed allotment is provided to the Council's requirements; and that (iii) the applicant gives security to the satisfaction of the Council that a dwelling will be erected on the proposed allotment within a period of twelve (12) months from the date of approval of the subdivision proposal. No further allotments will be so approved by the Council until a house has been erected on the allotment so subdivided.

- (b) (i) Notwithstanding the provisions of this by-law the Council may vary any of such provisions where it is considered to be necessary because of -

(A) the unique size, shape, location or topography of existing and proposed allotments;

(B) the unique character of the proposed use intended to be made of the land following subdivision as set out in the application for approval of the proposed subdivision;

(C) the existing and future amenity of the locality.

- (ii) In respect of subclause (i) hereto, the Council may approve of any frontage for an allotment abutting on a cul-de-sac or any allotment of irregular shape where -

(A) the allotment is of such shape as to provide an adequate building site;

(B) adequate access is provided; and

(C) it is not detrimental to the amenity of the locality.

Truncation

16. (a) Subject to subsection (16c) of section 33 of the *Local Government Act 1936-1990*, no plan of subdivision shall be approved unless such subdivision provides for corner truncation of the land at -

(i) the intersection of existing roads, whether at right angles or otherwise whose alignments form boundaries or parts thereof of the land;

(ii) the intersection of new roads;

(iii) the intersection of a new and existing road;

(iv) a corner where, in the opinion of the Council, a future road will intersect an existing road;

(v) a corner which will be situated, in the opinion of the Council, at the intersection of future roads;

(vi) at any angle exceeding 10 degrees, not being an intersection, in an existing road.

- (b) No plan of subdivision shall be approved unless such truncation is provided except where hardships (which shall not include the existence of a building on the required truncation) is occasioned thereby, in which case the Council may waive the truncation if it considers the amenities of the district will not be injuriously affected.

(c) Truncations at right angle corners shall be six (6) metres by three (3) equal chords unless the Council in its discretion requires a truncation of greater dimensions.

(d) In the case of truncation other than at right angled corners, the truncations shall be provided as required by the Council.

(e) The applicant shall, prior to the endorsement by the Council of its approval of a Plan of Survey or the release by the Council of any security given for the due performance of road, drainage or other works, remove all fences, trees and other obstructions whatsoever from the truncated area.

(f) The area truncated shall be dedicated as a road free of cost to the Council.

Submission of Engineering Plans

17. (a) In any subdivision involving new road or works on an existing road, the applicant shall submit to the Council road and drainage plans, together with specifications properly prepared by a qualified Engineer. The Council shall consider the plans and specifications without delay and shall notify the applicant of its approval or otherwise.

(b) The Council may, at the request of the subdivider, undertake the preparation of plans and specifications for road and drainage works required on any subdivision and/or the supervision of the construction thereof. In such case, the Council shall charge the subdivider for such work in accordance with the scale of fees laid down from time to time by the Association of Consulting Engineers, Australia.

- (c) Final inspection will be carried out by the Council Engineer on all road and drainage works associated with the subdivision of the land.

Road Design and Construction

18. (a) No plan of subdivision showing a new road in any subdivision shall be approved unless such road is constructed to the satisfaction of the Council.

(b) In all subdivisions involving new roads, the Council shall take into consideration the existing and probable future development of the locality, present and future traffic requirements, together with the amenities of the district, and shall determine the nature of the locality, the construction requirements, and the width of each road in accordance therewith.

(c) In special circumstances wherein a road or part of a road, not being reasonably a requirement for the approval of a subdivisional proposal, is deemed necessary by the Council to provide access to or from a subdivision approved prior to the coming into effect of this Chapter the Council may waive all or part of the construction thereof subject to the dedication of such road, or part of a road, free of cost to the Council.

- (d) On the completion of any subdivisional roadworks, the subdivider shall provide a certificate to the Council, from a qualified engineer stating that the works have been carried out properly and in accordance with the plans and specifications approved by the Council, together with a certificate stating that sufficient moneys are being held on behalf of the subdivider to meet the cost of any maintenance required during a maintenance period not exceeding twelve (12) months.

On receipt of such certificates, and being satisfied with the construction of the roads the Council shall, at the request of the subdivider, seal the plan of subdivision, provided that such plan also conforms with the original proposals as approved by the Council.

- (e) Any applicant, instead of executing the work of constructing and draining the roads, as hereabove provided, may, after obtaining approval of road and drainage plans and specifications, submit detailed estimates of the cost of the work and then either:-

(i) pay to the Council such sum as may be determined by the Council as the cost of executing such work and agree with the Council as to when such work shall be executed by the Council; or

(ii) on completion of such earthworks and drainage deemed necessary by the Council may, instead of completing the roadworks forthwith, give to the Council security to its satisfaction that he will execute such further work as is required to complete the roads within such time as may be fixed by the Council.

- (f) Without in any way limiting the Council's powers to require a greater standard of construction in a subdivision involving the opening of any new road, the applicant for approval of the subdivision shall construct the road to the following requirements:-

(i) The minimum width of a road shall be:- **and 14/6/96**

(A) In a Residential "A" Zone or Residential "B" Zone, Business Zone, Rural Residential Zone, Rural "A" or Rural "B" Zone - twenty (20) metres;

(B) In a Light Industry Zone, Heavy Industry Zone or Noxious or Hazardous Industry Zone - twenty-five (25) metres.

*** (c)** (ii) The minimum pavement width shall be:-

*** (A)** In a Residential Zone - eight (8) metres between back of kerbs;

(B) In a Light Industry Zone, Heavy Industry Zone or Noxious or Hazardous Industry Zone - thirteen (13) metres between back of kerbs;

*** see and 14/6/96**

- (C) In a Rural "A" Zone, Rural "B" Zone or Rural Residential Zone - six (6) metres.
- (iii) (A) Each proposed road is to be specifically designed both in layout and structural strength to cope with the frequencies and loadings of traffic likely to use it, as determined by the Council. The minimum requirements pertaining hereto shall be as follows:-
access to an arterial road shall be limited to specified points as designated by the Council;
each subdivider whose property fronts onto or includes an arterial road shall be required to provide these roads to such a standard as shall be determined by the Council;
- (B) The definition of catchment shall be deemed to include all such household units, the traffic from which could, as determined by the Council, be assigned to that part of the road having regard to distance and time of travel provided that special consideration shall be given to specific traffic generators such as schools, shopping areas, parks for organised sport, etc;
- (C) In deciding the carriageway appropriate for any residential streets regard shall be given to the optimum catchment of that street as herein defined, provided that regard also shall be given to the character and function of each street in determining the appropriate carriageway.
- (iv) All road pavements must be sealed to a standard as the Council shall determine by resolution from time to time;
- (v) In a Residential Zone, Business Zone or Industry Zone, concrete kerb and channel shall be provided on each side of the carriageway of the new road;
- see and 14/6/96 * (vi) The distance between kerbs shall be fixed by the Council with respect to future traffic on the road, but shall not be less than eight (8) metres between back of kerbs;
- (vii) The footpaths are to be formed to pavement levels approved by the Council, except for a new road in a Rural "A" Zone, Rural "B" Zone, or Rural Residential Zone;
- (viii) The table drain gradients are to be a maximum of sixteen (16) per centum and a minimum of point five (0.5) per centum for earth table drains and point two five (0.25) per centum for concrete channels unless otherwise approved by the Council. Minimum gradients will only be accepted in flat localities;
- (ix) Footpaths, earth table drains and road shoulders shall be stabilised by grassing or other means to the satisfaction of the Council. If earth table drains cannot be satisfactorily stabilised then a concrete kerb and channel must be provided or some other approved form of stabilisation provided;
- (x) All turnouts including any conduit crossing thereunder or concrete inverts for any new road shall be connected to the existing road pavement;
- (xi) The minimum road pavement depth shall be two hundred (200) mm of consolidated gravel, provided that the Council, having regard to the subgrade materials of the roads may direct a greater depth of consolidated gravel to be provided. To fix this greater depth the Council may require the applicant to provide samples of the subgrade materials on the roads. Each sample shall weigh not less than twenty (20) kg and shall be taken from such place as the Council directs. The applicant shall have the samples tested by an approved testing laboratory and submit the laboratory's signed report to the Council.
- (xii) No cul-de-sac shall provide access to more than twenty (20) allotments unless otherwise specified by the Council. The minimum radius of any cul-de-sac will be eleven (11) metres to the kerb line and eighteen (18) metres to property alignment.
- (xiii) In an Industrial Zone the minimum radius for a curve in a road as measured to the centre-line of the road shall be:-
(i) Major access road - one hundred and fifty (150) metres;
(ii) Local service road - ninety (90) metres;
- (xiv) All new roads fronting or within the subdivision must, if they are two hundred and forty (240) metres or greater in length, be intersected or met by a connecting road.
- (g) (i) In a Residential Zone, a road other than a pathway shall not be opened as a blind road -
(A) unless there is also provided at least one (1) pathway to give access from the blind end into a principal road, secondary road, or residential road; or
(B) unless such road gives access at its blind end to a railway station, reserve or river bank; or
(C) except where, in exceptional circumstances, the Council approves;
- (ii) In a Residential Zone, a pathway shall not be opened as a blind road unless one (1) end communicates with an arterial road, collector road or residential road, and the blind end gives access to a railway station, reserve or river bank.
- (h) Notwithstanding the provisions of this by-law, the Council may vary any of such provisions where it is considered to be necessary because of -
(A) the unique size, shape, location or topography of existing and proposed allotments;
(B) the unique character of the proposed use intended to be made of the land following subdivision as set out in the application for approval of the proposed subdivision; or
(C) the existing and future amenity of the locality.
- Drainage Design and Construction*
19. Without in any way limiting the Council's powers to require a greater standard of construction in a subdivision, the applicant for approval of the subdivision shall adequately drain every road abutting or within the subdivision and every proposed parcel of land within the subdivision to the following requirements:-
(a) The drainage shall be carried to a point at which it may be lawfully discharged without causing nuisance or annoyance to any person; and shall be designed and constructed to be adequate for an intensity of rainfall occurring on the average once in five (5) years, or once in fifty (50) years where major drain lines cross private property, except in any Business Zone or Industrial Zone where the drainage shall be adequate for an intensity of rainfall occurring on the average once in ten (10) years;
- (b) If drainage is to be carried through land not owned by the applicant, the applicant must satisfy the Council that there is a legal right of drainage through the land and support for any conduit that might at any time be installed in favour of the land to be subdivided;
- (c) Except in exceptional circumstances, the Council shall require the drainage to be piped. The length of underground piping required for the stormwater drainage shall be:-
(i) In a Residential Zone, Business Zone, Light Industry Zone, Heavy Industry Zone and Noxious or Hazardous Industry Zone any stormwater shall be piped across the full width of the subdivision;
(ii) In all Rural Zones and the Rural Residential Zone stormwater is only required to be piped within the road boundaries;
(iii) In the exceptional circumstances in which the Council allows drainage to be by open drains, those drains shall be lined to the satisfaction of the Council.
- Water Supply and Sewerage Services*
20. (a) The provisions of this by-law shall apply to every application for approval of subdivision of land which is included in an area designated by the Council as being suitable for connection to water supply and/or sewerage service, and which is being used or will, if the subdivision is effected, be used for residential, business or industrial purposes.
- (b) In the case of every application made for the approval to subdivide land to which this by-law applies, the application shall not be approved except subject to the following conditions (unless the Council in its discretion shall consider that by reason of any prior works or contributions that such condition should not be imposed) namely:-
(i) that the applicant shall provide for water supply works internal, by supplying all necessary materials and performing all necessary works at the expense of the applicant, or at the applicant's option and with the approval of the Council, that the applicant may enter into a written agreement with the Council for the supply of materials and performance of works by the Council at the expense of the applicant;
- (ii) that the applicant shall provide for sewerage works internal, by supplying all necessary materials and works including structures and equipment and performing all necessary works at the expense of the applicant or, at the applicant's option with the approval of the Council, that the applicant may enter into a written agreement with the Council for the supply of materials and works including structures and equipment and performance of work by the Council at the expense of the applicant;

- (iii) that the applicant shall contribute towards the cost of provision of water supply headworks and/or water supply works external, by way of paying to the Council a contribution in accordance with the Council's Policy Statement on developer contributions for water supply and sewerage services;
 - (iv) that the applicant shall contribute towards the cost of the provision of sewerage headworks and/or sewerage works external, by way of paying to the Council a contribution in accordance with the Council's Policy Statement on developer contributions for water supply and sewerage services.
 - (c) (i) If the Council impose as a condition of approval of an application to which this by-law applies a condition that the applicant shall provide materials and perform works for water supply works internal and/or sewerage works internal, the applicant shall, within three (3) months from the date of notification of such approval, lodge with the Council for examination by the Shire Engineer such plan, specifications and other information as the said Shire Engineer may reasonably require and an estimate of cost of such materials and work proposed by a Consulting Engineer approved by the Council or the Shire Engineer and shall amend such plans and specifications as reasonably required by the Shire Engineer in accordance with good engineering practice. Within the said period of three (3) months or such longer period as the Council may allow, the applicant shall enter into a written agreement with the Council whereby the applicant agrees to supply such materials and perform such works in accordance with the approved plans and specifications. If the applicant shall fail so to do, the aforesaid approval shall lapse and be of no force or effect whatsoever provide always that, if the application shall be for the subdivision of a parcel of land in stages and the Council shall approve the subdivision in stages, the Council shall also state in the relevant condition of approval the date on which the aforesaid period of three (3) months shall commence in respect of each approved stage of subdivision and that date shall, for the purposes of this sub-paragraph of this clause of this by-law, be deemed to be the date of notification of approval;
 - (ii) The Council shall not endorse its approval on and seal any plan intended for registration by the Registrar of Titles in respect of land to which the last preceding sub-paragraph applies unless and until the applicant shall have carried out his obligation to supply materials and perform works to the entire satisfaction of the Council.
 - (d) If the Council shall require an applicant to contribute towards the cost of the provision of a water supply service and/or the provision of a sewerage service to the land to be subdivided in accordance with subclauses (iii) and (iv) of clause (b) of this by-law, and the applicant shall fail to make payment at the due time or give security as required by the Council, then the approval of the subdivision shall be deemed to have lapsed and shall be of no force or effect whatever.
 - (e) Where the applicant shall enter into a written agreement pursuant to subclause (ii) of clause (c) of this by-law, such agreement additionally may provide that, if the applicant fails to carry out any works as agreed by him or otherwise defaults in his obligations under the agreement, the Council may carry out such works or perform such obligations, and recover the costs of so doing from the applicant.
 - (f) Where the Council has imposed as a condition of approval that the applicant shall contribute towards the cost of the provision of a water supply service and/or a sewerage service as hereinbefore provided, the Council shall not endorse its approval on and seal any plan of subdivision intended for registration by the Registrar of Titles to which such condition of approval applies until the applicant shall have complied with such condition in the manner hereinbefore provided.
 - (g) All materials supplied and work performed by the applicant or by the Council pursuant to this by-law shall be to the reasonable satisfaction of the Shire Engineer and shall comply, in all respects, with the provisions of all relevant statutes, statutory regulations and by-laws. The Shire Engineer may, by himself or his nominated delegate, supervise and test and generally may inspect all materials and work but no supervision testing or inspection shall relieve an applicant of any obligation undertaken by the applicant pursuant to this by-law or imposed on the applicant by an agreement entered into pursuant to this by-law.
 - (h) Every agreement entered into pursuant to this by-law shall provide (inter-alia) for maintenance of materials and works at the expense of the applicant for such period or periods as the Shire Engineer may see fit (provided that no such period shall exceed twelve (12) months) and for the payment by the applicant to the Council of a cash deposit equal to five (5) per centum of the total cost of the works to cover such maintenance or, at the option of the Council, the giving by the applicant to the Council of security to the entire satisfaction of the Council for payment to the Council of the cost of all maintenance works.
 - (i) Every agreement entered into between an applicant and the Council pursuant to this by-law shall be prepared and stamped by the Council. The applicant shall pay to the Council on demand all stamp duties and shall also pay to the Council on demand its solicitors costs in respect of the agreement.
 - (j) The Council shall, at all times during which its public office is open for the transaction of business, keep open to public inspection at such office a copy of an agreement entered into for the purposes of this by-law, and a copy of the Council's Policy Statement on developer contributions for water supply and sewerage services. The Council shall supply to any person a copy of such agreement or Policy Statement upon a request in that behalf made by him and upon the payment by him of a fee for such copy determined by the Council by resolution from time to time.
- Services in Roads*
- 21. The applicant shall install public utility conduits together with kerb markers for such conduits at his expense as directed by the Council Engineer, and all street name plates on new roads to the requirements and satisfaction of the Council Engineer.
- Boundary Roads*
- 22. (a) If the Council is satisfied that for the proper subdivision of lands in two (2) or more ownerships a new road should be constructed along the common boundary of those lands, it may permit the applicant for subdivision of any of those lands to provide a road of lesser width than twenty (20) metres; but not less than ten (10) metres with a concrete kerb and channel and a footpath formed to permanent levels, along one (1) side of the carriageway and a bitumen sealed strip. The width of road and bitumen seal shall be as determined by the Council from time to time.
 - (b) If the Council is satisfied that for the proper subdivision of lands in two (2) or more ownerships, a new road should be constructed wholly within one (1) of those parcels of land and that in the future subdivision of the adjoining land allotments should be so surveyed as to abut on to that road the Council may bear half the cost of constructing the road and may, by agreement with the applicant, pay to the applicant compensation for the value of one half (1/2) of the road.
 - (c) If the Council exercises its powers under clauses (a) and (b) of this by-law, the applicant shall transfer to the Council in fee-simple a piece of land point one (0.1) metres wide along that part of the road that is continuous with the boundary of the subdivision. For the purposes of this chapter, such piece of land shall be termed an "access restriction strip".
 - (d) All costs, charges and expenses whatsoever connected with or incidental to the transfer to the Council of an access restriction strip shall be paid by the applicant.
- Subdivision of Land Abutting on to an Access Restriction Strip*
- 23. (a) If land within a subdivision is separated from a road of less than twenty (20) metres, by an access restriction strip, an application for approval of such subdivision shall widen that road to its full width for its classification, shall extend the bitumen seal to the standard required by the Council for the zone in which the property is located and for the road classification shall construct (if required) a concrete kerb and channel along the edge of that widened bitumen and shall form a footpath to permanent levels.
 - (b) If land within a subdivision is separated by an access restriction strip from a road constructed under clause (b) of by-law 22 of this Chapter an applicant for approval of such subdivision shall pay the Council the cost incurred and any compensation paid by the Council under that clause.
 - (c) Whenever clauses (a) and (b) of this by-law apply, the Council shall dedicate the access restriction strip as a road and all costs, charges and expenses whatsoever connected with or incidental to that dedication must be paid by the applicant.
- Building*
- 24. Where there is a dwelling on any allotment or parcel of land, no plan for the erection of any dwelling shall be approved, nor shall any person erect or re-erect any other dwellings as aforesaid on such allotment or parcel, until a plan of subdivision of the said land shall have been approved by the Council except where permitted by the Council in a Rural "A" Zone, Rural "B" Zone, and Special Purposes Zone.

See
and 1.
14/6/96

Relocation of Public Utilities

25. The applicant shall be responsible for and shall save the Council harmless from all expenses in connection with the relocation of or alteration to telegraph, telephone or electricity lines and supports, gas or water mains, and any other public utility installations which may be affected by the work to be carried out by the applicant, and shall make all necessary arrangements with the relative person, company or authority, and shall give the Council, if so required by the Council, proof that he has complied with provisions of this clause.

Grading of Allotments

26. All land within subdivisional area shall be graded where necessary to minimum gradient of one (1) in two hundred (200) in such a manner as to ensure drainage by gravitation into road water channels or the drains to be provided in accordance with the provisions of this clause.

Public Garden and Recreation Space

27. (a) Where land proposed to be subdivided is used for residential, commercial or industrial purposes or will, if the subdivision is effected, be used for residential, commercial or industrial purposes, the Council may require the applicant to either -
- (i) provide land for public garden and recreation space in accordance with clause (b) of this by-law; or
 - (ii) pay a sum of money to the Council in accordance with clause (c) of this by-law.

- (b) Where Council considers that an area of the land to be subdivided should be provided for use as public garden or recreation space or both, the area of land to be provided for such use from the land to be subdivided shall be comprised of land that is a fair average of the type of land to be subdivided and shall be ten (10) per centum of the area of the land to be subdivided:

Provided that where special circumstances of a particular case so require, the Council may require the provision of a lesser area than aforesaid.

- (c) Where the Council considers that an area of the land to be subdivided need not be provided for use as public garden or recreation space it may require the applicant to pay and, if it does so, the applicant shall pay to the Council an amount of one hundred dollars (\$100) for each allotment proposed in the plan of subdivision.

Any sum so paid to the Council shall be expended by the Council within a period of three (3) years from the date of payment on any or all of the following works or things to be carried out within the land to be subdivided or within four (4) kilometres from a point that is, as near as may be, the centre point of that land, namely:-

- (i) The acquisition or development (or both) of land for use as public garden or recreation space or both;
- (ii) The provision of capital work for the improvement or enlargement of existing public garden or recreation space or both.

See and 1

14/6/96

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- (d) The moneys required to be paid to the Council pursuant to the provisions of this clause shall be paid to the Council at the time of lodging with the Council of the certified surveyor's plan of subdivision for endorsement and sealing.

Council Engineer's Certificate of Completion of Construction

28. Notwithstanding the receipt by the Council Engineer of a certificate pursuant to the requirements of this Chapter the works which are the subject of such a certificate shall not be deemed to have been executed to the satisfaction of the Council Engineer until he issues to the Shire Clerk a certificate of completion of construction and he shall not issue such certificate of completion of construction until a period of twelve (12) months has elapsed after receipt of the certificate pursuant to the requirements of this by-law.

Easements

29. The applicant shall bear the cost of the preparation and of the registration in the Titles Office in favour of the Council of all easements required to be provided by him pursuant to this Chapter. The applicant shall lodge a copy of the easement documents as registered in the Titles Office for retention by the Council.

Power of Entry

30. The Chairman, members or officers of the Council or any of them may enter upon and inspect the land within the proposed subdivision (including the road, drainage, water supply and/or sewerage works) at any time until the plan of subdivision has been approved by the Council.

Road Names

31. (a) An applicant may submit three (3) suggested names for each proposed new road.

- (b) Subject to clause (d) of this by-law, the Council may allocate a name submitted by such applicant as the name of a new road, or allocate such other name as it deems appropriate.

- (c) Subject to clause (d) of this by-law, the Council may alter the name of a road from time to time.

- (d) The Council shall not allocate a name to a road which is then the name of any other road in the area.

- (e) The Council as it considers necessary shall supply and erect road names upon roads within the subject land and also at each intersection of a road within the subject land with a road outside the subject land.

- (f) The cost of supplying and erecting road names shall be paid to the Council by the applicant.

- (g) All signs shall be aluminium reflective type erected on pipe posts to the standard as used by the Council.

Practical Access

32. Where the boundary of the land to be subdivided lies along an existing dedicated road which does not, in the opinion of the Council, give satisfactory access to all proposed allotments, the applicant shall construct works on that section as required by the Council and the provisions of this Chapter.

Fees

33. Any person applying for approval of Council pursuant to this Chapter shall at the time of making such application, pay to the Council the relevant fee as may be fixed by the Council from time to time by resolution.

Execution of Work

34. After a period of two (2) years from the date of notification of approval (or approval subject to conditions) of the application and proposal plan, or such extended period as may be approved by the Council, the approval shall lapse unless the applicant, within such period or such extended period, shall either -

- (a) execute to the satisfaction of the Council and in accordance with the condition of approval of work of constructing and draining the roads involved in the proposal and any other works the execution of which is a condition of approval; or

- (b) subject to subsection (7) of section 34 of the *Local Government Act 1936-1990*, pay to the Council such sum as may be agreed upon with the Council as the cost of executing such work and agree with the Council as to when such work shall be executed by the Council; or

- (c) give to the Council security to its satisfaction that he will execute such work mentioned in clause (a) of this by-law to its satisfaction within such time as may be fixed by the Council.

Electricity

35. The applicant shall be responsible for providing by arrangement with the relevant electric authority, electricity supply to each separate parcel of land in any new sub-division and for the underground reticulation of such supply and shall give the Council, if so required by the Council, proof that he has made such an arrangement provided that in any case in which in the opinion of the Council special circumstances exist it may dispense wholly or in part with the underground reticulation of such electricity supply and/or may agree to pay some or all of the costs of the underground reticulation of such supply.

Penalty Clause

36. Any person who contravenes or fails to comply with any by-law of this Chapter shall, unless where otherwise expressly provided, be liable to a penalty not exceeding Five hundred dollars (\$500.00); and in the case of a continuing offence to a daily penalty not exceeding Fifty dollars (\$50.00) for every day on which such breach is continued after notice of the breach being served on the applicant by the Council.

Certificate

The foregoing resolution was passed on the eleventh day of November, 1987 at a special meeting of the Council of the Shire of Mirani called for that purpose and the requirements of subsection (27) of section 31 of the *Local Government Act 1936-1987* have been complied with in respect of the by-laws the subject of such resolution.

C. W. ROGERS, Chairman

F. P. McARTHUR, Shire Clerk

MIRANI SHIRE COUNCIL

Department of Housing and Local Government
Brisbane, 20th December, 1990

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 1936-1990*, has been pleased to approve of the following by-laws made by the Council of the Shire of Mirani.

T. J. BURNS

WHEREAS by the *Local Government Act 1936-1990*, 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 a Local Authority: It is hereby resolved by the Council of the Shire of Mirani, 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 Shire of Mirani, published in the *Government Gazette* on the thirtieth day of August, 1969, as amended from time to time are hereby further amended by repealing Chapter 38 - Town Planning and inserting the following new Chapter in its stead:-

"CHAPTER 38

TOWN PLANNING

This Chapter is arranged as follows:

- PART 1 - INTERPRETATION
- PART 2 - ADMINISTRATION
- PART 3 - OFFENCES

PART 1

INTERPRETATION

1. In this Chapter, the following terms have the meanings respectively assigned to them, that is to say:-

"The Act" - The *Local Government Act 1936-1990*;

"Town Planning Scheme Area" - The whole of the Shire of Mirani.

2. Where any term used in this Chapter is not herein defined but is defined in the Act or in the town planning scheme in force in the Town Planning Scheme Area, the term shall, for the purpose 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.

PART 2

ADMINISTRATION

Application for Consent of the Council

3. A person who desires to obtain the consent of the Council under the town planning scheme in force in the Town Planning Scheme Area, shall accompany such application fee and where applicable an advertising fee of amounts respectively in accordance with a scale or scales of fees determined by the Council by resolution. In the scale or scales of fees different fees may be determined for different classes of applications. Such fees shall be retained by the Council but the Council shall apply the advertising fee towards the cost of advertising the application in accordance with the Act.

The application shall be -

- (a) in writing;
- (b) signed by the applicant or applicants or, in the case of a partnership, by one of the partners thereof, or in the case of a company or a body corporate or an unincorporated association, by an authorised officer thereof;
- (c) accompanied by the consent, in writing, of the registered proprietor or registered lessee from the Crown if made by a person who is not the registered proprietor or registered lessee from the Crown;
- (d) addressed to the Clerk and truly set forth the following particulars:-
 - (i) the full real property description of the land, together with the postal address thereof;

- (ii) the name of the registered proprietor in the case of freehold land or the name of the registered lessee in the case of land held from the Crown for a leasehold estate;
- (iii) the name of the occupier;
- (iv) the nature of the proposed use;
- (v) the area of the land;
- (vi) the use being made of the land (including any building or other structure thereon) at the date of application;
- (vii) a description of the building or other structure erected on the land and use being made thereof at the date of application;
- (viii) where the application relates to the erection of any building or other structure, the following particulars of such building or other structure -
 - the dimensions and gross floor area; and
 - the number of storeys;
- (ix) a site plan and layout and, when requested by the Clerk or the Council, an elevation of any building or other structure proposed to be erected on the land;
- (x) the number of employees engaged and proposed to be engaged in the particular use;
- (xi) the number of motor vehicles for which parking provision is to be made on the land;
- (xii) the nature of any machinery proposed to be used on the land;
- (xiii) the total connected load of any mechanical power proposed to be employed in the particular use;
- (xiv) in the case of an application for consent to carry out an extractive industry on any land the application shall also be accompanied by two (2) copies of a plan showing sufficient detail to enable the Council to understand the nature of the proposed excavation and when required by the Council:-
 - (1) the limits of the area proposed to be excavated;
 - (2) the existing contours of the land;
 - (3) the depth and extent of the proposed excavation;
 - (4) the estimated depth and description of the overburden present;
 - (5) the location of any existing or proposed building, so far as is known;
 - (6) the distance of the proposed excavation from adjoining drains;
 - (7) the proposed staging of the extractive industry, and
 - (8) the proposed extent and staging of rehabilitation works; and
- (xv) Such other information relative to the application as may be requested by the Clerk or the Council.

4. Every application made pursuant to by-law 3 of this Chapter shall if it complies with the requirements of the by-law and the Act, be referred by the Clerk to the Council and the Council shall, subject to the Act, decide the application.

5. Upon an application for consent, the Council may, subject to the Act
 - (a) give its consent; or
 - (b) refuse to give its consent; or
 - (c) give its consent subject to reasonable and relevant conditions.

Application for Rezoning

6. (a) A person who seeks to exclude land from any zone and to include the land so excluded in another zone or zones shall make application in the form required by the Clerk, subject to the Act, and shall accompany each application with an application fee in accordance with a scale of fees determined by the Council by resolution. In the scale of fees different fees may be determined for different classes of applications. Such fees shall be retained by the Council.
- (b) A person who seeks to exclude land from any zone and to include the land so excluded in another zone or zones shall pay for the cost of advertising the notice.
7. Every application made pursuant to by-law 6 of this Chapter shall, if it complies with the requirements of this by-law, and the Act, be referred by the Clerk to the Council and the Council shall, subject to the Act, decide the application.

8. The Council may approve the application, or approve it subject to reasonable and relevant conditions, or refuse to approve the application.

Application for Town Planning Certificate

9. (a) An application for a town planning certificate, pursuant to section 33(9) of the Act shall be in such form as the Council may from time to time determine.
- (b) The fee payable to the Council for the issue of a town planning certificate shall be as determined by the Council from time to time by resolution.
- (c) The Council shall, within seven (7) days of the receipt by it of an application in that behalf, accompanied by the amount of the application fee, give to any person a certificate, called a town planning certificate, setting forth in respect of the land specified in the application-
- (i) the zone or zones in which such land is situated;
 - (ii) the provisions, if any, of the scheme relating to proposed roads and proposed road widenings which affect such land or any building or other structure thereon; and
 - (iii) particular of all consents, permissions, and approvals granted by the Council to such land.
- (d) The Council shall keep a record of-
- (i) all consents, permissions and approvals granted by the Council under the scheme and of all conditions attached to such consents permissions and approvals;
 - (ii) all orders and decisions made by it under the scheme; and
 - (iii) all decisions of the Local Government Court on appeals from decisions of the Council under the scheme in force in the Shire.

Claim for Compensation

10. 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 1936-1990

Claim for Compensation

To: The Council of the Shire of Mirani

I _____ of _____, being a person

- * (i) Who has an estate or interest in the following land:

Situation:

Parish:

Real property description:

Area:

Title Deed:

Folio

Volume:

MHPL:

The nature of my estate or interest therein being:

or

- * (ii) Who has incurred expenditure pursuant to a Town Planning Certificate given to me by the Council of the Shire of Mirani,

hereby claim that my 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 (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 ____

Signature of Claimant:

* Cross out whichever is inapplicable.

Matters to be considered by the Council with Consent Applications

11. (a) In considering an application for consent in accordance with By-laws 3, 4 and 5 of this Chapter, the Council shall take into consideration the following:-
- (i) the character of the proposed development in relation to the proposed development on the adjoining land and in the locality;

- (ii) the size and shape of the parcel of land to which the application relates, the siting of the proposed development and the area to be occupied by the development in relation to the size and shape of the adjoining land and the development thereon.
- (iii) any representation made by any statutory authority or Government Department in relation to the application or to the development of the area and the rights and powers of any such authority or department.
- (iv) whether the use of the land would be in accord with, or conflict with, the intent of the zone or zones in which the land is situated;
- (v) whether adequate provision has been made for the landscaping of the site;
- (vi) whether the proposed means of entrance to and egress from the site are adequate and whether adequate provision has been made for parking and standing of vehicles, of space for loading, unloading or fuelling of vehicles, and the traffic facilities within the site;
- (vii) whether adequate provision has been made for the movement of pedestrians, and whether the proposal would, if permitted, create or be likely to create a traffic hazard or increase an existing traffic hazard;
- (viii) whether there is sufficient protection from severe climatic conditions;
- (ix) whether the proposed use would be likely to mar the scenic beauty of the locality;
- (x) whether the roads giving access to the site are, in the opinion of the Council, constructed to a standard sufficient to carry traffic to the nature and volume likely to be generated by the proposed use;
- (xi) whether any deleterious effect on the environment would be occasioned by the proposed use;
- (xii) whether the land is low-lying and subject to flooding;
- (xiii) whether satisfactory provisions are to be made for the disposal of waste;
- (xiv) the existing and future amenity of the locality;
- (xv) the circumstances of the case and public interest;
- (xvi) the provisions of the town planning scheme;
- (xvii) all objections which have been duly lodged with Council against the granting of its consent;
- (xviii) the provisions of the *Noise Abatement Act 1978-1984*;
- (xix) in respect of any application for the consent of the Council under the town planning scheme for -
 - (A) the erection or use of any building or other structure or to the use of land within view of any waterway, or adjacent to any state highway, main road, developmental road or secondary road declared pursuant to the provisions of the *Main Roads Act 1920-1985*, public reserve or land zoned Public Open Space or Private Open Space, the Council shall take into consideration the probable aesthetic appearance of such land or of the proposed building or other structure when used for the proposed purpose and viewed from such waterway, road, public reserve or land zoned Public Open Space or Private Open Space;
 - (B) the erection or use of any building or other structure or the use of land for the purpose of an extractive industry, the Council shall take into consideration the advisability of imposing conditions to secure the reinstatement of the land, the removal of waste material or refuse and the securing of public safety and the amenity of the neighbourhood; and
- (xx) any other matters relevant to the particular case.

Matters to be considered by the Council with Rezoning Applications

- (b) In considering an application made under section 33(6A) of the *Local Government Act 1936-1990* to exclude land from one zone and included it in another zone the Council shall consider the relevant matters set out in clause (a) of by-law 11 of this Chapter, with respect to any development which may be undertaken without the consent of the Council under the Scheme in the zone in which the land is proposed to be included, and also take into consideration the following:-
- (i) the need for increased facilities such as schools, shops or other normal service provisions.
 - (ii) the balance of zones in the Town Planning Scheme Area as a whole or that section of that area within the land is situated.

- (iii) whether the inclusion of the land in the zone in which the land is proposed to be included would be in accord with, or conflict with the strategic plan or any development control plan.
- (iv) whether, having regard to the permitted uses with or without the consent of the Local Authority of land in the zone in which the land is proposed to be included and the potential for subdivision if the land is included in the zone in which it is proposed to be included -
 - (A) essential services should be made available to the land and to each separate parcel thereof if the land were subsequently subdivided;
 - (B) the provisions of section 32A of the *Local Government Act 1936-1990* should be applied.

Where consent of the Council is not required

- 12. (a) Where the consent of the Council is not required under the town planning scheme in force in the Town Planning Scheme Area for the use of land or 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 drainage or filling or drainage and filling the subject land to render it fit for such use or building or other structure.
- (b) 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.

Register of Non-Conforming Uses

- 13. (a) The Clerk shall keep a register to be called "The Register of Non-Conforming Uses".
- (b) Where at the date of coming into effect of the town planning scheme in the Town Planning Scheme Area, 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 any building or other structure may not be erected or used or land may not be used in that zone pursuant to such town planning scheme, such person shall within six (6) months or such date, or within such further time as the Council may determine, apply to the Council for the inclusion of such use in the Register of Non-Conforming Uses. Such application shall give the full real property description of the land, the nature of the non-conforming use, the number of employees, the description of any building or other structure in existence on the Appointed day, and shall be accompanied by a site plan delineating the site of any building or other structure thereon in relation to boundaries of the allotment of land.

- (c) Where a person fails within the time allowed by this Chapter to make application for the inclusion of a non-conforming use in the Register of Non-Conforming Uses the 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 decided to be true and correct information relating thereto and which the Council proposes to enter in the said Register.
- (d) 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.
- (e) Where an entry is not made in the Register of Non-Conforming Uses in respect of any land or any building or other structure thereon, the onus of proving that there was a non-conforming use being carried out on that land or in that 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 out are upon the person alleging the existence of the non-conforming use.
- (f) Where the Council grants any consent in relation to any non-conforming use under a town planning scheme as aforesaid, it shall cause particulars thereof to be entered in the said Register.

PART 3

OFFENCES

- 14. A person who in any respect contravenes or fails to comply with provisions of this Chapter shall be guilty of an offence under this Chapter and liable to a penalty not exceeding Five hundred dollars (\$500.00) and additionally in the case of a continuing offence to a daily penalty not exceeding Fifty dollars (\$50.00) for each and every day on which the offence is continued.
- 15. An offence under this Chapter may be prosecuted in a summary way under the *Justices Act 1886-1985*.
- 16. A right or remedy had by the Council in respect of any 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 Chapter for which a person has not been prosecuted.

Certificate

The foregoing resolution was passed on the eleventh day of November, 1987 at a special meeting of the Council of the Shire of Mirani called for that purpose and the requirements of subsection (27) of section 31 of the *Local Government Act 1936-1987* have been complied with in respect of the by-law the subject of such resolution.

C. W. ROGERS, Chairman

F. P. McARTHUR, Shire Clerk

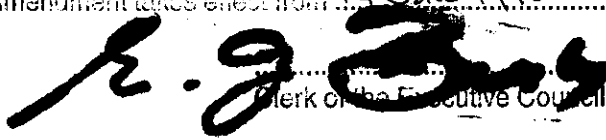
BRISBANE

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22 December, 1990



This is Amendment No.1..... of the Planning Scheme for
the SHIRE OF MIRANI finally
approved by the Governor in Council on 20 DECEMBER 1990
and published in the Gazette on 22 DECEMBER 1990
This Amendment takes effect from 14 JUNE 1996

Amendment **No.1**
Town Plan


Clerk of the Executive Council

MIRANI SHIRE COUNCIL

AMENDMENT TO THE PLANNING SCHEME FOR MIRANI SHIRE TO INCORPORATE AMCORD

1. In Part I:

- (a) by inserting the following new definition immediately after the definition of "Allotment":

"AMCORD" - The Australian Model Code for Residential Development, Edition 2 as amended, as follows:

- (a) by deleting from Clause D2 of Element B11 the words "6 percent" and inserting instead the words "10 percent"
- (b) by deleting from table B7 - 1 the words "Flush & Swale" from Kerbing Characteristics."
- (b) by inserting immediately following the definition "Animal Husbandry" the following new definitions -
- "Approved" means approved by the Council.
- "Approved Design" means a design approved of, or prepared by the Council pursuant to the requirements outlined in Division III, Part VI of this scheme."
- (c) by inserting immediately following the definition "Building" the following new definition -
- "Building Site" means that part of an allotment on which, in the opinion of the Building Surveyor, a building may be satisfactorily erected."
- (d) by omitting the current definition of a "Dwelling House" and substituting the following definition of a "Dwelling House".

"A single dwelling unit on one allotment (or a group of adjoining allotments) for the exclusive use of one household. The term includes such other buildings which are incidental to and necessarily associated with a dwelling-house".

- (e) by inserting the following new definition immediately after the substituted definition of "Dwelling House".

"Dwelling Unit" - A self contained unit intended for exclusive residential use of one household".

- (f) substituting the following definitions of "Multiple Dwelling", "Multiple Dwelling - Class "A" and "Multiple Dwelling - Class "B".

"Multiple Dwelling" - two or more dwelling units on one allotment.

Multiple Dwelling - Class "A" - the construction of two or more dwelling units, either attached or detached, which are no greater than two storeys in height and gain access from the ground floor. Such developments shall demonstrate compliance with the provisions of AMCORD.

Multiple Dwelling - Class "B" - the construction of two or more dwelling units, having a site population density of not more than 100 persons per hectare, which are generally greater than two storeys in height and to which access to each unit is via stairs or an elevator if greater than three storeys.

- (g) By inserting the following new definition immediately after the definition of "Place of Worship":

"Plan of Development": Any plan or plans:

- (a) referred to on the Scheme maps having been approved by the Governor in Council as part of a rezoning of a particular allotment or parcel of land for inclusion in the Special Facilities Zone, or
- (b) submitted as an indicative development proposal pursuant to the provisions of the Planning Scheme in support of a development application; or
- (c) approved in accordance with town planning approval or consent for the use of land."

2. In Division II, Part II:

- (a) Deleting Clause 2 and inserting the following new clause in its place - the following:

"2. *Residential "A"* - The purpose of this zone shall be to provide a range of compatible housing forms in a quality residential environment. A range and mix of housing forms which gain their principal access from the ground floor, and are generally no greater than two storeys in height, shall be encouraged throughout the zone. In order to ensure that a quality residential environment is provided in an efficient and economic manner, development of this zone must demonstrate compliance with established performance criteria".

- (b) Deleting Clause 3 and inserting the following new clause in its place - the following :

"3. *Residential "B"* - The purpose of this zone is to provide for high density residential development and accommodation in close proximity to all urban facilities".

3. In Division III, Part II:

(a) in Zone 2, Residential "A" zone:

- (i) by omitting in Column V the use Multiple Dwellings - Class "A".
- (ii) by omitting in Column III "Dwelling Houses" and inserting the following:

"Dwelling house:

- (a) on allotments 700m² or greater;"

(b) in Zone 3, Residential "B" zone:

- (i) by substituting in Column III the following for "Dwelling Houses":

"Dwelling House:

- (a) on allotments 700m² or greater

(b) on lots larger than or equal to 450m² but less than 700m² in accordance with the provisions of Division III, Part VI of this scheme"

- (ii) by substituting in Column III the following for "Multiple Dwellings - Class "A"":

"Multiple Dwellings - Class "A": in accordance with the provisions of Division III, Part VI of this scheme".

(c) in Zone 5, Village Residential zone:

- (i) by substituting in Column III the following for "Dwelling Houses":

"Dwelling House on allotments 700m² or greater".

4. In Division II, Part V:

(a) by substituting for "Multiple Dwellings" in Clause 1 of the table the following requirements:

- (i) in Column I the Purpose, "Multiple Dwellings - Class "A" and in Column II the Minimum Parking Areas requirement "in accordance with the provisions of element B4 of AMCORD".
- (ii) in Column I the Purpose, "Multiple Dwellings - Class "B" and in Column II the Minimum Parking Areas requirements "One point five (1.5) spaces for each dwelling unit".

5. In Division III of Part V of the Scheme:

(a) by renumbering Clause (1) as Clause (2) and all subsequent Clauses and inserting the following as Clause (1):

"(1). Development for the purposes of Dwelling Houses on proposed allotments larger than or equal to 450m² but less than 700m² and Multiple Dwellings - Class "A" shall comply with the following requirements:

- (a) Development shall be undertaken only in accordance with a Plan of Development submitted to and approved by the Council;

- (b) The Plan of Development shall show a concept layout of all building areas, other structures, land uses, allotments or sites, roadways, car parking and landscaping at a scale as required by the Council. The Plan shall be identified by number and date;
 - (c) The Council may approve of minor amendments to the Plan of Development provided that the density of development and the use of the land are not altered;
 - (d) In considering a Plan of Development, Council shall take into account the following matters:
 - (i) topography of the site;
 - (ii) availability of services;
 - (iii) existing zones and subdivision in the area;
 - (iv) existing or planned development intensity in the area;
 - (v) access to the site;
 - (vi) the situation, suitability and amenity of the subject development in relation to the surrounding area;
 - (vii) landscaping and buffer zones;
 - (viii) the designation of land on the Strategic Plan Map;
 - (ix) the fundamental objectives of AMCORD in:
 - (A) ensuring cost-effective residential development reflecting appropriate community standards for health, safety, and amenity; and
 - (B) providing for the widest possible choice of housing and residential allotments; and
 - (x) any other relevant provisions of the Scheme, the Strategic Plan, Development Control Plans and Statements of Planning Policy (if applicable);
 - (e) The development shall comply with the Performance Criteria and/or Deemed-to-Comply Criteria as contained within Part B (Elements of Control) of AMCORD. Only those elements of control of relevance to the intensity and scale of the development shall be involved in assessing an application pursuant to the provisions of this clause. Deviations from the stated Deemed-to-Comply Criteria will only be approved where it can be demonstrated that the requirements of the relevant Performance Criteria can be met to the satisfaction of the Council; and
 - (f) Where land is to be subdivided in accordance with the provisions of the Building Units and Group Titles Act 1980-1988, as amended, Public Open Space as referred to in element B11 of AMCORD shall be substituted by the term Communal Open Space. In this context reference to the term community within this Element shall refer to the community to be served by the proposed development and not to the broader community. The provision of communal open space shall be solely in accordance with the provisions of the Performance Criteria of Element B11 of AMCORD."
- (b) by omitting the words "Multiple Dwellings - Class "A" in renumbered Clauses 2 and 7 of Division III of Part V of the Planning Scheme.

6 In Clause 5 of the Strategic Plan

- (a) by inserting after the "Urban" Designation, Implementation criteria, the following new objectives and implementation criteria:

**Objective*

To adequately control the development of the urban area and consolidate existing urban areas.

Implementation

Urban consolidation is encouraged through the incorporation of design principles of AMCORD for the development of residential land.

Objective

To enhance and safeguard the amenity of the urban area and ensure that adequate urban services are available.

Implementation

- (a) Residential amenity and safety is maintained through the provisions of AMCORD in the development of residential land on smaller residential lots or medium density development. The elements of AMCORD relating to transport networks, street design and construction, streetscape and the provision of public open space are important to ensure the standard of development is maintained throughout the Shire.
- (b) AMCORD, in conjunction with the Town Plan will be used to facilitate and regulate the efficient use of services through such means as common trenching of services for ease of access and reduced cost provision.
- (c) Where allotments less than 800m² are proposed and no reticulated water or sewerage is available, demonstration that an adequate potable water supply and sewage disposal can be provided to the satisfaction of Council are essential to maintain residential amenity and the standard of development throughout the Shire.

Objective

To provide for a diversity of housing styles to meet the varied needs and living requirements of people.

Implementation

AMCORD, in conjunction with the Town Plan will be used to facilitate and regulate a range of allotment sizes and housing types, to meet the projected requirements for residential growth."

- (b) by inserting after the Open Space Designation Objectives the following new objective and implementation criteria:

- "(c) To distribute parks throughout the urban area to provide for non-organised recreation, passive relaxation and safe children's play and improve the visual amenity in urban areas.

Implementation

AMCORD and Council's Local Planning Policy will be utilised to facilitate and regulate the provision of open space within residential developments in the urban area."

- (c) by inserting after the Transport Designation Implementation the following new paragraphs:

"AMCORD will be used in the definition of transport networks, and undertaking street design and construction within residential developments in the residential zones to ensure the development of an appropriate road hierarchy."

CHAPTER 28
SUBDIVISION OF LAND

1. In Clause (1) of By-law (1)

- (a) by inserting the following new definition immediately after the definition of "Allotment":

"AMCORD" - the Australian Model Code for Residential Development, Edition 2, as amended in the Town Plan."

2. After Clause (b)(xiv) of By-law (8) inserting the following subsection:

"(xv) compliance with the provisions of AMCORD, if applicable".

3. After Clause (v) of By-law (9) inserting the following subsection:

"(w) the proposal does not comply with an approved Plan of Development or the provisions of AMCORD to the satisfaction of Council".

4. by in By-law (15)(a) - Minimum Area Frontage and Depth for allotments

- (a) by substituting the minimum frontage in the Residential "A" zone with "15m", minimum depth with "20m" and minimum area with "700m²".

(i) in Clause (i) Special Provisions in the Residential "A" zone substituting "seven hundred (700) square metres" for "eight hundred (800) square metres" as it currently appears.

(ii) in Clause (ii) Special Provisions in the Residential "A" zone substituting "fifteen metres (15m)" for "twenty metres (20m)" where it occurs.

- (b) by inserting in Clause (b)(i) after subclause (C) the following new section:

"(D) compliance with an approved Plan of Development."

5. by in By-law 18, Clause (f)(i) - Road Design and Construction:

- (a) in Subclause (A) omitting the words "Residential "A" & "Residential "B"

(b) after Subclause (B) inserting the following subclause:

"(C) in the Residential "A", Residential "B" or Village Residential zone of a suitable with to fulfil the provisions of elements B6, B7 and B8 of AMCORD and to the satisfaction of Council"

6. by in By-law 18, Clause (f)(ii) - Road Design and Construction:

(a) in Subclause (i) omitting the words "Residential Zone - eight (8) metres between back of kerb;" and substituting

"(A) in the Residential Zones in accordance with elements B6, B7 and B8 of AMCORD and to the satisfaction of Council".

7. by in By-law 18, clause (f)(vi) - Road Design and Construction: inserting after the words "between kerbs," the following: "except in the Residential "A" or "B" or Village Residential zone where the provisions of AMCORD apply".

8. In By-law 19: substituting the words "Residential Zone", from subclause (i) of Clause (c) with "Residential "B" zone" and inserting after Subclause (ii) the following Subclause:

(iii) "in a Residential "A" or Village Residential zone suitable with regard to the requirements of element B12 of AMCORD and to the satisfaction of Council".

9. In By-law 20, Clause (a) inserting immediately following the words "industrial purposes":

"Where possible in a Residential "A" or Village Residential Zone water supply service trenches should also be used for the provision of other urban services to the subdivision in accordance with the provisions of AMCORD".

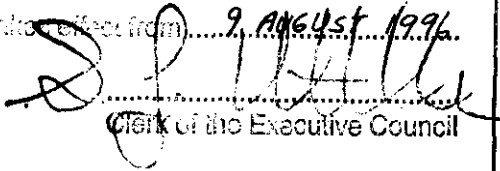
10. In By-law 24 immediately after the words "until a" omitting the words "plan of" and inserting instead the words "Building Units Plan, Group Title or a Real Property" (Commonwealth Titles).

11. In By-law 27:

(a) immediately after Clause (c) inserting the following new clause:

"(d) Subdivision in the Residential "A", Residential "B" and Village Residential Zone will be required to be provided with sufficient public and private open space in accordance with the provisions of elements B3 and B11 of AMCORD, and Council's local planning policy.

This is Amendment No. 2 of the Planning Scheme for
the SHIRE OF MIRANI finally
approved by the Governor in Council on 10 DECEMBER 1990
and published in the Gazette on 22 DECEMBER 1990
This Amendment takes effect from 9 AUGUST 1991


Clerk of the Executive Council

AMENDMENT NO. 2

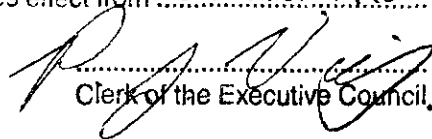
MIRANI SHIRE COUNCIL

The Town Planning Scheme for the Shire of Mirani

1. In "The Town Planning Scheme of the Shire of Mirani", amending the provision of Part V - Provisions Applying to all Development whether consent is required under this Scheme or not, Division IX - Caravan Parks by:
 - (i) amending the Planning Scheme of Part V, Division IX, 1(b)(i) to reduce the minimum area requirement for caravan parks from 2 hectares to 1 hectares and;
 - (ii) to provide Council with the discretion to vary any, or all, of the requirements contained in Part V, Division IX, 1(b) where exceptional circumstances exist by inserting in Division IX, immediately following clause 1(b)(xxxvi) the following new clause:

"(xxxvii) Notwithstanding the provision of this Division the Council may dispense with or may modify all, or any, of the requirements herein if it considers that dispensation or modification is necessitated by the exceptional circumstances of the proposed caravan park. The Council may, upon request being made to it in that behalf, and in its absolute discretion from time to time in any particular case, forego all, or any, of its caravan park requirements provided that it can be demonstrated that no detrimental effects on the surrounding land uses will occur as a result of foregoing all, or any, of the requirements, to Council's satisfaction. The circumstances in which Council will use this discretionary power is outlined in Council's Local Planning Policy."

This is Amendment No. 3 of the Planning Scheme for
the SHIRE OF MIRANI finally
approved by the Governor in Council on 20 DECEMBER 1990
and published in the Gazette on 22 DECEMBER 1990
This Amendment takes effect from 6 MARCH 1998


Clerk of the Executive Council.

MIRANI SHIRE COUNCIL

AMENDMENT TO THE PLANNING SCHEME FOR MIRANI SHIRE TO SEPARATELY
DEFINE BED AND BREAKFAST ACCOMMODATION AND FARM STAY
ACCOMMODATION AND TO INCORPORATE SUCH USES IN EACH ZONE IN THE
PLANNING SCHEME AND BE ASSESSED USING A DEVELOPED SET OF CRITERIA

1. In Part I:

- (a) by replacing "Accommodation unit" with the following:

"Accommodation unit" - Any premises used or intended for use as a boarding house, guest house, hostel, unlicensed hotel, motel, unlicensed residential club, serviced apartment, serviced room. The term does not include bed and breakfast accommodation, caravan park, caretakers residence, dwelling house, farm stay accommodation, hospital, hotel or institution, multiple dwelling as herein defined;

- (b) by inserting the following new definition immediately after the definition of "Appointed day":

"BED & BREAKFAST ACCOMMODATION" - Any premises used or intended for use as a temporary accommodation for tourists provided by the resident or lessee of a dwelling house;

- (c) by inserting the following new definition immediately after "Extractive Industry":

"FARM STAY ACCOMMODATION" - Any premises used are intended for use as a temporary accommodation, where such accommodation is provided in conjunction with rural activities being conducted on the site, by the resident, lessee of a farm

2. In Division III, Part II

- (a) in Zone 1, "Business" zone

- (i) by inserting in Column V "Farm Stay Accommodation"

- (b) in Zone 2, "Residential A" zone

- (i) by inserting in Column V "Farm Stay Accommodation"

- (c) in Zone 3, "Residential B" zone

- (i) by inserting in Column V "Farm Stay Accommodation"

- (d) in Zone 4, "Rural Residential" zone

- (i) by inserting in Column III "Bed & Breakfast Accommodation".
(provided requirements of Division XII, Part V are met)

- (ii) by inserting in Column IV "Farm Stay Accommodation"
(provided requirements of XIII, Part V are met)

- (e) in Zone 5, "Village Residential" zone
 - (i) by inserting in Column III "Bed & Breakfast Accommodation".
(provided requirements of Division XII, Part V are met)
- (f) in Zone 6, "Light Industry" zone:
 - (i) by inserting in Column V "Bed & Breakfast Accommodation".
 - (ii) by inserting in Column V "Farm Stay Accommodation"
- (g) in Zone 7, "Heavy Industry" zone
 - (i) by inserting in Column V "Bed & Breakfast Accommodation".
 - (ii) by inserting in Column V "Farm Stay Accommodation"
- (h) in Zone 8, "Noxious or Hazardous Industry" zone
 - (i) by inserting in Column V "Bed & Breakfast Accommodation".
 - (ii) by inserting in Column V "Farm Stay Accommodation"
- (i) in Zone 9, "Public Open Space" zone
 - (i) by inserting in Column V "Bed & Breakfast Accommodation".
 - (ii) by inserting in Column V "Farm Stay Accommodation"
- (j) In Zone 10, "Private Open Space" zone
 - (i) by inserting in Column V "Bed & Breakfast Accommodation".
 - (ii) by inserting in Column V "Farm Stay Accommodation"
- (k) in Zone 13, Rural "A" zone
 - (i) by inserting in Column V "Bed & Breakfast Accommodation".
(provided requirements of Division XII, Part V are met)
 - (ii) by inserting in Column III "Farm Stay Accommodation"
(provided requirements of XIII, Part V are met)
- (l) in Zone 14, Rural "B" zone
 - (i) by inserting in Column V "Bed & Breakfast Accommodation".
(provided requirements of Division XII, Part V are met)
 - (ii) by inserting in Column III "Farm Stay Accommodation"
(provided requirements of XIII, Part V are met)

3. In Division II, Part V "Parking Requirements"

- (a) by inserting in Clause I of the table, the following requirements:
 - (i) in Column I the Purpose, "Bed & Breakfast Accommodation" and in Column II the Minimum Parking Areas requirement "Normal to a dwelling house plus 1 space per bedroom approved for bed and breakfast accommodation".
 - (ii) in Column I the Purpose, "Farm Stay Accommodation" and in Column II the Minimum Parking Areas requirement "Normal to a dwelling house plus 1 space per bedroom approved for Farm Stay accommodation".

4. **In Part V of the Scheme**

(a) by inserting Division XII "Bed & Breakfast Accommodation"

1. The provision of this Division shall apply to all Bed & Breakfast accommodation buildings whether or not approval of the Council is required under the Town Planning Scheme for Shire of Mirani.
2. The following conditions shall apply to all Bed & Breakfast accommodation buildings unless the Council, in view of the exceptional circumstances of a particular development and upon application being made to it for a variation of the conditions, grants approval to the variation of the conditions contained hereunder:
 - (a) Bed & Breakfast accommodation shall be limited to a dwelling house which is occupied by the owner or lessee and between one and three bedrooms to accommodate not more than six (6) tourists at any one time.
 - (b) Visitors are to be provided with a bedroom capable of being enclosed to prevent visual or other intrusion by members of the host family.
 - (c) The bedroom(s) provided for visitors shall be in the same building as the kitchen, bathroom and toilet facilities.
 - (d) All kitchen, bathroom and toilet facilities shall be kept to the satisfaction of the Council's Health Department.
 - (e) At least one (1) and no more than two (2) on site car parking spaces must be provided for the visitors in addition to car parking provided for the owner and his family.
 - (f) The sign (logo) advertising bed and breakfast accommodation shall be displayed on a visible place on the premises and shall not exceed a size of 0.3m².

(b) by inserting Division XIII "Farm Stay Accommodation"

1. The provision of this Division shall apply to all Farm Stay accommodation buildings whether or not approval of the Council is required under the Town Planning Scheme for Shire of Mirani.
2. The following conditions shall apply to all Farm Stay accommodation buildings unless the Council, in view of the exceptional circumstances of a particular development and upon application being made to it for a variation of the conditions, grants approval to the variation of the conditions contained hereunder:
 - (a) Farm stay accommodation shall be provided in a dwelling house which is occupied by the owner or lessee or some other habitable building(s) on the farm.
 - (b) There shall be no more than 6 visitors accommodated on the site at any one time.
 - (c) Visitors are to be provided with a bedroom capable of being enclosed to prevent visual or other intrusion by members of the host family.
 - (d) The bedroom provided for visitors shall be in the same building as the bathroom and toilet facilities.
 - (e) Separate kitchen facilities may be provided for visitors.
 - (f) All kitchen, bathroom and toilet facilities shall be kept to the satisfaction of the Council's Health Department.
 - (g) At least one (1) and no more than two (2) on site car parking spaces must be provided for the visitors in addition to car parking provided for the owner and his family.
 - (h) The sign (logo) advertising bed and breakfast accommodation shall be displayed on a visible place on the premises and shall not exceed a size of 1.5m².