



Council of the Shire of Esk

PLANNING SCHEME

GAZETTED:	19 June 1992
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THE PLANNING SCHEME FOR
THE SHIRE OF ESK

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PART 1 STRATEGIC PLANNING PROVISIONS: SHIRE OF ESK

Preamble

The Strategic Plan Statement of Objectives forms part of the Planning Scheme for the Shire of Esk. It includes the Strategic Plan Maps and is divided into the following sections, namely: -

STRATEGIC PLAN: STATEMENT OF OBJECTIVES

- 1.1 Introduction
- 1.2 Statement of Intent and Aims
- 1.3 Preferred Dominant Land Uses
- 1.4 Urban Area Objectives
- 1.5 Rural Residential Area Objectives
- 1.6 Commercial Area Objectives
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- 1.8 Rural Area Objectives
- 1.9 Catchment Protection and Water Storage Buffer Area Objectives
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- 1.11 Transport Objectives

STRATEGIC PLAN: SUPPORTING INFORMATION

Copies of the "Strategic Plan Map" and the report entitled "Strategic Plan - Supporting Information" will be signed for identification by the Clerk of the Executive Council and held at the office of the Director of Local Government and at the office of the Council of the Shire of Esk. These documents do not form part of the Planning Scheme published in the Gazette. However copies thereof are available for inspection and/or purchase at the Council offices.

This Part contains the Statement of Objectives and implementation criteria relating thereto.

STATEMENT OF OBJECTIVES

Section 1.1 INTRODUCTION

1.1.1.1 The Strategic Plan has been prepared in accordance with the provisions of the Local Government (Planning and Environment) Act 1990-1991 and consists of the following elements: -

1.1.1.2 A map identifying the preferred dominant land uses for the Shire of Esk, hereinafter referred to as the Strategic Plan Map or the Map;

1.1.1.3 Development Strategies for the Urban Centres of Lowood, Esk, Toogoolawah and Fernvale (Strategic Plan Figures 1 to 5 respectively), which reflect the intentions for such centres as shown on the Strategic Plan Map;

1.1.1.4 A statement of objectives of the Council of the Shire of Esk in respect of the preferred dominant land uses, to guide the management and progressive development of land within the Shire. The statement of objectives is supported by criteria for the implementation of dominant land uses and the ancillary uses which may develop as an integral component of the Preferred Development Strategy; and

1.1.1.5 Supported by the document entitled "Strategic Plan: Supporting Information" which contains the supporting information used in the preparation of the Preferred Development Strategy. This document does not form part of the Order in Council but is available for inspection and/or purchase at the offices of the Council.

Section 1.2 STATEMENT OF INTENT AND AIMS

1.2.1 The intent of the Strategic Plan and associated documents is to ascertain the likely future land requirements to accommodate population increases to beyond the year 2000 and to direct the resultant development to locate in and around existing urban nodes on land not otherwise required for primary production or water supply catchment purposes.

1.2.2 The principal aims of the Strategic Plan are:

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- AIM 1 - to maintain a balance between the needs of urban expansion and the continued viability of the Shire by safeguarding rural productivity;
- AIM 2 - to identify and promote opportunities for recreational development;
- AIM 3 - to minimise unnecessary costs to Council and the community arising through the effects of inappropriate land uses and premature development; and
- AIM 4 - that Council adopt a long-term management perspective to ensure that land and water resources are protected and enhanced where necessary, for use by and for the benefit of, future generations.

1.2.3 It is the purpose of the Strategic Plan Map and the Statement of Objectives to convert the aims of Council into practical development guidelines to be used to implement the Preferred Development Strategy. The Strategic Plan, supported by its components, will serve as a basis for amendments to the Planning Scheme as well as a guide for the assessment of all forms of development applications.

Section 1.3 PREFERRED DOMINANT LAND USES

1.3.1 The Strategic Plan covers the whole of the area of the Shire of Esk and contains the Strategic Plan Map and a series of five figures, which identify the preferred dominant land uses to be used to guide future development within the Shire. The land use designations highlighted on Figures 1 to 5; supporting figures for each of the urban centres of Lowood, Esk, Toogoolawah and Fernvale, indicate at a larger scale the preferred dominant land use designations for each of the centres. The land use categories are not zones and do not confer development rights on individual sites. The intent of the preferred dominant land use categories are set out in this Section.

1.3.2 URBAN - The preferred dominant urban areas within the Shire are coloured red. The designated urban nodes essentially incorporate those areas of land desired to be developed for residential purposes. The term urban is used to indicate that the nominated areas will not be confined solely to residential uses, but may also include uses which service the residential areas and facilities normally found as an integral part of such area. Such uses may include business and commercial premises, schools, parks, civic and cultural facilities and selected industrial activities. However, it is more likely that these uses would be more appropriately located on land included within one of the other land use designations.

1.3.3 URBAN EXPANSION - The preferred areas for urban expansion are indicated by a red hatched overlay extending from the urban centres of Lowood, Esk, Toogoolawah and Fernvale. The intent of this designation is to identify the preferred areas for urban expansion consistent with the aim of encouraging consolidated urban centres. Development within these sectors will be considered within the context of Council's intent of maintaining an area as a future urban land reservoir comprising land considered most suitable for urban development based on logical extensions to services and the desired aim of consolidated urban settlements. The need to maintain such areas free from incompatible development and fragmented land holdings will be the mitigating factor in assessing subdivision and land use proposals for other than residential development. It is not intended that development within this designation will be permitted to occur prematurely.

It is intended that land designated for urban expansion be retained in the rural designation until such time as it is required for such purposes and that subdivision of this land be restricted to ensure that its future use for residential purposes is not jeopardised.

1.3.4 VILLAGE - The preferred dominant villages within the Shire are shown symbolically as an orange circle. The Shire contains several small country townships (villages) which act as service centres for surrounding rural landholdings. The predominant use within the area represented by the designation will be urban as previously described. However, a more mid form of development will be encouraged due to the need to locate all or most of the service facilities in a relatively confined area. The designated villages generally do not have reticulated water or sewerage services available. Accordingly, it is not intended that village settlements be considered for development of

any major commercial or industrial activities which would be more appropriately located within or in the vicinity of the identified urban centres. The extent of permissible uses in each village will be controlled in accordance with the function of that settlement.

1.3.5 RURAL RESIDENTIAL - The preferred areas for rural residential development are coloured light green-brown. The designated areas are primarily intended to be used for low density residential housing estates containing allotments with an average area of four thousand (4000) square metres. Each allotment will be required to be provided with reticulated water, but not sewerage. Accessibility to existing urban settlements, topographical constraints and service limitations have been used as the main criterion for identifying land suitable for such development in areas not otherwise required for primary production or water supply catchment purposes. Rural pursuits by virtue of the allotment sizes will be restricted. Service facilities will generally be located in nearby urban centres. Proposals for development within this designation and within five hundred (500) metres of the Roma-Brisbane natural gas pipeline are required to consult with the owner of the pipeline on the nature of the proposed development prior to making application to the Council for approval to build or develop.

1.3.6 RURAL RESIDENTIAL EXPANSION - The preferred areas for future rural residential development is indicated by a light green-brown hatched overlay. The areas were selected using the same criterion applied for determination of those areas suitable for rural residential development. The intent of this land use category is primarily to identify the preferred direction of future growth corridors. The areas will provide a degree of flexibility in response to changes in residential-based development needs. As an interim step the areas are intended to be permitted to be used for hobby-farming with rural pursuits limited in scale according to the area of each allotment. It is not intended that development within this designation will be permitted to occur prematurely.

It is intended that land designated for rural residential expansion be retained in the rural designation until such time as it is required for rural residential purposes and that subdivision of this land be restricted to ensure that its future use for rural residential purposes is not jeopardised.

1.3.7 BUSINESS AND COMMERCIAL - The preferred locations for the dominant business and commercial activities within the Shire are coloured blue. The varying size of the areas designated within each of the urban centres is intended to represent the proposed future hierarchy of business and commercial activities within the Shire. Future expansion of business and commercial activities will be encouraged in accordance with the proposed hierarchy and will be subject to a requirement to provide justification of the need for further development. The location and size of further business and commercial development and the uses which are permissible in such areas will be determined in accordance with the statement of objectives. The preferred area for commercial and retail development in the urban centre of Fernvale is depicted on Figure 5.

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1.3.8 INDUSTRY - The preferred locations for the dominant industrial activities within the Shire are coloured purple. The location and size of further industrial development and the uses which are permissible in such areas will be determined in accordance with the statement of objectives.

1.3.9 RURAL - The rural category, which is coloured light brown, covers a substantial part of the Shire. The rural designation, in association with the other preferred land use designations is intended to provide a clear definition between the land needed, or most suitable for urban expansion or rural residential expansion and that required to ensure the retention of viable rural areas in order to support the Shire's rural/agricultural economic base. The area contains a mixture of conservation constraints including prime agricultural land, flood liable land, steep land unsuitable for intensive development, areas of significance suitable for flora and fauna conservation and potential forestry reserves. Proposals for development within this designation and within five hundred (500) metres of the Roma-Brisbane natural gas pipeline are required to consult with the owner of the pipeline on the nature of the proposed development before making application to the Council for approval to build or develop.

The predominant uses within the rural sector will be animal husbandry and agriculture where soil conditions and topography are appropriate. However, there are areas which may be suitable for other uses such as recreation and tourist facilities. These may be considered, subject to detailed planning, provided that such development is not in direct conflict with the statement of objectives.

It is not anticipated, nor is it intended that any land included within the rural designation be excluded from that category for any form of residential-based development; other than that designated for urban expansion or rural residential expansion, during the life of this Planning Scheme.

1.3.10 CATCHMENT PROTECTION - This category which is coloured dark brown, includes land contained within the catchment areas of the more significant water storages in the Shire. The dominant land uses are intended to be animal husbandry; non-intensive grazing on native pastures, with limited agriculture being a supporting use in appropriate areas. Intensive rural pursuits will not be permitted in any declared catchment area. In selected areas land is designated for recreation and leisure purposes. Development proposals within this category shall only be approved where the proposed use is consistent with the stated aim of protecting the water storage catchments from incompatible development which may detrimentally affect the water quality or quantity.

Land within a designated catchment protection area will not be excluded from that land use category for any purpose whatsoever except for the purpose of providing recreation or service facilities in accordance with the statement of objectives, or where otherwise expressly provided in the Planning Scheme.

1.3.11 WATER STORAGE BUFFER - The buffer area, which is coloured light green, is intended to be used predominantly for non-intensive grazing purposes, except where such area forms an integral part of an approved recreational development. Development proposals within this category shall only be approved where the proposed use is consistent with

the stated aim of protecting the water storage catchments from incompatible development which may detrimentally affect the water quality or quantity.

It is not intended that land within a designated water storage buffer area be excluded from that land use category for any purpose whatsoever except for the purpose of providing recreation or service facilities in accordance with the statement of objectives.

1.3.12 RECREATION AND LEISURE - The designated areas are intended to cater for uses of a sporting, recreational, leisure or educational nature. Proposed recreational development areas are coloured yellow-green. The precise location, theme, size and form of potential future developments will be determined in accordance with the statement of objectives in respect of the maintenance of water quality and rural amenity. The key elements of the foundation of a recreational development strategy are set out in the Supporting Information of the Strategic Plan.

1.3.13 OPEN SPACE - Existing open space areas and the preferred future locations of open space within the Shire are coloured dark green. The location and size of further open space development and the uses which are permissible in such areas will be determined in accordance with the statement of objectives.

1.3.14 SPECIAL PURPOSES AND MAJOR RESERVES - The designated areas, which are coloured light red-brown, include land used or intended to be used for specific public purposes, such as State Forests, Timber Reserves, Environmental Parks and Council Reserves. The actual use of these areas will be controlled primarily by the relevant authority administering the reserve.

1.3.15 TRANSPORT NETWORK - The principal road network is designated on the Map in accordance with the map legend. The road hierarchy, which is outlined in the Supporting Information of the Strategic Plan is based on function rather than volume of traffic. Accordingly, development adjoining the transport corridors will be controlled in accordance with the intended function of the road corridor.

1.3.16 TILLOUREN COMPREHENSIVE DEVELOPMENT PRECINCT - The Tillouren Comprehensive Development Precinct, as shown by a red cross hatched overlay, is intended to be developed as a totally planned community. Development will only be considered in accordance with the provisions of a comprehensive development control plan prepared generally in accordance with the Structure Plan in the Supporting Information of the Strategic Plan and will be subject to a requirement to provide justification of the need for such development. The provision of full urban services, inclusive of reticulated water and sewerage, will be required. The development of the planned community will only be considered by Council when it can be demonstrated that the proposal is viable and that subsequent development will fully support the augmentation of basic services.

The new community is primarily intended to act as a service centre for future recreational developments along the eastern side of Wivenhoe Dam and the Northbrook Parkway.

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In order to control the use of land covered by the Tillouren Comprehensive Development Precinct designation until such time as a development of the kind foreseen is justifiable, the land has been included in the Catchment Protection designation.

1.3.17 WATER STORAGE - The designated water storage areas are coloured light blue and indicate the water level based on the adopted full supply line (FSL) of the water storage reservoirs in the Shire; including the major storages of Wivenhoe Dam, Somerset Dam, Atkinsons Lagoon, Split Yard Creek Dam and Cressbrook Creek Dam. The water storages are used for various purposes including water supply, irrigation, electricity supply and flood mitigation. The water storages are also used for a variety of water-based recreational activities. The existing and future recreational use and development of the water storages is intended to be controlled by the relevant Administering Authority with any ancillary land-based activities being established in accordance with the statement of objectives and implementation criteria set out in this Part.

Section 1.4 URBAN AREA OBJECTIVES

Objective 1.4.1

1.4.1.1 *To direct future development so as to promote the establishment and orderly growth of a defined hierarchy of urban settlements within the Shire.*

Implementation

1.4.1.2 The preferred hierarchy of urban settlements within the Shire is as follows: -

Urban Centres - Toogoolawah, Esk, Lowood,
Fernvale
Villages - Linville, Moore, Coominya,
Somerset Dam
Other Localities- Colinton, Harlin, Tarampa

1.4.1.3 Economies of scale and the provision of desired levels of service can best be achieved through the consolidation of administrative, commercial, business and service facilities in key central locations. Council will only encourage the establishment of such functions in the major urban centres where appropriately zoned land is available or which is intended to be developed for those purposes designated on Figures 1-5 hereof. Council will discourage the rezoning of land not otherwise provided by the Strategic Plan.

1.4.1.4 Levels of service in village centres will be considered in accordance with the relevant Table of Development. Shopping facilities, commercial, industrial, administrative and community uses will only be permitted in village areas where it can be demonstrated to the satisfaction of Council, by an appropriate planning report, that the population growth in the locality of the particular village warrants such development.

1.4.1.5 It is the intent of Council to promote the locational identity of the principal towns by the consolidation of residential, commercial, industrial and ancillary urban uses in such centres. With the exception of certain tourist and recreation related developments and special facility uses, applications for urban purposes will not be supported in locations outside the designated urban centres.

Objective 1.4.2

1.4.2.1 *To develop upon and consolidate existing urban areas.*

Implementation

1.4.2.2 The existing urban areas throughout the Shire have been recognised by appropriate zoning on the Scheme Maps. The proposed hierarchy of urban settlements is also evident in the zonings of such areas and the range of permissible uses in the zones.

1.4.2.3 All developments within the designated areas will be required to accord with the relevant Planning Scheme provisions, as appropriate, to ensure the proper and orderly growth of these areas.

1.4.2.4 To facilitate the consolidation of the existing urban areas, selected parcels of land, to which services are readily available, have been appropriately zoned. Additional areas will be considered subject to the availability of services and justification for the need to release such additional land.

1.4.2.5 The existing villages and other urban localities contain a number of existing vacant subdivided allotments. It is not envisaged that growth rates in such areas will be such as to justify the need for additional land during the life of this plan. Council will discourage any development in such areas unless appropriate urban services are available or can be economically provided.

Objective 1.4.3

1.4.3.1 *To ensure that urban growth occurs only in areas capable of being adequately serviced with appropriate infrastructure.*

Implementation

1.4.3.2 Growth corridors have been identified on the Strategic Plan Map on the basis that the respective development types shown can be physically and economically serviced by appropriate levels of public infrastructure.

1.4.3.3 The extent and rate of urban growth will largely be controlled by the ability of Council to provide services. Planning reports have been prepared for each water supply and sewerage undertaking based on the service capacity of the existing system and the level of priority attached to programmed extensions relative to projected need and available funds.

1.4.3.4 To ensure the most economic use of land, Council will discourage sporadic development in areas isolated from existing services or programmed extensions to such services. The augmentation of existing schemes will only be considered by Council when developed areas have been substantially infilled and the stock of vacant land, or developable land, has declined so as to severely restrict its availability. Available land stock within a particular locality will generally be assessed on the basis of a five (5) year supply determined from building approvals in that locality averaged over the preceding twenty-four (24) month period.

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1.4.3.5 Council will not give consideration to an application for development if such development cannot readily be serviced with appropriate standards of infrastructure or the development is, in the opinion of Council, premature in terms of programmed augmentation works. Development will generally only be encouraged to proceed commensurate with Council's ability to meet the costs of augmentation works based on development contributions and headworks charges.

1.4.3.6 The Council may require that all applications involving requirements for additional servicing and infrastructure are to be accompanied by a planning and/or engineering report demonstrating the adequacy of the services and infrastructure proposed to be provided.

Objective 1.4.4

1.4.4.1 *To provide for a diversity of housing styles to meet the varied needs of the population.*

Implementation

1.4.4.2 Whereas the Planning Scheme provides for only one residential zone, the Tables of Development provide for a variety of permitted and permissible alternatives within appropriate zones within the designated urban areas. Subject to due compliance with the provisions of the Planning Scheme and the availability of adequate services such uses will be encouraged in any appropriately designated land use category.

1.4.4.3 The Residential zone has been structured to permit alternative types of housing developments including integrated housing developments and multiple dwellings in suitable locations where the height and density of development will be compatible with established or approved development in that locality. Provision is also made for housing developments which incorporate the elements of the Model Code (AMCORD) in the form of dwelling units built to the boundary and/or small lot subdivision.

1.4.4.4 Residential development after the appointed day will be permitted on allotments with a minimum area of 450m² subject to the submission and approval of a plan of development for the relevant land. Dwelling houses proposed to be built to the boundary will be permitted in accordance with an approved plan of development whereas in the case of existing allotments, dwelling houses may be built to the boundary subject to an application for notification of conditions.

1.4.4.5 Dwelling units whether attached, detached or multi-level access, are defined as multiple dwellings which are permissible development in the Residential zone. Construction of dwelling units on separate allotments in the size range of 300m² to 450m² will be permitted subject to the consent of Council. Development of this type will be required to be in accordance with an approved plan of development with the erection of dwelling units being substantially completed before survey plans will be released.

1.4.4.6 It will be a condition of approval for all applications for integrated housing developments and multiple dwellings that detailed concept plans and design specifications be finalised and included as a basis for any agreement or conditional approval before the application is forwarded to the Minister or otherwise approved by the Council as the case may be. The approved plan of development will thereafter be used to control development of the relevant land.

Objective 1.4.5

1.4.5.1 *To enhance the visual appearance of urban areas by means of effective landscaping and the spatial separation of incompatible land uses.*

Implementation

1.4.5.2 The Scheme Maps include mutually exclusive zones for each dominant land use. The Council shall apply the relevant development provisions of this Planning Scheme which provides for the exclusion of possible conflicting uses in the Table of Development for each of the respective urban zones.

1.4.5.3 The Council will not approve applications for rezoning or consent when it is considered that the resultant development will have a detrimental effect on the existing amenity of the area.

1.4.5.4 Specific references are contained within Part 6 in respect of desirable minimum standards for landscaping and setbacks for buildings.

1.4.5.5 The Council will encourage the application or the use of the design elements in the Model Code in terms of enhancing streetscapes and other public places.

Objective 1.4.6

1.4.6.1 *To conserve suitable areas for urban expansion and to promote the logical and orderly extensions of urban areas having due regard to service provisions.*

Implementation

1.4.6.2 Urban expansion will generally be confined to those areas designated as such on the Strategic Plan Map, and as also shown on Figures 1-5.

1.4.6.3 In considering rezonings for urban development the Council will ensure that:-

- (a) urban development occurs in a logical fashion with preference given to the infill of existing urban areas;
- (b) land for urban development can be adequately provided with town water, a reticulated sewerage service, electricity and a constructed road in a manner which permits the rational expansion and optimum use of those services;
- (c) the rezoning of land is undertaken, on request, when additional stock of land is required to meet anticipated demand. Justification for the proposed rezoning will be required to be made. Rezoning which would facilitate premature development will be discouraged;

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- (d) when submitting an application for rezoning, the applicant demonstrates that the subject land is essentially free from flooding, drainage, stability or other engineering problems. A more detailed assessment may be required by Council at the time a subdivision or other development application is lodged to ensure that all proposed allotments or the area of land being developed can properly function for the intended purpose.

1.4.6.4 Areas identified for urban expansion have been designated in two categories reflecting the time frame of this Planning Scheme and Council's long term aim of consolidating urban settlements. The extent of land required for probable future growth has been included within the urban category whereas long-term growth areas have been designated for urban expansion. In order to overcome the possible sterilisation or an unco-ordinated fragmentation of the latter areas, it is intended that Council will not permit these areas to be developed in any way which is likely to compromise future urban expansion. Development applications for subdivision for other than residential purposes, and any proposals for non-residential purposes will be addressed within the context of the ultimate intent that such areas will be required predominantly for residential housing development.

Objective 1.4.7

1.4.7.1 *To ensure the preservation, maintenance and enhancement of representative examples of the historic development of the Shire.*

Implementation

1.4.7.2 The Planning Scheme provides for the declaration by the Council of any land, building or other structure as an area of historic value. It is the intention of the Council to declare Heritage Precincts where worthy examples of historical interest exist. The purpose of this is to not only protect existing heritage sites but to ensure that any proposed development within the Heritage Precinct is designed and constructed having regard to the historical character of the precinct. Any development proposed within a Heritage Precinct shall be required by the Planning Scheme to conserve or enhance the historical character and value of the precinct in accordance with Council's approved Guidelines for Development in Heritage Precincts.

Section 1.5

RURAL RESIDENTIAL AREA OBJECTIVES

Objective 1.5.1

1.5.1.1 *To promote a consolidated settlement pattern based on the utilisation of land suitable for rural residential subdivision which is not otherwise required for primary production, urban expansion or water supply catchment purposes.*

Implementation

1.5.1.2 The Strategic Plan Map indicates those areas of the Shire which are considered most appropriate for rural residential purposes, both in the short-term and as a long-term development option. Whereas the extent of land is well in excess of anticipated need, the rate and extent of development will be controlled by the availability of existing services. The preferred development strategy also

serves the function of clearly identifying Council's long-term aim of consolidating development so as to restrict uncontrolled development of land not ideally suitable for rural residential uses or which is otherwise required for primary production or water supply catchment purposes.

1.5.1.3 The designated rural residential areas provide for a logical extension of existing servicing capabilities and ready access to established social infrastructure.

1.5.1.4 The designated rural residential expansion areas are intended to serve four essential functions, namely:-

- (a) identifying land ideally suitable for long-term rural residential development;
- (b) providing a clear perspective as to Council's long-term development plans and affording a large degree of flexibility in respect of future development options in response to changing circumstances. The selection procedure used in the identification of land suitability for such development ensures that the designated areas are capable of sustaining rural residential developments;
- (c) the notion of a defined development corridor is also intended to minimise the extent of undue speculation in rural land caused by the absence of a clearly defined long-term land use strategy; and
- (d) development of the designated area will provide for opportunities for hobby-farming and rural retreats without resulting in the uncontrolled fragmentation of existing rural holdings.

1.5.1.5 As in the case of the urban expansion category, the rural residential expansion area is intended to operate as a land bank for future development needs. Development proposals within such areas will be considered provided suitable measures of control are exercised so as not to sterilise such land against future development potential. It is not intended that development of land in the rural residential expansion area will be permitted while undeveloped parcels of land exist in the rural residential category.

Objective 1.5.2

1.5.2.1 *To ensure that rural residential development occurs in a manner consistent with the availability of basic public infrastructure.*

Implementation

1.5.2.2 Development will be encouraged in areas which allow for a logical extension to and the optimum use of, service networks. Existing areas of service and planned augmentation works allow for adequate land needs based on current anticipated demands. Development within the lower priority development precincts discussed in the Supporting Information will be assessed on the basis of the availability of a water supply service and the staging of programmed augmentation works.

1.5.2.3 Rezoning for rural residential development will generally not be approved outside the designated areas on the Strategic Plan Map. However, Council may consider other areas where the applicant provides detailed supporting information that the proposed development otherwise complies with the objectives for rural residential development.

Part 1 - Strategic Planning Provisions

Objective 1.5.3

1.5.3.1 *To ensure all rural residential developments are serviced by a network of sealed roads of an appropriate standard.*

Implementation

1.5.3.2 The principal road network intended to service the development corridors is indicated on the Strategic Plan Map. Council will ensure the implementation of this network through the application of the provisions of the Planning Scheme relating to subdivisional works and conditions of development approval.

Objective 1.5.4

1.5.4.1 *To encourage properly planned and developed rural residential subdivisions.*

Implementation

1.5.4.2 Applications for rural residential development will be assessed on the basis of their relative merit in respect of the overall development of land in each locality. Layouts should be considered so as not to prejudice the development of adjoining parcels of land. Individual allotments should be designed according to the potential utility of the allotment and its ease of maintenance.

Section 1.6

COMMERCIAL AREA OBJECTIVES

Objective 1.6.1

1.6.1.1 *To consolidate and encourage the growth of existing commercial and business centres within the framework of a hierarchy of commercial and business centres throughout the Shire.*

Implementation

1.6.1.2 Within the context of the scale and distribution of the existing urban centres, the Strategic Plan Map indicates those areas considered appropriate to be developed for commercial and business activities. Development of a scale and type commensurate with the preferred hierarchy of urban centres will be permitted in the designated areas. The dominant urban centres will be encouraged to develop as the major service centres with only local business and commercial activities being encouraged in other urban settlements.

1.6.1.3 Rezoning for commercial purposes will not be encouraged unless otherwise provided for on the Strategic Plan Map. Land uses of a commercial or business nature have been provided as permissible uses in other zones in accordance with the levels of service considered appropriate in those locations.

Section 1.7

INDUSTRIAL AREA OBJECTIVES

Objective 1.7.1

1.7.1.1 *To provide for and promote the establishment of industrial activities in suitable locations where public infrastructure can be provided, having due regard to the maintenance of the existing and desired amenity of the locality.*

Implementation

1.7.1.2 Selected areas have been zoned for industrial uses on the Scheme maps. Such areas are generally intended to be used predominantly for light and service industries. The Strategic Plan Map includes additional areas suitable for industrial activities other than industries of a noxious, offensive or hazardous nature.

1.7.1.3 Applications for approval of industrial uses will only be considered by Council where the subject land is adequately serviced by public infrastructure, has practical road access and where such uses will not detrimentally affect the amenity of any existing uses or prejudice future developments designated on the Strategic Plan Map.

1.7.1.4 To ensure efficient and effective growth and servicing of industrial areas, Council will generally discourage isolated industrial development in areas other than those indicated on the Strategic Plan Map.

1.7.1.5 Industrial uses not considered as compatible with established uses in an urban area may be located in a rural area provided that it can be demonstrated to the satisfaction of Council that the proposed use can be adequately serviced and that it will not conflict with the existing environmental quality or amenity in that locality.

Objective 1.7.2

1.7.2.1 *To ensure that industrial areas are developed to a high standard, both functionally and aesthetically.*

Implementation

1.7.2.2 The Planning Scheme establishes standards for industrial development including setbacks, site landscaping, parking, loading facilities and road and drainage works requirements.

1.7.2.3 The Council will require a high standard of landscaping along major road frontages particularly on the approaches to towns.

Section 1.8

RURAL AREA OBJECTIVES

Objective 1.8.1

1.8.1.1 *To ensure that existing and potentially productive agricultural and grazing lands are protected from premature and incompatible development.*

Implementation

Part 1 - Strategic Planning Provisions

1.8.1.2 The valuable primary-producing land was excluded from land considered to be suitable for urban development during the constraints analysis in the Supporting Information. These areas have been included in the Rural category on the Strategic Plan Map. Development within this area will only be permitted where it will not conflict with the intent or provisions of the Rural land use category and the corresponding rural zone under the Planning Scheme.

1.8.1.3 The rural areas are further protected by the structure of the rural zones whereby undesirable uses are prohibited.

1.8.1.4 By virtue of the ultimate development capacity of the land use categories within the designated development corridor on the Strategic Plan Map it is not considered necessary for any land within the rural category to be developed for other than rural and associated purposes, unless it can be shown that the development can be of benefit to and gain benefit from the rural community and setting.

Objective 1.8.2

1.8.2.1 *To maintain and preserve the amenity and character of rural areas.*

Implementation

1.8.2.2 The existing amenity and character of rural areas shall be protected by the application of the provisions and intent of the rural zones under the Planning Scheme and other implementation criteria included in this Part.

1.8.2.3 Council recognises that there are a variety of opportunities throughout the Shire for the establishment of facilities in association with traditional rural land uses. The appropriateness of the form and intensity of any development permissible in the rural areas shall be assessed in accordance with the intent and provisions of the preferred dominant land uses under this Part and the intent of zones under the Planning Scheme. In considering any development in a rural zone, Council may impose conditions to ensure that the existing amenity of the location is maintained.

1.8.2.4 Permitted and permissible uses under the rural zones of the Planning Scheme provide for the development of support facilities for rural residents without derogating from the intent of other zones.

Objective 1.8.3

1.8.3.1 *To provide limited opportunities for the development of smaller sized rural allotments in appropriate locations at a rate commensurate with genuine demand.*

Implementation

1.8.3.2 The provisions of Section 11.11 shall be applied to the implementation of this objective.

Section 1.9 CATCHMENT PROTECTION AND WATER STORAGE BUFFER AREA OBJECTIVES

Objective 1.9.1

1.9.1.1 *To ensure that land uses which would pose an unacceptable threat to water quality and beneficial uses of the water bodies are excluded from the catchment areas.*

Implementation

1.9.1.2 Any uses likely to impose an unacceptable threat to water quality have been made prohibited uses under the appropriate zones in the Planning Scheme. The extent of permitted and permissible uses in the catchment areas have been limited in accordance with the intent of the land use category.

Objective 1.9.2

1.9.2.1 *To ensure that an appropriate level of control is exercised over land uses which are acceptable in the catchment areas.*

Implementation

1.9.2.2 When assessing applications for the development of land within the catchment protection areas, Council shall have regard to whether the proposed development would:-

- (a) increase the turbidity of any watercourse or ponded water storage;
- (b) result in the disposal of concentrated animal waste in such a manner as to affect any watercourse or ponded water storage;
- (c) potentially result in the leakage or disposal of toxic or chemical substances including pesticides, herbicides, fertilisers and the like into any watercourses or ponded water storage;
- (d) involve any storage or process whatever which may affect the quality of any ponded water storage;
- (e) result in the disposal of septic, sewerage, sullage or other waste water in such a manner as to affect any watercourses or ponded water storage; and
- (f) comply with any regulations, By-laws or guidelines of the administering authority of the storage.

1.9.2.3 Council will not approve any applications for the rezoning of land within the Catchment Protection or Water Storage Buffer land use categories except for the purposes of Recreation and Leisure or Special Purposes as provided for in the Strategic Plan.

1.9.2.4 Council may require an Environmental Impact Statement for any proposed development which it considers may have detrimental impact on any ponded water storage and its environs.

1.9.2.5 Council will consult with the Water Resources Commission and the Council of the City of Toowoomba before making a decision on any application within the catchment protection and water storage buffer area associated with Cressbrook Dam.

Part 1 - Strategic Planning Provisions

1.9.2.6 Council will consult with the South East Queensland Water Board and the Water Resources Commission before (a) making a decision on any application within the Catchment Protection, Water Storage Buffer and Recreation and Leisure designation associated with either Lake Wivenhoe or Lake Somerset; or (b) preparing a Development Control Plan for the Tillouren Comprehensive Development Precinct.

Objective 1.9.3

1.9.3.1 *To maintain and enhance levels of primary production in the catchment areas.*

Implementation

1.9.3.2 The relevant Tables of Development allow for non-intensive animal husbandry and other selected rural uses compatible with the maintenance of water quality to be carried on without consent of Council. Other uses will be permissible subject to certain conditions necessary for the maintenance of water quality.

1.9.3.3 Agricultural activities will be considered subject to land suitability. These activities may only be carried out if appropriate soil conservation measures are implemented.

1.9.3.4 Rural activities within the Water Storage Buffer area will be restricted to non-intensive grazing on native pastures. Such areas will also be controlled by conditions attached to lease agreements entered into with the particular administering authority.

Objective 1.9.4

1.9.4.1 *To facilitate the recovery of valuable deposits of sand, gravel and rock from the catchment areas.*

Implementation

1.9.4.2 New definitions have been introduced into the Planning Scheme to enable the recovery of sand and gravel (other than the treatment and storage) and subject to the location and scale of operation other processes may be permissible in environmentally sensitive areas.

1.9.4.3 A special requirement has been incorporated in Section 8.1 that applications for consent to use land for the purpose of any extractive industry process must be accompanied by an Environmental Impact Statement to ensure that the effects of any proposed development on the environment and water quality and beneficial uses of water bodies in particular are given proper consideration in the decision-making process.

Objective 1.9.5

1.9.5.1 *To facilitate the use of the catchment areas for a variety of suitable recreational and outdoor educational activities.*

Implementation

1.9.5.2 A separate category has been set aside specifically to cater for recreational activities. Specific areas have been identified for such purposes in accordance with existing uses and/or recommended development sites. A wide variety of activities may be established with the consent of Council. The development of the specifically designated areas will be encouraged in accordance with published Recreational Management Plans. In the case of additional facilities, such development will be encouraged only in accordance with the objectives for recreation areas set out herein.

Section 1.10 RECREATION AND OPEN SPACE AREA OBJECTIVES

Objective 1.10.1

1.10.1.1 *To develop a comprehensive open space system to serve the anticipated needs of the Shire's population, including active and passive recreation and the conservation of areas of natural and environmental significance.*

Implementation

1.10.1.2 Elements of Council's recreation plan are shown on the supporting maps for the principal towns (Figures 1-5) and the Recreational Development Strategy presented in the Supporting Information. Existing and proposed developments have been indicated on the Strategic Plan Map and are appropriately zoned on the Scheme Maps.

1.10.1.3 The protection of areas of environmental or scenic significance and public open space requirements will be achieved by requiring park dedications and contributions to the maximum levels permitted under the Local Government (Planning and Environment) Act.

1.10.1.4 Planning will be undertaken to establish guidelines for the acceptance of park contributions and/or development of such areas at the time of subdivision to ensure parks are well placed and co-ordinated in an integrated active and passive park-way system.

Objective 1.10.2

1.10.2.1 *To facilitate the development of land and water based recreational activities consistent with the aims of protecting water quality and rural amenity.*

Implementation

1.10.2.2 The foundation of a Recreational Development Strategy has been included in the Supporting Information of the Strategic Plan. Adequate provisions have been incorporated in this planning scheme to provide flexibility in response to varying demand for recreational activities.

1.10.2.3 The implementation of the Strategy will be based on the following principles:-

- (a) the establishment of a development theme;
- (b) the notion of quality;
- (c) the maintenance of environmental standards;
- (d) the need for diversity;
- (e) the encouragement of private enterprise participation; and

(f) the participation of community organisations.

1.10.2.4 Selected uses have been included as permissible development in the rural area. However, major recreational or tourist associated activities are only permissible in the Recreation or Special Facilities zones.

1.10.2.5 Applications for development will be required to be accompanied by a detailed planning report relating to the provision of adequate public infrastructure, traffic, amenity, need and such other matters as may be required by Council. Development proposals within a declared catchment area may also require the submission of an Environmental Impact Assessment and Statement of Impact relating to the maintenance of water quality.

1.11.2.4 Council will discourage any development in locations which are not adequately serviced by access roads, of a standard determined by Council on the basis of probable traffic flows, required in support of the proposed development.

1.11.2.5 The Council intends to encourage the retention of the Brisbane Valley Railway line for tourist and transport uses.

Section 1.11 TRANSPORT OBJECTIVES

Objective 1.11.1

1.11.1.1 *To identify and promote the development of a functional road hierarchy to enable the safe and convenient movement of people and goods throughout the Shire.*

Implementation

1.11.1.2 The future road hierarchy comprising the principal road network has been shown on the Strategic Plan Map. Their purpose is to serve the designated development corridors and provide for established movement patterns throughout the Shire.

1.11.1.3 The implementation of the road network will be determined by the Department of Transport in the case of roads under its control and otherwise by Council, either by direct acquisition and funding, or at the time of subdivision through application of the provisions of Part 11.

Objective 1.11.2

1.11.2.1 *To facilitate improvements to the road and transport system.*

Implementation

1.11.2.2 Development proposals with direct frontage to the major roads will be required to develop in such a manner that the safety and convenience of the road users is not detrimentally affected. This will be achieved through the use of service roads and limiting points of direct access to a major road consistent with the design speed and function of the roads.

1.11.2.3 When considering subdivision and development applications the Council will ensure that a definable road hierarchy is established with each road located and designed to cater for future anticipated traffic demand. In selected cases, subject to the type and scale of development, Council may permit lesser standards based on short-term traffic flows provided that the horizontal and vertical geometry of the road compliments the long-term road network proposals.

PART 2 DEFINITIONS

Section 2.1 INTRODUCTION

2.1.1 In this Planning Scheme, unless the context otherwise indicates or requires, the terms defined within this Part have the meanings respectively assigned to them.

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

2.1.3 The definitions are arranged in two groups. Section 2.2 contains the definitions of terms descriptive of the purposes of development. Section 2.3 contains the definitions of terms not descriptive of the purposes of development.

Section 2.2 TERMS DESCRIPTIVE OF THE PURPOSES OF DEVELOPMENT

2.2.1 The terms defined in this Section are descriptive of the purposes of development. Such terms being grouped in the following categories, namely:-

Residential

Accommodation building	Home industry
Caretaker's residence	Home occupation
Display home	Multiple dwelling
Domestic pets	Poultry run (domestic)
Dwelling house	Relative's flat

Commercial

Advertising hoarding	Produce store
Advertising sign	Professional office
Car park	Refreshment service
Car repair station	Roadside stall
Caterer's rooms	Service station
Commercial premises	Shop
Estate sales office	Shopping centre
Funeral parlour	

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General store	Veterinary clinic
Hotel	Veterinary establishment

Industrial

Bulk store	Liquid
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Extractive industry	Milk distribution depot
General industry	Noxious or offensive industry
Hazardous industry	Temporary quarry
Landscape supplier	Transport terminal
Light industry	Warehouse
Limited extractive industry	

Rural

Agriculture	kennel
Animal husbandry	Lot feeding (intensive)
Aquaculture	Lotfeeding (nonintensive)
Cattery	Piggery (intensive)
Cattle dip	Piggery (non-intensive)
Coursing or trialing track	Plant nursery
Forestry	Poultry farm
Intensive animal husbandry	Rural industry
Stockyard	Training course

Recreation and Tourism

Cabin park	Outdoor entertainment A
Camping grounds	Outdoor entertainment B
Caravan park (Class A)	Park
Caravan park (Class B)	Sports and recreation A
Host farm	Sports and recreation B
Host home	
Indoor entertainment	Tourist facility
Motel	Zoo

Special Uses

Child care centre	Place of worship
Educational establishment	Public infrastructure
Institution	Special use

2.2.2 RESIDENTIAL

"Accommodation building" - Premises which comprise or are intended to comprise accommodation that is not self contained: The term includes boarding-houses, guest-houses, hostels, unlicensed hotels, homes for the aged, handicapped, poor or disadvantaged, serviced rooms, or residential clubs and attached accommodation for the family of the owner, or the manager and includes a caretaker's residence, but does not include a dwelling unit or a motel as herein defined;

"Caretaker's residence" - A dwelling unit used or intended for use by a person having the care of a building or plant of an industry or business, or premises used or intended for use for business, commercial, charitable or sporting purposes and erected on the same parcel of land;

"Display home" - A building or part thereof designated for use as a dwelling unit and used or intended for use for: -

- the display of that building or part thereof to the general public as a type of dwelling unit that the person so displaying the building offers to build, or is offering for sale; or

Part 2 - Definitions

- (b) the display of the building to the general public for some other business or commercial purposes; provided that the display home is not used for more than two (2) years from the date of commencement of the use.

For the purposes of this definition, a display home includes any land, outbuilding or other structure within the curtilage of the display home; the term does not include commercial premises, a professional office or an estate sales office as herein defined;

"Domestic pets" - Any animal, bird (including poultry), fish, insect or reptile which is kept in or about a residential building for the interest, enjoyment or protection of residents therein: The term does not include animal husbandry, aquaculture, a cattery, intensive animal husbandry, or kennels as herein defined; nor the keeping of cattle or horses;

"Dwelling house" - Premises comprised or intended to comprise a single dwelling unit on one site, including such outbuildings as are incidental to and necessarily associated with a dwelling house. The term includes domestic pets and domestic agriculture or horticulture, which is carried on within the site, but does not include multiple dwellings as herein defined;

"Home industry" - An industry, trade or hobby carried on, in or under a dwelling house or within the curtilage of a dwelling house, by the registered proprietor who is resident therein and in the conduct of which: -

- (a) entails the establishment of a workshop for servicing or manufacturing of goods, of a floor area approved by the Council, or a truck parking area but does not include the public display of goods of any nature;
- (b) does not create injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury or prejudicial affection due to the emission of noise, vibration, smell, fume, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, or waste products, radio or electrical interference or anything whatsoever;
- (c) the number of persons employed (other than the person carrying on the business and members of his or her family who are also resident in the dwelling house) shall be one (1) or such greater number as determined by the Council;
- (d) does not require the provision of any essential service of a greater capacity than normally required in the zone in which it is located;
- (e) no sign other than a sign not exceeding zero point three (0.3) square metres in area, non-illuminated and bearing only the name, occupation and telephone number of the occupier is displayed;
- (f) does not require the provision of parking facilities over and above those normally required within the zone in which it is located and does not operate on a Sunday or public holiday or between the hours of 6 p.m. and 7 a.m. on weekdays;
- (g) the area of use for such an industry does not occupy a building or other structure or an open area greater than sixty square metres (60m²), excluding car parking and driveway areas;
- (h) the term includes the washing and maintenance of vehicles and plant associated with the home industry.

"Home occupation" - An occupation or profession carried on, in or under a dwelling unit, by any person who is resident therein and in the conduct of which: -

- (a) the floor area used (whether temporarily or permanently) does not exceed thirty square metres (30m²), except with and in accordance with the conditions of an express permission of the Council;
- (b) no load is imposed on any public infrastructure greater than that which is normally required by other uses permitted in the zone in which the dwelling unit is situated;
- (c) no sign other than a sign not exceeding zero point three (0.3) square metres in area, non-illuminated and bearing only the name, occupation and telephone number of the occupier is displayed;
- (d) no goods are publicly displayed on the premises;
- (e) no person is employed other than the person carrying on the occupation or profession and members of his or her family who are also resident in the dwelling unit;
- (f) does not involve a use or the performance of any activity which characterises a use of premises for the purpose of a general industry, light industry, hazardous industry, or noxious or offensive industry, nor include the sale, marketing or distribution of any goods, merchandise or thing, not wholly or in part produced, prepared or undertaken on the premises as a consequence of the home occupation;
- (g) in the ordinary course of events would not involve the presence at the dwelling unit at the same time of two or more persons not being residents therein;
- (h) 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 water, waste products, radio or electrical interference or anything whatsoever;

The term does not include a home industry as herein defined.

"Multiple dwelling" - includes: -

- (a) Premises comprised or intended to comprise all or any of the following types of development: -
 - (i) two or more dwelling units on one allotment constructed as fully detached dwelling units;
 - (ii) two or more attached dwelling units on one allotment with all or part of one or more common walls between the dwelling units;
 - (iii) two or more dwelling units on one allotment constructed so that there is some overlap between the ceiling of one dwelling unit and the floor of another dwelling unit above it;

or
- (b) a comprehensively planned housing development, containing two or more dwelling units where dwelling units are erected on proposed allotments in a size range of not less than 300m² and generally not greater than 450m² and which provides for the substantial completion of all works before the dwelling units may be separately sold;

or
- (c) a combination of all or any of those types identified in paragraph (a) as part of a housing development identified in paragraph (b);

Part 2 - Definitions

Where applicable, development approvals are given concurrently for subdivision, construction of roadworks and drainage works (internal and external), the installation of services, the establishment of landscaping and the siting design and construction of all buildings and other structures included on the approved plan of development for the relevant land;

"Poultry run (domestic)" - Premises used or intended for use for the purpose of keeping not more than ten (10) mature female poultry for domestic food supply: The term does not include domestic pets or poultry farm as herein defined, and for the purposes of this definition the term "mature" means capable of breeding;

[Inserted 1/9/95]

"relatives flat" means any premises which comprise or are intended to comprise a single subsidiary dwelling unit on the same parcel of land as the principal dwelling unit. The area of the subsidiary dwelling unit is not to exceed two-thirds (2/3) of the area of the principal dwelling unit or one hundred square metres (100m²), whichever is the lesser. The subsidiary dwelling unit must be occupied only by relatives of the occupiers of the principal dwelling unit. The term does not include a "caretaker's residence".

2.2.3 COMMERCIAL

"Advertising hoarding" - Any building, structure, panel or device upon which any outdoor advertisement is placed, but does not include an advertising sign as herein defined: Provided that such hoarding shall not have overall dimensions exceeding six (6) metres by three (3) metres;

"Advertising sign" - Any building, structure, panel or device upon which any outdoor advertisement is placed advertising a trade, business or calling, activities, goods or services available within five (5) kilometres of the location of the sign: Provided that such signs shall not have overall dimensions exceeding three (3) metres by one point five (1.5) metres;

"Car park" - Any land used or intended for use for the parking of motor vehicles as a commercial enterprise;

"Car repair station" - Premises used or intended for use for the purpose of carrying out repairs to motor vehicles, motor mowers, boat and stationary engines and the like: The term does not include an industry, body building or panel beating which involves dismantling or spray painting which is not of a touching-up character;

"Caterer's rooms" - Premises used or intended for use for the holding of functions and receptions at which food and refreshments are served: The term does not include a refreshment service as herein defined;

"Commercial premises" - Premises used or intended for use as a business office or for other business or commercial purposes not otherwise herein defined: The term includes a real estate office but does not include a display home, an estate sales office, a home occupation, or a professional office as herein defined;

"Estate sales office" - A building, caravan or other structure placed or erected on land subdivided and released as one estate for the purpose of promoting and selling that land only, where: -

- (a) the subdivision of such land into twenty (20) or more allotments has been approved by the Council; and
- (b) such building or other structure is placed or erected on one or more of such allotments.

Provided that the estate sales office is not used for more than two years from the date of commencement of the use: The term does not include a display home, commercial premises or a professional office as herein defined;

"Funeral parlour" - Premises used or intended for use by undertakers where bodies are stored or prepared for burial or cremation: The term includes a funeral chapel and office and administration areas ancillary to the use;

"General store" - Premises not exceeding one hundred square metres (100m²) gross floor area, which is attached to a dwelling house and used for the sale by retail of general merchandise including food;

"Hotel" - Premises specified in a licensed victualler's licence, a limited hotel license or tavern license issued under the Liquor Act 1912-1991;

"Produce store" - Premises used or intended for use primarily for the storage and sale of grain or similar feed, agricultural chemicals (pre-packaged) and products, unprocessed rural produce and goods necessary for the husbandry of animals and for the growing of plants: The term does not include the bulk storage of goods or products which are not bagged or packaged but the term may include the ancillary use of the premises for the sale by retail of hardware, fencing, plumbing and building supplies;

"Professional office" - Premises used or intended for use for the provision of professional services or the giving of professional advice: The term does not include commercial premises, a home occupation or a veterinary establishment as herein defined;

"Refreshment service" - The term includes any use included in but not limited to Appendix I hereto:-

APPENDIX I

Cafe	Snack bar
Espresso bar	Tea garden
Kiosk	Tea room
Milk bar	Take-away food
Restaurant (including licensed restaurant)	establishment

The term does not include a hotel or a motel, as herein defined;

"Roadside stall" - Premises not exceeding forty square metres (40m²) in gross floor area or any stall, bench, barrow, box or vehicle whether fixed or movable, used or intended for use for the sale by retail of produce grown or produced on the land on which the stall is located, to passers-by;

"Service station" - Premises used or intended for use for the sale by retail of petrol and automotive distillate or any derivatives thereof, capable of use in internal combustion engines, whether or not the premises are also used for all or any of the following purposes, namely: -

- (a) the sale by retail of any of: -

Part 2 - Definitions

- (i) lubricating oils and greases;
- (ii) batteries and tyres;
- (iii) accessories and other products associated with land or water borne vehicles motivated by internal combustion engines;
- (iv) power and lighting kerosene;
- (v) goods for the comfort and convenience of travellers by motor vehicles;
- (vi) other products manufactured or distributed by oil companies and motor accessory manufacturers;
- (b) the carrying out of all or any of the following operations, namely: -
 - (i) fitting, removal and exchange of tyres;
 - (ii) repairing of tubes;
 - (iii) supply of air;
 - (iv) charging or replacement of batteries;
 - (v) lubrication and greasing of motor vehicles;
 - (vi) cleaning and adjustment and replacement of spark plugs;
 - (vii) adjustment and cleaning and replacement of filters or carburettors or fuel injection systems;
 - (viii) receipt of tyres for retreading and other processes on other premises and the redelivery thereof;
 - (ix) running repairs of a minor nature and of a type which do not normally immobilise a land or water borne vehicle for a period longer than twenty four (24) hours.
- (c) the rendering of minor services incidental to any of the foregoing;
- (d) the use of part of the premises as a refreshment service, where approved by the Council.

The term does not include a car repair station, an industry, a recycling depot or a shop as herein defined;

"Shop" - Premises used or intended for use for the purpose of displaying or offering goods for sale by retail to members of the public: The term includes incidental storage of such goods on the same premises but does not include an hotel, a service station, a general store, a produce store, a refreshment service, a roadside stall, a recycling depot, or a car repair station as herein defined;

"Shopping centre" - Any shop or group of shops, not being a major shopping development, having a gross floor area exceeding six hundred and fifty (650) square metres;

"Showroom" - Premises used or intended for use for the display or sale of boats, caravans, motor cycles, motor vehicles, or farm machinery and equipment: The term includes the ancillary use of the premises for the display and sales of spare parts and accessories but does not include a car repair station, a produce store or a shop as herein defined;

"Veterinary clinic" - Premises used or intended for use by a veterinary surgeon for outpatient treatment of animals, provided that limited emergency accommodation of such animals may be included on the site: The term does not include animal husbandry, intensive animal husbandry or a veterinary establishment as herein defined;

"Veterinary establishment" - Premises used or intended for use for the provision of professional veterinary services or advice where provision is made for the accommodation of animals undergoing

treatment: The term does not include a home occupation as herein defined;

2.2.4 INDUSTRIAL

"Bulk store" - Premises used or intended for use 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 produce store or a warehouse as herein defined;

"Extractive industry" - Any industry involving the extraction of sand, gravel, clay, soil, rock, stone or similar materials from land and including when carried out on the land from which any such materials are extracted or on land adjacent thereto, the manufacture of products from and the treatment (including crushing, screening, washing and transportation) of such materials;

"General industry" - Any industry which is not otherwise defined or described in this Part;

"Hazardous industry" - Any industry in Appendix II hereto, together with all other industries which: -

- (a) in the opinion of the Council, by reason of any process involved or the method of manufacture or the nature of the material used or produced, would be likely to create hazards to other users in the area; or
- (b) requires isolation from other buildings or areas of human activity or occupation because of the detrimental effect such processes or materials might have on the amenity of such area or the health of its occupants: The term includes the disposal of liquid or solid wastes from any such industry whether produced on the land or not.

APPENDIX II

Acetylene manufacturing or storage	Kerosene manufacturing
Ammonia manufacturing or storage	Flammable liquid manufacturing
Aqua ammonia manufacturing or storage	Oil manufacturing
Battery smelter	Petroleum and petroleum products refining and storage
Bottled gas manufacturing or storage	Poison manufacturing
Chemical works (hazardous)	Radioactive waste disposal service or storage
Disinfectant, pest destroyer and germicide manufacturing	Turpentine manufacturing or storage
	Varnish manufacturing or storage

"Landscape supplier" - Premises used or intended for use for the purpose of displaying for sale by retail, nursery and landscape equipment and supplies: The term includes the sale of horticultural produce but does not include a general store, a plant nursery, a shopping centre or a shop as herein defined;

"Light industry" - Any industry which: -

- (a) is carried on in a building or other structure occupying not more than nine hundred (900) square metres of the area of land upon which such building or other structure is situated and does not use more than nine hundred (900) square metres of floor area of such building or other structure (whether on one (1) or more floors);

Part 2 - Definitions

- (b) does not, in the opinion of Council impose a load on any public infrastructure undertaking greater than that which is required for the normal development of the locality in which the industry is carried on;
- (c) 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;
- (d) does not cause smoke, fumes, noise or hazards likely in the opinion of the Council to cause undue annoyance and/or discomfort to persons or affect property not connected with the industry;
- (e) does not involve the employment of more than twenty (20) persons; and
- (f) is not a noxious or offensive industry or a hazardous industry, as herein defined;

"Limited extractive industry" - Any industry involving the extraction of sand and gravel either by land based machinery or by dredging and the transportation of such material from the site from which such materials are extracted, but not the treatment and storage of such materials nor the manufacture of products from such materials;

"Liquid fuel depot" - Premises used or intended for use for:-

- (a) the bulk storage for wholesale distribution of petrol, oil, petroleum products or other flammable fuels; and/or
- (b) the retail distribution of drums containing petrol, oil, petroleum or other flammable fuels;

"Milk distribution depot" - Premises used or intended for use for the bulk handling of milk and cream for distribution to consumers, including the loading of vehicles used for such distribution;

"Noxious or offensive industry" - Any industry in Appendix III hereto. The term includes any industry which is declared a noxious or offensive industry under any Act of Parliament, together with all other industries which: -

- (a) in the opinion of the Council, by reason of any process involved or the method of manufacture or the nature of the material used or produced, would be likely to be noxious or offensive to other users in the area; or
- (b) requires isolation from other buildings or areas of human activity or occupation because of the detrimental effect such processes or materials might have on the amenity of such area or the health of its occupants. The term includes the disposal of liquid or solid wastes from any such industry whether produced on the land or not.

APPENDIX III

Abattoirs other than poultry (see below)	Hide, skin and tallow stores
Animal by-products and processing	Manufacturing chemists
Bacon factories	Meat preserving works
Boiling down works	Oxygen works
Bone dealers	Poultry abattoir or dressing house (more than five hundred (500) birds per week)
Bone mills	
Canneries	
Chemical works (noxious)	Sand blasting works

or offensive)	(when carried on in an enclosed area)
Crushing mills	Slaughter houses
Distilleries	Stone or rock crushing and screening (other than on land associated with an extractive industry)
Electroplating works	
Fellmongers	
Fertiliser works	
Garbage and refuse disposers (excluding recycling depots)	Tanneries
Hot dip galvanising works	Tar and tar products manufacturing

"Recycling depot" - Premises used or intended for use in collection, storage, abandonment or sale of scrap metal, waste paper, rags, bottles, used building materials or other scrap materials or scrap goods, or used for the collection, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery or buildings and for the sale of parts thereof;

"Temporary quarry" - Premises used or intended for use for the purpose of extraction, storage, loading, carting or treatment (including crushing and screening) of sand, gravel, rock, stone, soil, or similar substances provided that the temporary quarry is not used for a longer period than two (2) years from the date of the permit issued: The term does not include an extractive industry or a limited extractive industry as herein defined;

"Transport terminal" - Premises used or intended for use as: -

- (a) an airline passenger terminal, a rail or water transport terminal, a bus station, or heliport; or
- (b) an airline goods terminal, a road or water transport goods terminal, a rail goods terminal or a repository for temporary storage of goods before reshipment and a terminal used solely for the garaging and basic maintenance of fleet vehicles engaged in the transport of goods or passengers;

"Warehouse" - Premises used or intended for use for the storage of goods, merchandise or materials in large quantities whether or not such storage is required for an adjoining shop or other commercial purposes, pending their distribution or sale to persons who purchase for the purpose of resale only: The term does not include a bulk store or a produce store as herein defined;

2.2.5 RURAL

"Agriculture" - Premises used or intended for use for the growing of crops, fruit, vegetables, pasture and the like (including turf) for business or commercial purposes: The term includes horticulture, but does not include domestic agriculture or domestic horticulture, forestry, a landscape supplier or a plant nursery as herein defined;

"Animal husbandry" - Premises used for the breeding, keeping or depasturing of livestock on unimproved native pastures to which no fertiliser has been applied: The term does not include aquaculture, a cattery, cattle dip, piggeries, domestic pets, kennels, poultry farms, veterinary establishments, intensive animal husbandry or lot feeding, as herein defined;

"Aquaculture" - Premises used or intended for use for the purpose of keeping or breeding of fish, freshwater or marine animals for sale or exchange;

Part 2 - Definitions

"Cattery" - Premises used or intended for use for the keeping, boarding, spelling or breeding of more than four (4) cats for commercial gain;

"Cattle dip" - Premises used or intended for use for the immersion of cattle in a pest killing liquid;

"Coursing or trialing track" - Premises used or intended for use for the purpose of trialing or racing dogs: The term does not include a kennel or a training track as herein defined;

"Forestry" - Premises used or intended for use for the propagation, planting, growing and harvesting of trees as a commercial venture: The term does not include a State Forest within the meaning of the Forestry Act 1959-1991 or a plant nursery as herein defined;

"Intensive animal husbandry" - Premises used or intended for use for the spelling, breeding, keeping or depasturing of animals on native pasture to which fertiliser has been applied or on introduced species with or without fertiliser applied: The term includes the breeding and keeping of birds, insects and reptiles and the containment of any animals in a cage, shed, loose box or stall or a fenced or roofed yard: The term does not include lot feeding, animal husbandry, a cattery, domestic pets, kennels, poultry farms, veterinary establishments, zoos or piggeries as herein defined;

"kennel" means a place at which dogs (other than companion dogs or working dogs as defined in the relevant local law policy) are kept, boarded or bred.

"Lot feeding (intensive)" - Premises used or intended for use for the containment of livestock in pens or yards predominantly for intensive feeding on a sustained diet of prepared food in lieu of grazing: The term includes any ponds, manure storage areas, land disposal areas and any facilities used in conjunction with the lot feeding of stock: The term does not include livestock otherwise excluded by clause 6.8.4.1, intensive animal husbandry, lot feeding (non-intensive) or piggeries as herein defined;

"Lot feeding (non-intensive)" - Premises used or intended for use for the containment of less than fifty (50) head of livestock, at an equivalent animal density of more than twenty-five (25) square metres per animal, predominantly for intensive feeding on a sustained diet of prepared food in lieu of grazing: The term does not include livestock otherwise excluded by clause 6.8.4.1, intensive animal husbandry, lot feeding (intensive) or piggeries as herein defined;

"Piggery (intensive)" - Premises used for the breeding, keeping, depasturing, feeding or watering of twenty (20) or more pigs: The term includes any ponds, manure storage areas and land disposal areas used in conjunction with the keeping of pigs;

"Piggery (non-intensive)" - Premises used for the breeding, keeping, depasturing, feeding or watering of less than twenty (20) pigs;

"Plant nursery" - Premises used or intended for use for the propagation and/or sale of plants, trees, shrubs and garden supplies including plant pots, baskets, seeds, proprietary brands of bagged fertiliser and weed control mixtures and bagged potting mix: The term does not include a general store, a landscape supplier, a shop or a shopping centre as herein defined, but does include the use of premises for the rearing of plants by means of hydroponic techniques;

"Poultry farm" - Premises used or intended for use for business or commercial purposes for the breeding, keeping and feeding of poultry for sale, exchange or egg production, where the number of birds kept exceeds twenty (20);

"Rural industry" - Premises used or intended for use for the purpose of: -

- (a) an industry (not being a noxious or offensive industry or a hazardous industry) handling, treating, processing or packing primary products produced on the land on which it is situated, but does not include a vegetable processing plant;
- (b) servicing, on the land or elsewhere, of plant or equipment used for agriculture or forestry purposes;

"Stockyard" - Premises used for the holding of livestock for commercial purposes: The term may also mean a building or place used or intended for use for the purpose of offering animals for sale and includes a public livestock market: The term does not include a cattle dip as defined herein;

"training course" means a place at which animals are trained, but the term does not include a coursing or trialing track or a kennel.

2.2.6 RECREATION AND TOURISM

"Cabin park" - Any land used or intended for use for the erection of holiday cabins: The term includes a caretaker's residence and the use of any facilities, by way of buildings, structures or otherwise erected or provided on the land for the comfort or convenience of, or the enjoyment of leisure by, persons occupying the cabins: The term does not include a caravan park (Class A), a caravan park (Class B), a motel, a multiple dwelling or a tourist facility as herein defined;

"Camping grounds" - Any land used or intended for use for holiday and recreational purposes which primarily involves the setting up and use of tents for temporary residential use: The term includes a manager's residence, amenities buildings and any recreational facilities erected thereon and used or intended for use exclusively by persons camped on the land: The term does not include a caravan park (Class A), a caravan park (Class B) or a tourist facility as herein defined;

"Caravan park (Class A)" - Any land used or intended for use primarily for the pitching of tents and the parking of caravans for the purpose of providing temporary residential accommodation for persons in transit or engaged in holiday or recreational activities: The term includes a manager's residence, amenities buildings, kiosk and recreational facilities erected thereon and used or intended to be used exclusively by persons occupying the premises: The term does not include a cabin park, a caravan park (Class B), or a tourist facility as herein defined;

Part 2 - Definitions

"Caravan park (Class B)" - Any land used or intended for use for the erection of cabins or the parking of caravans and relocatable homes for the purpose of providing residential accommodation: The term includes a manager's residence, and the use of any facilities, by way of buildings, structures or otherwise, erected or provided at the premises for the comfort or convenience of, or the enjoyment of leisure by, persons occupying the premises: The term does not include an accommodation building, a cabin park, a caravan park (Class A), a motel or a tourist facility as herein defined;

"Host farm" - Premises used or intended for use as tourist accommodation for a maximum of six (6) visitors in conjunction with any agriculture, aquaculture, animal husbandry, intensive animal husbandry or forestry purposes: The term does not include an accommodation building, a caravan park (Class A), a caravan park (Class B), a motel or a multiple dwelling as defined herein;

"host home" means premises used or intended for use as tourist accommodation for a maximum of six (6) visitors in conjunction with any use for the purpose of a dwelling house: The term does not include an accommodation building, a motel or a multiple dwelling;

"Indoor entertainment" - Premises used for any activity, purpose or pursuit which affords or is calculated to afford interest or amusement irrespective of whether or not food or refreshment 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 IV hereto: -

The term does not include an hotel, a motel or a refreshment service as herein defined.

APPENDIX IV

Amusement saloons	Meeting halls (other than places of worship)
Billiard saloons	Music halls
Bowling centres	Premises specified in a cabaret licence issued under the Liquor Act 1912-1991
Broadcasting studios	Schools of Art
Cinemas	Skating rinks (indoor)
Circuses (indoor)	Squash courts
Clubs (non-residential)	Stadiums (indoor)
Concert halls	Theatres (indoor)
Courts (covered)	Youth centres
Dance halls	
Exhibitions (indoors)	
Gymnasiums	
Indoor cricket centres	

"Motel" - Premises used or intended for use for the accommodation for travellers and the vehicles used by them: The term includes a building or buildings or any parts thereof used or intended for use as a restaurant and includes accommodation for a manager, but does not include an accommodation building, an hotel, or a multiple dwelling as herein defined;

"Outdoor entertainment A" - Any land or structure, other than a building, used for any activity, purpose or pursuit included in Appendix V hereto, which affords or is calculated to afford interest, entertainment or amusement irrespective of whether or not food or refreshment is provided and which is run as a business or commercial enterprise;

APPENDIX V

Boat hirers
Commercial swimming pools
Exhibitions
Fairs
Marinas

"Outdoor entertainment B" - Premises used for any activity, purpose or pursuit which affords or is calculated to afford interest, entertainment or amusement irrespective of whether or not food or refreshment is provided and which is run as a business or commercial enterprise: 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 VI hereto: -

APPENDIX VI

Camp drafting ground	Riding Schools
Circus (outdoor)	Showgrounds
Coursing tracks	Speedways
Cycling tracks	Stadiums
Drive-in theatres	Trotting tracks
Model car or aeroplane operations	Velodromes
Racetracks	Wild life sanctuaries (other than a Zoo)

"Park" - The use of any land for passive recreation, picnic areas or gardens, open free of charge to the public but does not include the use of land for a sporting field: The term includes the use of land for growing lawns, gardens, shrubs, trees and the like, botanic gardens, a National Park, an Environmental Park, an area of natural bush or otherwise undeveloped countryside;

"Sports and recreation A" - Any land or structure, other than a building, used for any passive or active, organised or otherwise sporting or recreational activity, included in Appendix VII hereto: -

APPENDIX VII

Boating
Canoeing
Golf
Water skiing

"Sports and recreation B" - Premises used for any passive or active, organised or otherwise sporting or recreational activity: Without limiting the generality of the foregoing, the term includes any use referred to in Appendix VIII hereto: The term does not include outdoor entertainment A or outdoor entertainment B as herein defined;

APPENDIX VIII

Archery	Hockey
Athletics	Playing fields (community)
Basketball	Softball
Bowling (other than indoor)	Swimming Pools
Children's playgrounds	Squash
Cricket (other than indoor)	Tennis
Croquet	Vigoro
Football	

"Tourist facility" - Premises used or intended for use for the purpose of providing eating, refreshment, recreation, entertainment, accommodation or other similar facilities for the general touring public: The term includes tourist attractions and accommodation that is provided in conjunction with a comprehensive development for the purpose of a tourist attraction;

Part 2 - Definitions

"Zoo" - Premises at which live animals are kept for public exhibition and includes shelters and other public conveniences or refreshment services for the patrons thereof;

2.2.7 SPECIAL USES

"Child care centre" - Premises used or intended for use for the purpose of any of the types of minding or care centres defined under the Children's Services Act 1965-1989 or regulations made thereunder;

"Educational establishment" - Premises used or intended for use as a school, college, university, technical institute, academy, educational centre, public library, lecture hall, art gallery or museum: The term does not include an institution, as herein defined;

"Institution" - Premises used wholly or principally for: -

- a home or other institution for handicapped persons; or
- a mental hospital; or
- a penal or reformatory institution;

"Place of worship" - Premises used or intended for use as a church, chapel or other place of public worship or religious instruction;

"public infrastructure" - Any undertaking by a government, semi-government or statutory government authority, or by a local government, for any one or more of the following: -

- the supply of water, hydraulic power, electricity or gas;
- the provision of sewerage or drainage services;
- the maintenance of roads or traffic controls;
- the provision of postal, telephonic or other telecommunication services;
- facilities, services, land or works for supporting economic activity and meeting social and environmental needs.

"Special use" - Premises used for any of the following purposes which is not otherwise defined herein: -

- cultural, religious or medical purposes;
- cemeteries, crematorium or mortuaries;
- Commonwealth Government purposes;
- State or Local Government purposes;
- Semi-government or public purposes;
- any other public purpose not specifically included in any other definition contained in this part;
- commercial communications systems including radio and television broadcasting;

Section 2.3

TERMS NOT DESCRIPTIVE OF THE PURPOSES OF DEVELOPMENT

2.3.1 The terms defined in this Section are not descriptive of the purposes of development, namely: -

Advertisement	Industry
Allotment	Integrated housing development
Appointed day	Model Code
Building	Plan of Development
By-law	Premises
Council	Relocatable home

Development	Scheme Maps
Dwelling unit	Structure
Erect	Use
Existing use	Zone
Family	

"Act" - Local Government (Planning and Environment) Act 1990 as amended;

"Advertisement" - Includes any word, sign, letter, device or representation (by whatever means depicted, delineated or effected) in the manner of and employed wholly or in part for the purpose of advertising, announcement or display: The term does not include: -

- a sign or signs of total area less than two (2) square metres non-illuminated, non-animated, and: -
 - related to the use being carried out on the allotment on which it stands; or
 - providing information about a community organisation within the Shire;
- traffic signals, warning devices or directional signs;
- notices relating to local events, activities or entertainment not promoted or carried on for business purposes provided that the period of display is limited to sixty (60) days; or
- statutory notices or advertisements required to be displayed by a Government Department, public authority or the Council;

"Allotment" - A piece, parcel or subdivision of land the boundaries of which are separately defined by metes and bounds on a plan of survey deposited in the Department of Geographic Information, or, in the case of land under the Real Property Acts 1861-1988, 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 Acts 1861-1988: The term does not include a lot created under the provisions of the Building Units and Group Titles Act 1980-1990;

"Appointed day" - The day upon which the Order in Council notifying that the Governor in Council has finally approved this Planning Scheme is published in the Gazette;

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

"By-law" - A By-law of the Council made under the authority of the Local Government Act 1936-1991 and in force for the time being;

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

"Development" - The use of any land or the erection or use of any building or other structure, or the carrying out of building, mining or engineering operations, in on or under land, or the making of material changes to any premises: The term includes the subdivision of land and the carrying out of associated works including roadworks, drainage works, the installation of services and the establishment of landscaping associated therewith;

"Dwelling unit" - Premises comprising or intended to comprise only self-contained accommodation for the exclusive use of one family;

Part 2 - Definitions

"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 course 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; and
- (f) where a building is located on more than one allotment:-
 - (i) Move to another position on the same allotment or any of them or to another allotment or allotments; or
 - (ii) Re-erect with or without alteration on another position on the same allotments or any of them or on another allotment or allotments;

"Existing use" - The use of any premises for the purpose for which it was lawfully used before the appointed day or for which a permit was granted before the appointed day if the permit has not expired;

"Family" - Any one person maintaining a household or any one of the following groups of persons living together and maintaining a common household: -

- (a) two (2) or more persons related by blood, marriage or adoption; or
- (b) not more than four (4) persons, not necessarily related by blood, marriage or adoption; or
- (c) not more than six (6) persons under the age of eighteen (18) years and not necessarily related by blood, marriage or adoption and a married couple having the care and control of them, together with domestic servants.

A common household shall be deemed to exist if all members thereof have access to all parts of the abode occupied by the group;

"Industry" - Includes: -

- (a) any of the following operations: -
 - (i) any manufacturing process whether or not such process results in the production of a finished article;
 - (ii) the breaking up or dismantling of any goods or article for trade, sale, or gain, or ancillary to any business;
 - (iii) the extraction of sand, gravel, clay, soil, rock, stone or similar substances from land;
 - (iv) repairing or servicing of articles, including vehicles, machinery, buildings or other structures, laundering of articles, but not including on-site work on buildings or other structures;
 - (v) any operation connected with the installation of equipment and services and the exterminating of pests, but not including on-site work on buildings or other structures or land;
 - (vi) the dismantling of motor vehicles, whether the dismantling is carried out by one operation or by a series of operations, for any purpose other than that of a car repair station or a service station as herein defined;
- (b) when carried out on land on which any of the above operations are carried on: -

- (i) the storage of goods used in connection with or resulting from any of the above operations;
- (ii) the provision of amenities for persons engaged in such operations;
- (iii) the sale of goods resulting from but ancillary to such operations and when the sales area is not greater than one-third the total floor area except with express permission of the Council;
- (iv) any work of administration or accounting in connection with such operations; and
- (c) without limiting the generality of the foregoing, any industry or class of industry particularly described or defined in this Planning Scheme but does not include a home industry or a home occupation, as herein defined;

"Integrated housing development" - means a comprehensively planned housing development designed in accordance with the elements of the Model Code and comprised or intended to be comprised of two or more dwelling units, constructed or intended to be constructed in accordance with an approved plan of development for the relevant land and which provides for separate fee simple title for each dwelling unit.

Where applicable, development approvals are given concurrently for subdivision, construction of roadworks and drainage works (internal and external), the installation of services, the establishment of landscaping and the siting design and construction of all buildings and other structures included on the approved plan of development for the relevant land;

"Model Code" - refers to the current edition of the Australian Model Code for Residential Development (AMCORD) prepared by the Model Code Task Force of the Green Street Joint Venture;

"Plan of Development" - Any plans or plans: -

- (a) referred to on the Scheme maps having been approved by Council as part of a rezoning of a particular allotment or parcel of land for inclusion in the Special Facilities or Special Purposes zones; or
- (b) submitted as an indicative development proposal pursuant to the provisions of this Planning Scheme in support of a development application; or
- (c) prepared pursuant to Section 6.5 and approved by Council as a condition of approval of an application for residential development;

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

"Relocatable home" - A building that complies in all respects with the Building Act 1975-1991 for a Class I, Class II, or Class III building, capable of being readily transported by trailer or other vehicle. Such building may be fitted with wheels at the point of manufacture solely for the purpose of road transport to the proposed location. The wheels may be retained on the building after location on site. The building shall comply with the Standard Building By-laws and any other relevant legislation;

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

Part 2 - Definitions

"Structure" - Any wall, fence or other structure built or constructed on or in the ground or anything affix to or projecting from any building, wall, fence or other structure: The term includes any part of a structure;

"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 and necessarily associated with the lawful use of the land in question: The term "Used" has the same meaning;

"Zone" - The division respectively into which the Shire is divided by this Planning Scheme for the purposes thereof.

PART 3 ZONING

Section 3.1 DIVISION OF SHIRE INTO ZONES

3.1.1 For the purposes of this Planning Scheme the Shire is divided into zones, set out in Column 1 of Table 3.1 and which are respectively coloured, or designated, in the manner shown opposite thereto in Columns 2 and 3 of Table 3.1, on the Scheme Maps: -

TABLE 3.1

Column 1	Column 2	Column 3
Zone name Designation	Colour	
Residential	Red	Res
Rural Residential	Light green-brown	RR
Future Rural Residential Village	Medium brown	FRR
Rural A	Orange	V
Commercial	Light brown	RuA
Industrial	Blue	Com
Noxious, Offensive or Hazardous Industry	Purple	Ind
Parks and Open Space	Purple with yellow border	IndNOH
Special Purpose	Dark green	POS
Special Facilities	Yellow	SP
Rural B	Yellow with red border	SF
Water Storage Buffer	Dark brown	RuB
Recreation	Light green	WSB
Unserviced Land	Yellow-green	Rec
	Light brown with orange border	NU
Water Storage	Light blue	WS

Section 3.2 INTENT OF ZONES

3.2.1 Subject to the provisions of this Planning Scheme, the general intent of the Scheme, the intent of the zones and the preferred land uses within these zones are set out within this section.

RESIDENTIAL ZONE

3.2.2.1 The Residential zone is primarily intended to provide opportunities for a variety of housing types and residential accommodation at population densities appropriate to the character of that part of the Shire. Dwelling houses may be established without the consent of the Council while other residential developments will require the consent of the Council. Other types of land uses are generally excluded although consent of the Council may be given for specific uses necessarily associated and compatible with the existing and likely future residential development of the locality.

3.2.2.2 The zone has been structured to permit alternative types of housing developments including integrated housing developments and multiple dwellings in suitable locations where the height and density of development is compatible with established or approved housing developments.

3.2.2.3 Provision is also made for housing developments which incorporate the elements of the

Model Code (AMCORD) in the form of small lot subdivision and/or dwelling units built to the boundary.

3.2.2.4 It will be a condition of approval for all applications for integrated housing developments and multiple dwellings that detailed concept plans and design specifications be finalised and included as a basis for any agreement or conditional approval before the application is forwarded to the Minister or otherwise approved by the Council as the case may be. The detailed concept plans and design specifications will be required to form part of a Plan of Development. The approved Plan of Development will thereafter be used to control development of the relevant land. Provisions are included for minor modifications. However, other modifications will be subject to the requirements of the Act relating to the amendment of an approval or conditions attached to an approval.

3.2.2.5 Applications for rezoning to permit residential development will, except under special circumstances, only be considered in areas identified by the Strategic Plan for such purposes. The areas identified for future urban expansion are not intended to be permitted to be developed until there is a need to extend beyond the designated urban areas.

RURAL RESIDENTIAL ZONE

3.2.3 The Rural Residential zone is primarily intended to provide for areas where dwelling houses can be erected on small rural allotments (of an average area of 4 000 square metres) for the purpose of low density residential living in an attractive rural setting requiring the provision of urban services such as a reticulated water supply, an electricity service, appropriate drainage works, sealed roads and kerb and channelling in areas where drainage problems are likely to arise. This zone will be located adjacent to the existing urban centres within the Shire. This zone may include some rural pursuits although these will be limited. It is not intended that this zone be allocated to potentially productive, or prime agricultural land, nor should it result in the fragmentation of potentially productive land into uneconomic lot sizes. Areas selected for this zone should not be located in an area of future urban centre growth but should have a recognised visual amenity which will be preserved. These areas will exhibit a high level of amenity which is to be reflected in the design, layout and location of parks and this intent will be taken into account by the Council, when considering applications requiring Council approval.

FUTURE RURAL RESIDENTIAL ZONE

3.2.4 The intent of this zone is to facilitate opportunities for persons desirous of living on larger allotments (average area eight (8.0) hectares) in areas accessible to urban facilities and suitable for hobby farming and other small scale non-intensive rural activities. The zone is also intended to operate as an interim step towards ultimate development for rural residential purposes as described above. Land in this zone does not require a reticulated water supply. However, such development will be limited to areas capable of being serviced in the future. Land uses will generally be less restrictive than the Rural Residential zone, although pursuits which may be prejudicial to the ultimate intent of the zone will be prohibited. The erection of dwelling houses on these larger lots and the

Part 3 - Zoning

low intensity use of the land for some rural uses provides for the use of the land until such time as a reticulated water supply is practicable. Upon the availability of a water supply and a demand for smaller rural residential lots, land in this zone could be rezoned to the Rural Residential zone and subdivided for that purpose. Applications for consent will be assessed with the future use of the land and the resulting amenity as important considerations.

VILLAGE ZONE

3.2.5 To accommodate a wide range of land uses appropriate to a small country settlement which serves the surrounding rural area. This zone is intended to be predominantly residential but may include compatible supporting uses. It is intended that the village areas develop in an orderly manner, in a style appropriate to the area and in conformity with any relevant Council Policy for development of the particular village or settlement.

RURAL A ZONE

3.2.6 To provide for and preserve areas which are used, or are suitable for use, for primary production and to ensure the continuing viability of farm enterprises by allowing a wide range of rural pursuits. To restrict the number of non-rural activities that may be conducted in such an area and to curtail the rate of the subdivision of land by providing large minimum allotment sizes under the Subdivision of Land provision within Part 11. The zone is also intended to cover those parts of the Shire which do not have any agricultural value but which, nevertheless, need to be preserved in their natural state. The retention of these lands in the Rural A zone is required to preserve the rural amenity of the Shire. Development proposals over land in this zone, but in close proximity to other zones, will be assessed on their impact on the activities within the adjoining zone.

COMMERCIAL ZONE

3.2.7 To provide for a wide range of business and commercial enterprises centrally located in urban areas, without intruding into residential areas, where the population numbers warrant the establishment of a variety of businesses with associated civic and cultural facilities for the people using such area. It is intended that shops and shopping centres be located in this zone and where appropriate the zone be developed with tourist facilities. It is also intended that developments conserve or enhance the historic or scenic character of the zone in accordance with Council's requirements.

INDUSTRIAL ZONE

3.2.8 The provision of areas for light industrial activities with general industrial activities requiring the consent of the Council in appropriate locations. This zone is intended for local, small scale and clean industrial activities with full urban services and is to be located so that it does not interfere with the amenity of residential areas. Where consent is given for other industries and uses and where these activities will involve larger parcels of land, the nature of their operations should be such as to not be detrimental to the amenity of the area. Street frontage landscaping, on site parking and loading/unloading facilities are important requirements.

NOXIOUS, OFFENSIVE OR HAZARDOUS INDUSTRY ZONE

3.2.9 To provide for industries which by their nature are likely to be noxious, offensive or hazardous in relation to other types of land use including other industries. Large scale general industries may also locate in this zone with Council consent. Recycling depots and other visually intrusive activities will be encouraged to locate in this zone. Residential and other forms of incompatible land uses will be restrained from locating near this zone.

PARKS AND OPEN SPACE ZONE

3.2.10 The provision of suitable areas of land for all forms of open space including recreation and sporting facilities. This zone includes some Reserves and areas of outstanding interest and visual amenity.

SPECIAL PURPOSE ZONE

3.2.11 To identify and accommodate all forms of government and public land uses and to provide for specific types of land uses not otherwise covered in the Planning Scheme. This zone also makes provision for child care centres and other community facilities.

SPECIAL FACILITIES ZONE

3.2.12 To accommodate those uses, or a combination of uses, which do not readily fit into other zones. The location of this zone will depend on the particular nature of the use, or uses proposed and the extent of urban services to be provided. Uses in this zone should be those which cannot be satisfactorily located in any other zone, or could be a combination of such uses. Applications for approval of a rezoning for inclusion of land in this zone shall be subject to the submission of a Plan of Development. Such plans of development shall include a schedule of permitted and permissible uses intended to apply to development on the site and if applicable, design specifications in respect of the elements which comprise the proposed development.

RURAL B ZONE

3.2.13 The protection of the catchment of a water storage from incompatible development which may detrimentally affect the water quality or quantity. Within this zone proposed land uses must be considered with due regard to such potential effects. At selected locations there will be lands designated for recreational and water access purposes reflecting the tourist activities and attractiveness of the ponded water for recreation activities. This zone has a wide range of uses allowable with the consent of the Council. Those uses where permitted, must demonstrate a relationship and a compatibility with the intent of the zone. Land will not be excluded from this zone and included in any other zone except for the purpose of providing recreation facilities and where the proposed zone is the more appropriate. Land in this zone will not be rezoned for residential or rural residential purposes except where expressly provided by the Strategic Plan, to restrict the number of rural/non-rural activities that may be conducted in such an area and to curtail the rate of the subdivision of land by providing large minimum allotment sizes under the Subdivision of Land provisions within Part 11. The zone is also intended to cover those parts of the Shire which do not have any agricultural value but which, nevertheless, need to be preserved in their natural state.

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WATER STORAGE BUFFER ZONE

3.2.14 The intent of this zone is similar to the intent of the Rural B zone except that the range of uses permitted by the Scheme and able to be carried out with the consent of the Council is further limited.

RECREATION ZONE

3.2.15 To provide for forms of recreation and leisure associated with the use of the ponded waters of any water supply storage or any land-based recreation and leisure activity. Uses will be limited and subject to conditions that ensure that the water storage or rural amenity is not detrimentally affected, environmentally, or visually. Sites will be limited and developed progressively in accordance with policy statements of the Council and with the approval of any relevant Administering Authority.

UNSERVICED LAND ZONE

3.2.16 The intent of this zone is to preclude premature development of 'historic' subdivisions of urban allotments not located within a designated village or urban area and which cannot be economically serviced with basic public infrastructure. Land within this zone will not be rezoned except in accordance with the dominant land uses as designated on the Strategic Plan: provided that the resultant allotments are in conformity with the requirements of the particular land use categories.

WATER STORAGE ZONE

3.2.17 The intent of this zone is to indicate areas of land which may, or may not have been resumed by Government action and are now subject to inundation from time to time as part of the water storage reservoirs within, or partly within the Shire. Such land if left uncovered by temporarily receding water levels remains under the control of the relevant Administering Authority. The extent of the zone indicates the approximate Full Supply Level (FSL) of each of the water supply reservoirs.

GENERAL INTENT

3.2.18.1 The establishment of an appropriate mixture of land uses whilst segregating incompatible land uses. Restricting the closer development of land not suited to it by virtue of topography, stability, drainage or flooding problems while providing appropriate amounts of land for the various uses and in the appropriate locations. Providing for the orderly growth of the Shire. Protecting against closer development of land acquired for or required for the water supply catchments, buffer areas and public purposes. No special zoning has been created for extractive industries or quarries. Their locations are dependent on the location of the resource. Known resources, of economic benefit to the community and operating quarries and extractive operations will be protected from the encroachment of incompatible land uses.

3.2.18.2 Rezonings generally, will only be permitted where it is clearly established that:-

- (a) the proposal accords with the objectives and preferred dominant land uses of the Strategic Plan;
- (b) a demand exists and justification can be shown, for the proposed development;

- (c) the proposed development is capable of being connected to, or serviced by, all relevant public infrastructure and does not prejudice the rational extension of any existing services; and
- (d) the proposed development is not, or will not be, prejudicial to the rights of any adjoining land users, or to the realisation of the aims of the Strategic Plan.

3.2.18.3 The rate of development and the rate of erection of dwelling houses or occupation of land as the case may be, will be taken into account by the Council when considering applications for rezoning of land.

Section 3.3 RESTRICTIONS ON DEVELOPMENT IN ZONES

3.3.1 Subject to the provisions of Sections 4.1 and 4.2 of this Planning Scheme the purposes for which any premises: -

- (a) 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 Development for 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) 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 Development for 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 consent of the Council";
- (c) 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 Development for 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".

3.3.2 Where any premises are used or are intended for use for more than one purpose, it shall be deemed, for the purpose of this Planning Scheme, to be used for or intended for use for each of those purposes, except that the term "Tourist Facility" includes the purposes within that definition.

3.3.3 Where any use or proposed use is not particularly defined in Part 2, or cannot be adequately defined within a class of uses in that Part, the use or proposed use shall be deemed to be a purpose set forth in Column IV of the relevant Table of Development, provided always that the use or proposed use is consistent with the general purport of the zone to which the proposal relates.

3.3.4 Subject to the provisions of Section 4.1 and 4.2 of this 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 Development for the relevant zone; or
- (b) erect or use any building or other structure or use land in any zone for a purpose set forth in Column V of the Table of Development for the relevant zone.

Part 3 - Zoning

3.3.5 Notwithstanding that, pursuant to this 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 the 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, subject to this Planning Scheme, all relevant By-laws shall apply and be in force in respect of such erection or use;

3.3.6 The inclusion of land in a particular zone under the provisions of this Planning Scheme does not imply that part or all such land is either capable of being subdivided or is suitable for subdivision for purposes or uses permitted by this Planning Scheme; the extent of subdivision which may be undertaken will be determined in each case on receipt of detailed information, pursuant to the provisions pertaining to the Subdivision of Land.

3.3.7 Notwithstanding the contents of any scheme map, no road opened or dedicated whether before or after the appointed day and no part of any river, creek or stream shall be deemed for any purpose whatsoever to be land included in a zone.

DEVELOPMENT IN PARTICULAR ZONES

3.3.8.1 Notwithstanding that, pursuant to sub-section 3.3.1, development may be carried out without the consent of the Council, any such development shown in Column III of the respective Table of Development, as subject to the provisions of this sub-section, shall not be commenced on or after the appointed day unless there has been an application under Section 12.2 of this Planning Scheme.

3.3.8.2 Provided that the development to which this sub-section relates shall not include the erection or use of additions to an existing building or structure where the existing floor area will be increased by less than fifty (50) square metres or five (5) percent, whichever is the lesser, by reason of the erection or additions.

3.3.9 Where land has been included in the Special Facilities zone by a rezoning application and where any condition of such rezoning approval referred to approved plans, any development thereon which is not generally in accordance with such approved plans to the satisfaction of the Council, but would otherwise be for a permitted purpose, shall be deemed to be not for a permitted purpose but for a purpose requiring the consent of Council.

3.3.10 Any development within the Special Facilities zone other than a development permitted by sub-section 3.3.9, for a purpose which would but for the provisions of this sub-section be for a permitted purpose shall, if the building has a site coverage greater than forty (40) percent or a height greater than two (2) storeys, be deemed to be not for a permitted purpose but for a purpose requiring the consent of Council.

Section 3.4 - TABLE OF DEVELOPMENT: RESIDENTIAL ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Residential	Red Res	<p>(a) Domestic pets Dwelling house (except where: - (i) the frontage road is not constructed as a residential street; (ii) not in accordance with an approved plan of development; (iii) approval is required pursuant to sub-section 6.5.3) Park relative's flat (if located under the same roof as or having a common wall with the principal dwelling unit or, if detached, on an allotment not less than 800 square metres in area)</p> <p>(b) Purposes subject to sub-section 3.3.8</p> <p>Display home Dwelling house (where: - (i) minor modifications are required to an approved plan of development; (ii) approval is required pursuant to sub-section 6.5.3) Estate sales office Home occupation Host home Multiple dwelling (two only dwelling units subject to sub-section 6.5.6) Poultry run (domestic) Public infrastructure</p>	<p>Accommodation building Child care centre Dwelling house (where: - (i) the frontage road is not constructed as a residential street; (ii) modifications (not being minor modifications) are required to an approved plan of development) General store (if more than 800 metres radius from an existing general store, a commercial zone, or an approved general store site) Home industry Motel Multiple dwelling (except where: - (i) the nominal height of the building exceeds two storeys; (ii) otherwise included in clause (b) of Column III hereof) Place of Worship relative's flat (other than as referred to in Column III) Sports and recreation B</p>	Any purpose other than those referred to in Column III or Column IV of this Table

Section 3.5 - TABLE OF DEVELOPMENT: RURAL RESIDENTIAL ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Rural Residential	Light green-brown RR	(a) Agriculture Domestic pets Dwelling house Park Poultry run (domestic) relative's flat (if located under the same roof as or having a common wall with the principal dwelling unit or, if detached, on an allotment not less than 800 square metres in area) (b) Purposes subject to sub-section 3.3.8 Animal husbandry (limited to one head of livestock provided the allotment is more than 8 000 square metres in area) Display home Estate sales office Home industry Home occupation Host home Public infrastructure	Animal husbandry (if more than one head of livestock) Child care centre General store (if more than 800 metres radius from an existing general store, a commercial zone, or an approved general store site) Plant nursery relative's flat (other than as referred to in Column III) Sports and recreation B	Any purpose other than those referred to in Column III or Column IV of this Table

Section 3.6 - TABLE OF DEVELOPMENT: FUTURE RURAL RESIDENTIAL ZONE

Future Rural Residential	Medium brown FRR	(a) Agriculture Animal husbandry Domestic pets Dwelling house Park Poultry run (domestic) relative's flat (if located under the same roof as or having a common wall with the principal dwelling unit or, if detached, on an allotment not less than 800 square metres in area) (b) Purposes subject to sub-section 3.3.8 Advertising signs Display home Estate sales office Home industry Home occupation Host home Intensive animal husbandry Public infrastructure	Aquaculture Cattery Forestry General store (if more than 800 metres radius from an existing general store, a commercial zone or an approved general store site) Landscape supplier Limited extractive industry Outdoor entertainment A Outdoor entertainment B Plant nursery Poultry farm relative's flat (other than as referred to in Column III) Roadside stall Service station Sports and recreation A Sports and recreation B Temporary quarry Veterinary clinic Veterinary establishment	Any purpose other than those referred to in Column III or Column IV of this Table
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Section 3.7 - TABLE OF DEVELOPMENT: VILLAGE ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Village	Orange V	<p>(a) Domestic pets Dwelling house Park relative's flat (if located under the same roof as or having a common wall with the principal dwelling unit or, if detached, on an allotment not less than 800 square metres in area)</p> <p>(b) Purposes subject to sub-section 3.3.8</p> <p>Advertising sign Animal husbandry (limited to one head of livestock provided the allotment is more than 8000 square metres in area) Display home Estate sales office Home occupation Host home Poultry run (domestic) Public infrastructure</p>	<p>Animal husbandry (if more than one head of livestock) relative's flat (other than as referred to in Column III)</p> <p>Any purpose other than those referred to in Column III or Column V of this Table</p>	<p>Accommodation building Advertising hoarding Aquaculture Cabin park Camping ground Caravan park (Class A) Caravan park (Class B) Car park Cattery Cattle dip Coursing or trialling track Extractive industry Forestry General industry Hazardous industry Host farm Institution Intensive animal husbandry Kennel Light industry Limited extractive industry Liquid fuel depot Lot feeding (intensive) Lot feeding (non-intensive) Multiple dwelling Noxious or offensive industry Outdoor entertainment A Outdoor entertainment B Piggery (intensive) Piggery (non-intensive) Poultry farm Recycling depot Roadside stall Rural industry Shopping Centre Special use Stockyard Temporary quarry Tourist Facility Training course Warehouse Zoo</p>

Section 3.8 - TABLE OF DEVELOPMENT: RURAL A ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Rural A	Light brown RuA	(a) Advertising sign Agriculture Animal husbandry Domestic pets Dwelling house Forestry Home occupation Park Piggery (non-intensive) (on sites with a minimum area of 5 hectares) Poultry run (domestic) (b) Purposes subject to sub-section 3.3.8 Aquaculture Caretaker's residence Display home Estate sales office Home industry Host farm Host home Intensive animal husbandry Lot feeding (non-intensive) Piggery (non-intensive) (on sites with an area less than 5 hectares) Plant nursery Public infrastructure relative's flat Roadside stall Stockyard Veterinary clinic Veterinary establishment	Any purpose other than those referred to in Column III or Column V of this Table	Accommodation building Cabin park Caravan park (Class A) Caravan park (Class B) Commercial premises Funeral parlour General store (if less than 800 metre radius from an existing general store, a commercial zone, or an approved general store site) Hazardous industry Hotel Institution Multiple dwelling Noxious or offensive industry Shop Shopping centre Showroom Special use Tourist facility Warehouse

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Section 3.9 - TABLE OF DEVELOPMENT: COMMERCIAL ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Commercial	Blue Com	(a) Advertising sign Caterer's rooms Commercial premises Funeral parlour Park Plant nursery Produce store Professional office Refreshment service Shop Showroom Veterinary clinic (b) Purposes subject to sub-section 3.3.8 Advertising hoarding Caretaker's residence Car park Car repair station Poultry run (domestic) (when in association with a caretaker's residence on the same land) Public infrastructure Service station Shopping centre Transport terminal	Accommodation building (not on ground level) Bulk store Child care centre Domestic pets Hotel Indoor entertainment Landscape supplies Milk distribution depot Motel Multiple dwelling (not on ground level) Tourist facility Veterinary establishment Warehouse	Any purpose other than those referred to in Column III or Column IV of this Table

Section 3.10 - TABLE OF DEVELOPMENT: INDUSTRIAL ZONE

Industrial	Purple Ind	(a) Advertising sign Bulk store Car repair station Domestic pets Forestry Funeral parlour Landscape supplier Light industry Milk distribution depot Park Plant nursery Produce store Service station Showroom Transport terminal Veterinary clinic Veterinary establishment Warehouse (b) Purposes subject to sub-section 3.3.8 Advertising hoarding Caretaker's residence Carpark Poultry run (domestic) (when in association with a caretaker's residence on the same land) Public infrastructure	Agriculture Commercial premises General industry Indoor entertainment Liquid fuel depot Professional office Recycling depot Refreshment service Shop Stockyard	Any purpose other than those referred to in Columns III or Column IV of this Table
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Section 3.11 - TABLE OF DEVELOPMENT: NOXIOUS OFFENSIVE OR HAZARDOUS INDUSTRY ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Noxious, Offensive or Hazardous industry	Purple with yellow border Ind NOH	(a) Advertising hoarding Advertising sign Bulk store Car repair station Domestic pets Forestry General industry Light industry Liquid fuel depot Park Recycling depot (b) Purposes subject to sub-section 3.3.8 Caretaker's residence Car park Hazardous industry Noxious or offensive industry Poultry run (domestic) (when in association with a caretaker's residence on the same land) Public infrastructure Stockyard	Agriculture Commercial premises Lot feeding (intensive) Refreshment service	Any purpose other than those referred to in Column III or Column IV of this Table

Section 3.12 - TABLE OF DEVELOPMENT: PARKS AND OPEN SPACE ZONE

Parks and Open Space	Dark green POS	(a) Park Sports and recreation A Sports and recreation B (b) Purposes subject to sub-section 3.3.8 Domestic pets Caretaker's residence Poultry run (domestic) (when in association with a caretaker's residence on the same land) Public infrastructure	Agriculture Animal husbandry Caterer's rooms Child care centre Forestry Home occupation Indoor entertainment Intensive animal husbandry Limited extractive industry Outdoor entertainment A Outdoor entertainment B Place of worship Refreshment service Zoo	Any purpose other than those referred to in Column III or Column IV of this Table
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Section 3.13 - TABLE OF DEVELOPMENT: SPECIAL PURPOSE ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Special purpose	Yellow SP	(a) Crown reserves as indicated by black lettering on the scheme maps Special uses as indicated by red or black lettering on the scheme maps (b) Purposes subject to sub-section 3.3.8 Educational establishment Institution Park Place of worship Public infrastructure Special use Any rural use for which Forestry Department land is leased	When carried out in conjunction with a purpose referred to in Column III, any other purpose which in the opinion of the Council is allied to and compatible with, but supplementary to, that particular purpose. Except as specified in Column III, where land is leased by a government authority, or an instrumentality of a government authority for a period of less than five (5) years and the purpose of development is, in the opinion of the Council, compatible with permitted and permissible uses within the adjoining zone or zones.	Any purpose other than those referred to in Column III or Column IV of this Table

Section 3.14 - TABLE OF DEVELOPMENT: SPECIAL FACILITIES ZONE

Special facilities	Yellow with red border SF	(a) The particular purpose indicated by red or black lettering on the scheme maps Development in accordance with an approved plan of development The particular purposes included on an approved plan of development as permitted development (b) Purposes subject to sub-section 3.3.8 The particular purposes included on an approved plan of development as permitted development subject to the notification of conditions Minor modifications to an approved plan of development Development which comprises only minor building work involving an existing lawful use of premises included in this column	When carried out in conjunction with a purpose referred to in Column III, any other purpose which in the opinion of Council is allied to and compatible with, but supplementary to, that particular purpose The particular purposes included on an approved plan of development as permissible development	The particular purposes included on an approved plan of development as prohibited development Any purpose other than those referred to in Column III and Column IV of this Table
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Part 3 - Zoning

Section 3.15 - TABLE OF DEVELOPMENT: RURAL B ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Rural B	Dark brown RuB	(a) Animal husbandry (other than goats) Domestic pets Park relative's flat (if located under the same roof as or having a common wall with the principal dwelling unit or, if detached, on an allotment not less than 800 square metres in area) (b) Purposes subject to sub-section 3.3.8 Advertising sign Agriculture (other than the growing of turf) Dwelling house Forestry Home occupation Host farm Host home Poultry run (domestic) Public infrastructure Veterinary clinic	Aquaculture Caretaker's residence Cattle dip Child care centre Display home Extractive industry Home industry Intensive animal husbandry (other than goats) Landscape supplier Limited extractive industry Place of worship Plant nursery relative's flat (other than as referred to in Column III) Roadside stall Rural industry Stockyard Temporary quarry Veterinary establishment	Any purpose other than those referred to in Column III or Column IV of this Table

Section 3.16 - TABLE OF DEVELOPMENT: WATER STORAGE BUFFER ZONE

Water Storage Buffer	Light green WSB	(a) No purpose (b) Purposes subject to sub-section 3.3.8 Animal husbandry (other than goats) Park	Limited extractive industry Public infrastructure Sports and recreation A (if allotment adjoins a Recreation zone or where the land is designated as Recreation & Leisure on the Strategic Plan Map) Any purpose which in the opinion of the Council is allied to and compatible with, but supplementary to, an approved use within an adjoining Recreation zone	Any purpose other than those referred to in Column III or Column IV of this Table
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Section 3.17 - TABLE OF DEVELOPMENT: RECREATION ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with 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
Recreation	Yellow-green Rec	(a) Animal husbandry Park (b) Purposes subject to sub-section 3.3.8 Advertising sign Caretaker's residence Public infrastructure	Agriculture Accommodation building (if associated with a tourist facility or recreational activity) Cabin park Camping ground Caravan park (Class A) Caterer's rooms Domestic pets Educational establishments Forestry General store Hotel Indoor entertainment Intensive animal husbandry (if associated with a tourist facility or recreational activity) Limited extractive industry Motel Multiple dwelling (if associated with a tourist facility or recreational activity) Outdoor entertainment A Outdoor entertainment B Place of worship Refreshment service Shop Sports and recreation A Sports and recreation B Temporary quarry Tourist facility Zoo	Any purpose other than those referred to in Column III or Column IV of this Table

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Section 3.18 - TABLE OF DEVELOPMENT: UNSERVICED LAND ZONE

Column I	Column II	Column III	Column IV	Column V
Zone	Colour and/or designation on Scheme Maps	Purposes for which buildings or other structures may be erected or used or for which land may be used without the consent of the Council	Purposes for which buildings or other structures may be erected or used or for which land may be used only with the consent of the Council	Purposes for which buildings or other structures may not be erected or used or for which land may not be used
Unserviced Land	Light brown with orange border NU	(a) Agriculture Domestic pets Forestry Park (b) Purposes subject to sub-section 3.3.8 Animal husbandry (if the allotment is more than 8 000 square metres in area)	Dwelling house Intensive animal husbandry (if the allotment is more than 8 000 square metres in area) Poultry run (domestic) Public infrastructure Sports and recreation A Sports and recreation B	Any purpose other than those referred to in Column III or Column IV of this Table

Section 3.19 - TABLE OF DEVELOPMENT: WATER STORAGE ZONE

Water Storage	Light blue WS	Any purpose for which land is leased by the Brisbane and Area Water Board	When carried out in conjunction with a purpose referred to in Column III, any other purpose which in the opinion of Council is allied to and compatible with, but supplementary to, that particular purpose	Any purpose other than those referred to in Column III or Column IV of this Table
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PART 4 EXISTING USES

Section 4.1

EXISTING LAWFUL NON- CONFORMING USES

4.1.1 The requirements of this Section shall apply to an existing lawful use which, had it not been in existence before the appointed day, would, having regard to the zone in which it is carried on, constitute a purpose for which any building or other structure or any part thereof may not be erected or used or for which land may not be used in that zone pursuant to clause 3.3.1(a). Such a use is hereafter referred to as an "existing lawful non-conforming use".

4.1.2.1 A person may continue an existing lawful non-conforming use of any building or other structure or any part thereof but such use shall not be added to or the use in any way extended or changed to another lawful non-conforming use except with the prior consent of the Council pursuant to sub-section 4.1.4.

4.1.2.2 Upon the demolition or destruction of any building or other structure or any part thereof in which an existing lawful non-conforming use was carried on, or upon the occurrence of damage to any such building or other structure which, in the opinion of the Council is so substantial as to preclude the continuance of such lawful non-conforming use or upon the discontinuance for a period of at least six (6) months from any cause whatsoever of such existing lawful non-conforming use, the right to continue such existing non-conforming use shall cease and determine unless the Council otherwise determines pursuant to clause 4.1.2.3, 4.1.2.4, or 4.1.2.5.

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

- (a) Where such building or other structure is demolished 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 upon which the demolished, destroyed, or substantially damaged building was erected; or
- (b) where such building or other structure is so substantially damaged as, in the opinion of the Council, to permit its repair, consent to the repair of such building or other structure;

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

4.1.2.4 Subject to the prior consent of the Council, 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 and may, subject to Council By-laws and if a notice of re-alignment has been given by the Council affecting the land in question, to the provisions of paragraph (ii) of subsection (10) of Section 35 of the Local Government Act 1936-1991, cover the whole of the allotment upon which the demolished, destroyed or substantially damaged building or other structure was erected.

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

4.1.2.6 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 lawful non-conforming use is carried on but any such alterations or additions shall be confined within the boundaries of the allotment upon which the building or other structure is erected as at the appointed day.

4.1.2.7 Subject to the prior consent of the Council any alterations or additions as aforesaid may increase the floor area of the building or other structure and may, subject to Council By-laws and if a notice of realignment has been given by the Council affecting the land in question, to the provisions of paragraph (ii) of subsection (10) of Section 35 of the Local Government Act 1936-1991, cover the whole of the allotment upon which the building or other structure is erected as at the appointed day.

4.1.3 A person may continue an existing lawful non-conforming use of any land upon which there is no building but such use shall not be added to or the use in any way extended or changed to another lawful non-conforming use except with the prior consent of the Council pursuant to clause 4.1.2.3. Upon the discontinuance for a period of at least six (6) months from any cause whatsoever of such existing lawful non-conforming use, the right to continue such existing lawful non-conforming use shall cease, unless the Council otherwise determines pursuant to clause 4.1.2.5.

4.1.4 The Council may, upon application being made to it, consent to an addition or extension or a change of an existing lawful non-conforming use to another lawful 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.

4.1.5 Where an existing lawful non-conforming use occupies only a portion of the floor area of any building or area of any allotment in or upon which the use is carried on the area of such proportion shall not be increased except with the prior consent of the Council pursuant to Clause 4.1.2.6.

4.1.6 The Council may, upon application being made to it, consent to an increase of the proportion of the floor area of any building or area of any allotments in or upon which an existing lawful non-conforming use is carried on provided that such increase shall not exceed ten percent (10%) of the proportion being used for that purpose before the appointed day.

4.1.7 The Council may, upon application being made to it, approve the subdivision of land containing a lawful non-conforming use, provided that the lawful non-conforming use is first ceased, restricted, curtailed or otherwise reduced so that the lawful non-conforming use does not in the opinion of the Council have a detrimental affect on the amenity of the area. The Council shall not approve to a subdivision proposal which if approved would create a lawful non-conforming use on more than one (1) allotment, or would have the effect in the opinion of the Council of subdividing the lawful non-conforming use into two (2) or more parts on separate allotments.

4.1.8 Notwithstanding the provisions of the this section, where an existing non-conforming use is considered by an Administering Authority to be detrimental to the quality of any ponded water storage located within a catchment area declared pursuant to Regulation 11 of the Water Act 1926-1987, or located within a Rural B or Water Storage Buffer zone as shown on the Scheme Maps, the Council shall, upon receipt of notice from the Administering Authority, require the person carrying on the lawful non-conforming use to upgrade the use so as to not pollute the waters of the ponded supply. Such a lawful non-conforming use shall not be added to nor the use in any way extended or changed unless directed so to do.

Section 4.2

EXISTING LAWFUL FETTERED USES

4.2.1 The following provisions shall apply to an existing lawful use which, had it not been in existence before the appointed day would, having regard to the zone in which it is carried on constitute a purpose for which any building or other structure may be erected or used or for which land may be used only with the consent of the Council in that zone. Such a use is hereafter referred to as an "existing lawful fettered use".

4.2.2.1 A person may continue an existing lawful fettered use of any building or other structure, or any land on which there is no building or other structure, but the existing lawful fettered use shall be confined within the boundaries of the allotment upon which such use is carried on as at the appointed day as if consent to such use had been granted for that allotment only.

4.2.2.2 The Council may, upon application being made to it give consent to the execution of repairs, alterations or additions to any building or other structure in which an existing lawful fettered use is carried out but any such alterations or additions shall be confined within the boundaries of the allotment upon which the building or other structure is erected as at the appointed day.

4.2.2.3 Upon the demolition or destruction of any building or structure in which an existing lawful fettered use is 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 fettered use, or upon the discontinuance of such fettered use for a period of six (6) months from any cause whatsoever, the right to continue such fettered use shall cease unless the Council otherwise determines.

PART 5 LOCAL PLANNING POLICIES

Section 5.1 LOCAL LAW POLICIES

5.1.1 Local Law Policies are, to the extent applicable, to be read in conjunction with the planning scheme and are to have effect consistent with the provisions of the scheme.

PART 6 SPECIAL REQUIREMENTS IN RELATION TO PARTICULAR DEVELOPMENT

Section 6.1 GENERAL

6.1.1 The provisions of this Part shall, at Council's discretion, apply to all developments irrespective of whether the consent of the Council to the use or erection of premises is required, or not required, by the Planning Scheme.

6.1.2 In addition to the provisions of this Part, any purpose for which premises may be used or erected shall not commence unless the required external works have been provided for, or carried out and the costs of any alterations to public infrastructure mains, services or installations rendered necessary by the provision or carrying out of any works have been paid for by the person proposing to commence the use.

6.1.3.1 For the purpose of this Part, "required external works" shall include all or any of the requirements set out in this sub-section:

- (a) Construction on that side of the carriageway closest to the site, concrete kerb and channel in accordance with the standard design for the time being certified to by the Shire Engineer for the full length of the frontage of the site or, where there is more than one frontage, those frontages;
- (b) The forming and grading of the footway for the full length of the frontage of the site or, where there is more than one frontage, those frontages;
- (c) Crossings over channel;
- (d) Where the road is paved, but is not paved for the full width of the carriageway, the paving of the road with bitumen between the existing pavement and channel referred to in clause (a) above;
- (e) Where the road is not paved, the construction of the carriageway and the paving thereof with bitumen from the lip of the channel referred to in clause (a) above to the centre-line for half the width of the carriageway, or for a minimum width of six (6) metres, whichever is the greater; and
- (f) Such drainage to the satisfaction of the Shire Engineer as is rendered necessary by the carrying out of any works hereto referred.

Section 6.2 CARAVAN PARKS

6.2.1 In addition to the requirements of any By-laws of the Council the provisions of this Section shall apply in respect of the use of land for the establishment of Caravan Parks.

6.2.2.1 The area of the allotment or parcel of land which may be used for a caravan park shall not be less than two (2) hectares.

6.2.2.2 Provided that Council may dispense with the requirement in clause 6.2.2.1 if it is considered that such dispensation is justified having regard to: -

- (a) the existing development of the locality;
- (b) the existing and future amenity of the locality;
- (c) the topography of the site; and

(d) the number of roads to which the site has frontage.

6.2.2.3 All sites shall, unless otherwise exempted, be provided with underground drainage, sewerage, waste disposal, water supply and power supply to the satisfaction of the Council.

6.2.2.4 The requirements of the Council, including requirements as to drainage, disposal of waste water, provision of an adequate and suitable water supply, adequate and suitable sewerage or septic tank facilities and power supply shall be complied with at all times.

6.2.2.5 A landscaped area comprising not less than ten percent (10%) of the total site shall be set aside for recreation purposes including children's play areas. This area shall be in addition to landscaped buffer strips around the site and clothes drying areas. Such area may include sites for buildings and other structures used for recreational purposes. A suitable plan drawn to scale, shall be submitted to the Council in respect of the required landscaped area. Such plan shall make provision for the planting of suitable tall standing trees as well as the spacing thereof and the number of trees to be provided. Where possible the bulk of such landscaped area shall be provided in one area.

6.2.2.6 Provision shall be made for car washing bays on the basis of one bay per fifty sites with a maximum of four bays. Such bays shall be paved and drained to the satisfaction of the Council.

6.2.2.7 Where deemed necessary, provision shall be made for boat, caravan or trailer storage within the caravan park.

6.2.2.8 No van sites, access roads, buildings or other structures shall be located below the highest known flood level, unless the approval of the Council is obtained and all van sites shall have flood free access to the satisfaction of the Council.

6.2.2.9 A minimum of one hundred (100) square metres, exclusive of private amenities, shall be allotted to each caravan and not more than one caravan shall be parked at any one time on an area so allotted; this area shall not include any part of the internal roadways that are required to move caravans in and out of the park.

6.2.2.10 Each caravan site shall have a minimum site frontage of ten (10) metres.

6.2.2.11 Internal roadways shall be not less than ten (10) metres in width, of which six (6) metres shall be bitumen sealed or other hard surface material unless otherwise approved by Council.

6.2.2.12 All points of entrance to or exit from the caravan park shall be located so as not to create, in the opinion of the Council, a traffic hazard or increase any existing traffic hazard.

6.2.3.1 The following conditions and requirements of this sub-section shall also apply provided that the Council may relax or waive any of the requirements of clauses 6.2.3.2(a) and 6.2.3.2(b) having regard to the existing development of the locality and the standard of roads and drainage provided in the locality.

6.2.3.2 The applicant shall provide for the:

- (a) Construction of a pedestrian pavement one point two (1.2) metres wide or such other width as the Council may determine for the full length of the external road frontage;
- (b) provision of required external works;
- (c) provision of all weather access to the caravan park at all times, to the Council's satisfaction;
- (d) the cost of all alterations necessary to local utility mains, services or installations involved in the construction of the abovementioned works shall be borne by the applicant; and
- (e) the materials used in the execution of the abovementioned works shall be to the requirements and satisfaction of the Council.

6.2.3.3 All internal roads shall be laid out to avoid the creation of vehicular and pedestrian hazards and congestion both within the park and at points of access to public roads.

6.2.4.1 Caravan parks may be considered as comprising both short term residency areas and long term residency areas. This distinction shall not imply that two separate uses are conducted on the subject land for the purpose of the Planning Scheme.

6.2.4.2 The areas proposed by the applicant to be set aside for short term and long term residency shall be subject to approval by the Council.

Section 6.3

EXTRACTIVE INDUSTRIES, LIMITED EXTRACTIVE INDUSTRIES, AND TEMPORARY QUARRIES

6.3.1 In this Section, unless the context otherwise indicates or requires, the terms extractive industry, limited extractive industry, and temporary quarry include any other ancillary activity: The term "the operator" includes the person conducting the industry or quarry.

6.3.2.1 A person shall not carry on nor cause to be carried on an extractive industry, a limited extractive industry, or a temporary quarry on land within a zone which does not prohibit the use of such land for such purpose without first obtaining the consent or approval of the Council to do so.

6.3.2.2 The operator, or if that person is not the owner of the land, the owner of the land shall comply with all the requirements from time to time of the Council regarding:-

- (a) methods of staging and limits of the area proposed to be excavated;
- (b) location of and type of plant, buildings, equipment and stockpiles;
- (c) control of dust, noise and waste water;
- (d) location and construction of haul roads on the land and beyond the land;
- (e) rehabilitation of the land;
- (f) removal of waste material or refuse;
- (g) creation of buffer areas (suitably planted), between excavated areas and adjoining road and land;
- (h) ensuring the safety of the public;

- (i) the protection of the amenity of the area, as far as is practicable;
 - (j) any other matter or thing considered necessary or expedient by the Council;
- and, without derogating from the generality of the foregoing, shall observe, perform and comply with the provisions of Council's By-laws pertaining to Extractive Industries.

6.3.3 The Council may refer any application to use land for the purpose of an extractive industry, limited extractive industry, or temporary quarry, to any authority including, without limiting the generality of the foregoing, the Queensland Water Resources Commission and the Brisbane and Area Water Board. The Council shall not be bound wholly by any decision or recommendation of any such authority.

6.3.4.1 In determining whether an application pursuant to this planning scheme should be approved, refused or approved subject to certain conditions and if so what conditions the Council shall have regard the provisions of this sub-section amongst such other matters as it may consider relevant:

- (a) the location of the proposed site and whether in the opinion of the Council it is or will become a residential or rural residential locality;
- (b) the effect the use of the proposed site for the extractive industry will have on the amenity or scenic beauty of the locality surrounding the proposed site having regard to the existing and probable future use thereof;
- (c) the standard of the road giving access to the proposed site and whether, in the opinion of the Council, such roads are to a standard sufficient to carry traffic of the nature that the extractive industry would be likely to engender;
- (d) the roads (in terms of particular routes) which would be required for use by the applicant in the transportation of extractive material; the load-bearing capacity of roads and bridges as required and the expected weight of loads of vehicles used in such transportation;
- (e) whether as a condition of approval the applicant for the operation of an extractive industry should be required to construct or upgrade existing roads used in connection with the extractive industry to a standard approved by the Shire Engineer, and in this regard whether the applicant should be given the option of paying to the Council a contribution for the construction or upgrading of roads used in connection with the extractive industry, which contribution shall be expended on such roads; and
- (f) whether as a condition of approval the applicant should be required to pay to the Council a contribution towards the maintenance of roads used or likely to be used in association with the extractive industry.

6.3.4.2 In assessing the basis upon which the contribution towards the maintenance of roads used or likely to be used by the extractive industry the Council may have regard to the following matters namely-

- (a) the size, capacity and number of vehicles which have used such roads and the number of movements of such vehicles over such roads to and from the land used for the extractive industry in the previous twelve (12) month period or the first year of operation and the estimates thereof in respect of the period for which the approval is sought;
- (b) the then condition of the said roads;
- (c) the maintenance and/or replacement costs and expenses in relation to the said roads incurred by the Council in the previous twelve (12) month period and/or for the first year of operation the estimated costs and expenses as assessed by the Shire Engineer for the period for which the approval is sought based on the estimates provided by the applicant in respect of the period for which the said approval is sought relating to number, size and capacity of vehicles to be used in the transportation of extractive material;

6.3.4.3 The Council shall determine whether as a condition of the approval the application should be required to furnish the Council with a bond to secure the works required in respect of clause 6.3.4.1(e) and/or the contributions required in respect of clause 6.3.4.2.

6.3.5.1 In the event that any of the conditions of approval imposed by the Council in respect of the subject land are not complied with, the Council, with or without engineers, servants, workmen, employees, contractors and other persons authorised by the Council, shall have the full and free right and liberty at all times to enter upon the subject land with or without mechanical devices and vehicles of any nature whatsoever for the purpose of carrying out such of the said requirements that have not been fulfilled, and the cost of such work shall be chargeable against the bond pursuant to clause 6.3.4.3 hereof and if no bond has been provided, shall constitute a debt due and owing by the holder of the approval.

6.3.5.2 For the purpose of sub-section 6.3.4 the term "road" means such roads and bridges within the express power and authority of the Council pursuant to section 30 of the *Local Government Act 1936-1991*.

6.3.6.1 In respect of an extractive industry, limited extractive industry, or temporary quarry established before the coming into force of this Planning Scheme, the provisions of this section shall apply to the whole of such industry or quarry, including existing buildings where:-

- (a) the use is a lawful non-conforming use under the said scheme and new excavation increases the gross volume of the excavated area by more than five (5%) percent; or
- (b) the use is a lawful fettered use under the said scheme and new excavation increases the gross volume of the excavated area by more than ten (10%) percent; and
- (c) in every case new construction increases the gross covered area of the existing buildings or structures on the site by more than fifty (50%) percent;

6.3.6.2 For the purposes of this sub-section the term "building or structure" shall include areas used for parking of vehicles, stockpiling of materials or overburden and access ways.

Section 6.4 LIGHT INDUSTRIES, GENERAL INDUSTRIES, HAZARDOUS INDUSTRIES, NOXIOUS OR OFFENSIVE INDUSTRIES AND THE ERECTION OF BUILDINGS IN INDUSTRIAL ZONES

6.4.1.1 In addition to the requirements of any By-law of the Council and this Planning Scheme the provisions of this section shall apply with respect to the use of land, or the erection of a building on land for a light industry, general industry, hazardous industry, or noxious or offensive industry and for any other purpose in any industrial zone where such use or erection is commenced after the appointed day (whether or not the consent of the Council is required).

6.4.1.2 Any person wishing to undertake development described in this Section shall, to the Council's satisfaction: -

- (a) provide the required external works;
- (b) construct reinforced industrial crossings from the kerb and channel to the property alignments at locations approved by the Council, where vehicular access to the property is required;
- (c) bear the cost of alterations to public infrastructure mains and services involved in the construction of kerb and channelling and industrial crossings; and(d) provide drainage works as specified by the Council as necessary in connection with the use of the land;

6.4.1.3 Such work shall be carried out before the use is commenced or, in the case of the erection of a building, before such building or part thereof is occupied.

6.4.1.4 Surfaced parking areas shall be provided in accordance with the following: -

- (a) Parking areas for employee's vehicles;
- (b) Provision shall be made for the parking, loading and unloading of vehicles used in connection with the industry;
- (c) The Council may also require parking areas to be provided for customers' vehicles.

6.4.2.1 The site requirements of this sub-section shall apply to the use of land or buildings or the erection of buildings on any land, for any purpose, in an industrial zone.

6.4.2.2 The maximum site coverage allowed is seventy percent (70%) of the site area with a minimum building setback of ten (10) metres provided that on a corner lot the minor frontage setback may be reduced to seven (7) metres and such area shall be maintained as landscaped open space and shall be kept clear of parking spaces and receptacles;

6.4.2.3 A landscaped buffer strip of not less than three (3) metres shall be provided adjoining any property boundary other than a road frontage: Provided that where the allotment is less than one thousand five hundred (1500) square metres in area the Council may permit a lesser width;

6.4.2.4 The minimum width of access driveways shall be four (4) metres clear of all car parking and loading areas and so designed that vehicles can enter and leave the site in forward gear.

6.4.3.1 Where land in any industrial zone is adjacent to land in any other zone such land shall not be used or buildings shall not be erected unless a buffer or screen fence and landscaped strip of not less than ten (10) metres in width is provided along the common boundary between the two zones within the industrial allotment. The fence shall be constructed to the Council's specifications and the buffer strip shall be planted and maintained with screen landscaping which in the opinion of the Council is sufficient to provide a definite noise and visual buffer between the industrial zone and any other zone.

6.4.3.2 No person shall erect or cause to be erected a building for industrial purposes unless the front facade is constructed of brick, concrete, glass or other similar materials, but not including corrugated iron, galvanised iron or steel, unless the building is located not less than twenty (20) metres from any street frontage and such setback is landscaped to the satisfaction of Council.

6.4.3.3 No person shall erect or cause to be erected a building for industrial purposes which in the opinion of the Council, would, by its design, orientation or construction materials, have a detrimental affect on the amenity of the area or adjoining development, or where the building would place restrictions on the future development of adjoining allotments.

6.4.3.4 In any industrial zone wherein the open storage of goods or materials is permitted and the goods or materials so stored are in the opinion of the Council of an untidy nature or have an untidy appearance detrimental to the amenity of the area, the Council may require the owner or occupier of the land to effectively screen the storage area with a landscaped buffer or screen fence to the specifications of the Council. No open storage area shall be located closer than three (3) metres to any side or rear boundary of the allotment.

6.4.4.1 No person shall erect or cause to be erected, buildings, structures, retaining walls, or place filling material for car parking areas or storage areas below the highest known flood level on land fronting a river, stream or creek as determined by the Council, provided that the areas below the floodline may be developed as unrestricted landscaped areas.

6.4.4.2 No person shall cause any interference with the amenity of the area by reason of the emission of noise, vibration, smell, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise or cause hazards likely in the opinion of the Council to cause undue disturbance or annoyance to persons or affect property not connected with the industry.

6.4.4.3 No person shall impose a load on any public infrastructure undertaking including the disposal of wastes, greater than that which is required for the normal development of the locality in which the industry is carried on.

6.4.4.4 No person shall by reason of the carriage of goods or materials create traffic upon public roads in the locality or cause congestion or danger to users of such roads.

6.4.4.5 No person shall conduct any form of industry on a Sunday, Public Holiday or between the hours of 6 p.m. and 7 a.m. weekdays except where the approval of the Council is otherwise obtained or noise attenuation measures or work practices have been introduced so as not to cause a nuisance to adjoining landowners.

6.4.4.6 All solid and liquid wastes shall be disposed of to the satisfaction of the Shire Engineer.

6.4.5 The provisions of this section shall apply to and include all existing buildings where the new construction increases the gross floor area of the existing buildings on the site by more than fifty (50%) percent, or is more than the floor area of particular uses referred to in the relevant Council Policy.

Section 6.5 RESIDENTIAL USES

General Requirements

6.5.1.1 Except where otherwise provided in this Planning Scheme, in addition to the provisions of any By-law, the conditions and requirements of this section shall apply with respect to any premises used or intended to be used for residential purposes.

6.5.1.2 Except where otherwise provided in this Part or an application for subdivision is proposed, if the site includes more than one parcel of land, it is to be amalgamated into one parcel, the Surveyor's plan is to be sealed by the Council and lodged in the office of the Registrar of Titles before the approval of the building application and proof of registration is to be submitted before a certificate of completion will be granted for dwelling units or before a Building Units Certificate will be issued.

6.5.1.3 Except where otherwise provide in this Part, a person shall not erect, or cause to be erected more than one dwelling house on an allotment, provided however that on an allotment in a Rural zone containing ten (10) hectares or more, two dwelling houses may be permitted if the buildings are for occupation and use for persons who are "bona fide" engaged in use of land comprising the allotment for or in connection with agriculture, animal husbandry, intensive animal husbandry, lot feeding, a piggery or a poultry farm.

6.5.1.4 A person shall not erect, nor cause to be erected on an allotment a building or structure, the erection of which could lead to such allotment having on it both a dwelling house and another structure which does not form part of a dwelling house: Provided that the Council may, subject to Part 3, grant its approval to the construction of a dwelling house for use as a caretaker's residence on an allotment which is used or can be permitted to be used for non-residential purposes.

6.5.1.5 Notwithstanding the provisions of clause 6.5.1.2, a person shall not erect, nor cause to be erected, on an allotment of less than two (2) hectares, any outbuildings unless such buildings are incidental to and necessarily associated with a dwelling house: Provided that the floor area of such outbuildings shall not exceed fifty percent (50%) of the gross floor area of the dwelling house.

6.5.1.6 Where a reticulated water supply is not available, the minimum water storage to be provided shall be of such size as is determined from time to time by the Council: Provided that in the case of a building or allotment comprising more than two dwelling units, an adequate proven potable water supply shall be available on site.

6.5.1.7 Where a reticulated sewerage system is not available, liquid wastes are to be disposed of in accordance with specifications adopted from time to time by the Council.

6.5.1.8 No person shall on land other than land within any Commercial or Industrial zone park a commercial or industrial vehicle exceeding two (2) tonnes tare weight or exceeding two point five (2.5) metres in height unless it is housed in a Class I or Class X building as defined in the Building Act 1975-1991 and approved by the Council, or is parked behind the front building setback in a manner compatible with the amenity of the area and approved by the Council. In considering an application for a building pursuant to this clause the Council shall consider whether the size, design or materials to be used are likely to have a detrimental effect on the amenity of the area. In a Residential zone the maximum site coverage of all Class I and Class X buildings as defined in the Building Act 1975-1991 shall not exceed fifty percent (50%).

6.5.1.9 No person shall on land other than land within any Commercial or Industrial zone store any equipment, materials, machinery or tools of trade used in any business, profession, trade or hobby unless the materials are completely housed in a Class I or Class X building pursuant to the terms of clause 6.5.1.8.

6.5.1.10 No person shall on land other than land within any Commercial or Industrial zone carry out any maintenance or repair work on any commercial or industrial vehicle or any equipment, materials, machinery or tools of trade used in any business or profession, trade or hobby unless the prior consent or approval of the Council is obtained for a home occupation or home industry: This requirement shall not apply where the activity is in connection with "bona fide" rural pursuits being conducted on the land.

6.5.1.11 No person shall on land other than land within any Commercial or Industrial zone store any fuel either above or below ground for the purpose of fuelling commercial or industrial vehicles unless the prior consent or approval of Council for a home industry has been obtained and the fuel is required in connection with that industry: This requirement shall not apply where the fuel is required in connection with "bona fide" rural pursuits being conducted on the land.

6.5.1.12 No person shall use a dwelling house including a relative's apartment for any purpose other than a single dwelling house, once the use of a relative's apartment has ceased. No person shall at any time use a dwelling house for any form of accommodation building or multiple dwelling.

Intent : Residential Development Standards

6.5.2.1 The provisions of sub-sections 6.5.2 to 6.5.17 are intended to facilitate a mix of residential development within the Residential zone. Development standards are included for conventional residential developments in the form of dwelling houses on separate allotments with multiple dwellings being permissible development generally at a higher density than conventional residential developments.

6.5.2.2 The provisions are also intended to facilitate housing developments which incorporate the basic design principles of the Model Code and the provisions of Part 11 of the Standard Building By-laws. The provisions are particularly orientated to housing developments which provide for dwelling units built to the boundary and small lot subdivisions in the form of integrated housing developments. However, allowance has also been made for the use of the Model Code provisions in association with conventional land subdivision.

6.5.2.3 The common element in all cases will be the need for a comprehensive plan of development for each particular project. In the case of building applications in respect of allotments existing on or before the appointed day, the Council shall take into consideration the relevant provisions of sub-section 6.5.3 when assessing such applications. In the case of development applications submitted after the appointed day, the approved plan of development will be registered by the Council and thereafter used to control subsequent development of the relevant land. Any plan of development submitted for approval will be required to identify the essential design elements and design guidelines including such things as a conceptual but detailed layout and design specifications. These elements will be used to ensure subsequent development may proceed in a rational and coordinated manner. These provisions will particularly relate to multiple dwellings and integrated housing developments but will equally be applicable to other residential developments which may provide for dwelling units built to the boundary and/or a mix of small allotments in a subdivision.

6.5.2.4 The provisions of sub-section 6.5.3 shall not apply in respect of an application for the erection of a dwelling house in accordance with the setback requirements of By-law 11.4 of the Standard Building By-laws.

6.5.2.5 Applications for development which relate to the erection of a dwelling house, intended to be built to the boundary on an existing allotment, shall only be considered pursuant to the provisions of sub-section 6.5.3.

6.5.2.6 An application for development which relates to the subdivision of land for the purpose of erecting or providing for the erection of dwelling houses on allotments in the size range of 450m² - 600m² shall be accompanied by a plan of development prepared in accordance with the provisions of sub-section 6.5.3.

6.5.2.7 Applications for residential development shall be prepared to account for the elements of the Model Code. Where such applications relate to the erection of dwelling units on allotments of less than 600m², or where provision is to be made for dwelling houses to be built to the boundary, such applications shall be accompanied by a plan of development prepared in accordance with the relevant provisions of this Section.

6.5.2.8 The Council shall establish and maintain a register of all approved plans of development relating to residential development applications approved in accordance with the relevant requirements of this Section. Each plan shall be endorsed with a number and dated and thereafter, unless amended, shall remain the approved plan of development for the relevant land.

6.5.2.9 Except as provided by clause 6.5.2.4, it will be a condition of approval for all residential development applications that detailed concept plans for the proposed development shall be finalised and included as a basis for any agreement or conditional approval before the application is forwarded to the Minister or otherwise approved by the Council as the case may be.

Dwelling Houses not subject to a Plan of Development - Applications

6.5.3.1 Any development application, for subdivision and/or the erection of a dwelling house to be built to the boundary on land not the subject of an approved Plan of Development registered pursuant to sub-section 6.5.2, shall include plans drawn to a suitable scale with such plans to include the matters set out in this sub-section.

6.5.3.2 A location plan shall be prepared with sufficient detail to locate the relevant land in relation to adjoining streets and allotments.

6.5.3.3 A site plan of the relevant land indicating: -

- (a) the boundaries and a metes and bounds description of the relevant land;
- (b) the location of adjacent roadways and footpaths relative to the boundaries of the relevant land;
- (c) the position of the proposed dwelling house and any other structures intended to be erected on the relevant land;
- (d) the position of all buildings and other structures on adjoining allotments;
- (e) the position and layout of proposed driveways and car parking areas;
- (f) the location and details of internal landscaping and recreation areas;
- (g) the position of existing and proposed trees and other landscaping features;

6.5.3.4 Plans, including elevations and sections as necessary, indicating: -

- (a) the internal layout of the dwelling house including the dimensions and intended use of each room;
- (b) the position and size of doors and windows;
- (c) all roof and wall projections, balconies, verandahs, steps and outbuildings.

6.5.3.5 The proposed dwelling house shall be sited and designed in accordance with the provisions of Part 11 of the Standard Building By-laws and conform with the design principles of the Model Code in relation to dwelling units built to the boundary.

6.5.3.6 Notwithstanding the provisions of clause 6.5.3.5, the Council may: -

- (a) require a minimum side and/or rear setback of 900mm; or
- (b) require the plans to be otherwise modified to conform with the provisions of By-law 11.5 of the Standard Building By-laws; or
- (c) require the plans to be modified to conform with the provisions of By-law 11.4 of the Standard Building By-laws;

where it is of the opinion the design and orientation of the dwelling house would not be consistent with existing or likely future development after taking into consideration the situation, suitability and amenity of the relevant land in relation to adjoining allotments in particular and the locality in general.

6.5.3.7 The Council may waive or modify the restriction imposed by paragraph 11.5(3)(i) of the Standard Building By-laws regarding the application of the provisions of By-law 11.5 because of the existence of dwelling houses on adjoining allotments, provided that the applicant satisfies Council that a relaxation is warranted after taking into consideration the factors set forth in By-law 11.11 of the Standard Building By-laws.

6.5.3.8 An approval pursuant to this sub-section shall not abrogate the need for an application for building approval under the Building Act 1975-1991.

Integrated housing development - Applications

6.5.4.1 Any application, combined or otherwise, for rezoning, subdivision or consent as the case may be, for an integrated housing development shall be in accordance with the requirements of this sub-section, the subdivision of land provisions and be accompanied by a plan of development and design specifications which, amongst other things, shall include: -

- (a) identification of the relevant land including the real property description and a metes and bounds description of all external boundaries;
- (b) a concept layout including all building areas, land uses, roadways, car parking, landscaping and recreation areas;
- (c) the dimensions and area of each proposed allotment;
- (d) the siting and typical floor plans of buildings and other structures intended to be erected on each allotment;
- (e) an identification of preferred mandatory building lines where provision is made for dwelling units built to the boundary, and the delineation of maximum and preferred building envelopes within each proposed allotment where a range of typical floor plans are proposed or offered for erection by a project builder or by others;
- (f) a schedule of design criteria intended to be applied to premises within the proposed development;
- (g) design specifications used or intended to be used for the development. Such specifications shall be in accordance with the elements set out within the Model Code and the Site Requirements pursuant to Part 11 of the Standard Building By-laws: Provided that further and more detailed

particulars will be required in support of design elements which are not substantially in conformity with the Deemed-to-comply criteria therein. An applicant shall demonstrate to the satisfaction of Council that the relevant performance criteria may be satisfied by the design elements used by the applicant.

6.5.4.2 The character and density of development shall be in keeping with existing and likely future development in the locality. Density shall be determined by the Council taking into account the following matters, but at no time shall exceed the maximum density provided by clause 6.5.4.3: -

- (a) topography of the site;
- (b) availability of services;
- (c) the existing zones and subdivision pattern of the locality;
- (d) the provisions of the Strategic Plan, and any Development Control Plan or Policy Statement in relation to the locality;
- (e) existing or approved development in the locality;
- (f) traffic planning, including access to the proposed development;
- (g) the situation, suitability and amenity of the relevant land in relation to the surrounding area; and
- (h) provisions for landscaping and buffer areas.

6.5.4.3 Where land is to be subdivided with the erection of dwelling units by others, the allotments shall contain a minimum area of 450m² and no allotment shall contain or provide for more than one dwelling unit, unless otherwise approved by the Council: Provided that in the case of multiple dwellings intended to be comprised of dwelling units on separate allotments, Council may permit allotments in the size range of 300m² - 450m² provided the average area of all such allotments is not less than 400m².

6.5.4.4 All buildings shall have a common architectural theme or otherwise provide for a range of designated standard building plans to the satisfaction of the Council and the dwelling units shall be set out or designed to provide for the siting of each dwelling unit in a landscaped setting designed to maintain or enhance the general residential amenity of the locality.

6.5.4.5 The maximum building site coverage of any allotment shall be fifty percent (50%).

6.5.4.6 The minimum landscape and recreation area shall be forty percent (40%) of the site area, and may include pathways, swimming pools or recreation areas.

6.5.4.7 The front, side and rear boundary setbacks may be reduced to a minimum of zero (0) metres, provided the site layout and construction is in accordance with the requirements of the Standard Building By-laws, the relevant elements of the Model Code and the design and orientation is approved by Council.

6.5.4.8 Integrated housing developments, comprising dwelling units on proposed allotments less than 450m² or which comprise allotments whereon dwelling units are intended to be built to the boundary, shall be constructed as an entity or in stages approved by Council. All buildings shall be designed and constructed in accordance with the approved Plan of Development for the relevant land. Where the land is

intended to be subdivided in fee simple, all buildings shall obtain building approval and building work commenced before the lodgement of survey plans. Any development not in accordance with the Plan of Development shall not be approved by Council except in accordance with sub-section 6.5.5. Development including the erection of buildings shall be substantially completed before the survey plans will be released by Council, and in the case of a staged development, Council shall not issue building approval for subsequent stages until work within each approved stage is substantially completed.

6.5.4.9 At the time of lodgement of the initial development application, Council may accept schematic drawings supported by design specifications which identify the principal elements used in the formulation of the concept plans for the development: Provided that it will be a condition of approval for all development applications that detailed plans and design specifications are to be finalised and the approved Plan of Development included as part of any agreement or conditional approval for the development of the relevant land before the application is forwarded to the Minister, or otherwise approved by Council as the case may be.

6.5.5.1 The Plan of Development shall be registered by Council in respect of the relevant land and upon gazettal of the rezoning, or following development approval by Council as the case may be, the erection of buildings and other structures and the subdivision of the relevant land may only be undertaken in accordance with the approved Plan of Development.

6.5.5.2 Subject to the provisions of clause 6.5.5.3 and clause 6.5.5.4 Council may grant its approval to minor modifications to an approved Plan of Development when: -

- (a) the density of the development will not be increased;
- (b) the development or use of any premises has not commenced; or
- (c) the modifications would not result in a need to change the siting of a building or other structure on adjoining allotments; and
- (d) the modification is of a minor nature within the meaning of the terms of Section 4.15(3) of the Act;

6.5.5.3 Council may only grant its approval to other modifications to an approved Plan of Development where an applicant has complied with the requirements of Section 4.3 of the Act in respect of the procedures for an application to amend the conditions of an approval; or

6.5.5.4 In the case of a development approval not the subject of an agreement following rezoning, variations, not being a minor modification to an approved Plan of Development, may only be approved with the consent of the Council.

Multiple dwellings - General Requirements

Intent

6.5.6.1 The provisions of sub-section 6.5.6 to 6.5.12 are intended to facilitate the erection of multiple dwelling units for residential purposes. The provisions are also intended to be read in association with sub-section 6.5.5 where applicable, and Council's Policy on Residential Development Guidelines.

6.5.6.2 Premises shall not be erected or used as a multiple dwelling unless the development complies with the requirements of this planning scheme and otherwise generally complies with the provisions of Council's Policy on Residential Development Guidelines.

Maximum Height of Buildings

6.5.7.1 The mean height of any building or other structure shall not exceed 7.5 metres with the nominal height taken to be on the basis of two storey construction except where consent of the Council may be granted for more than two storeys in exceptional circumstances: Provided always that the height of buildings shall not exceed 10.5 metres under any circumstances whilst the relevant land remains within the Residential Zone.

6.5.7.2 The mean height of any building or other structure shall be determined in accordance with the Standard Building By-laws: The nominal height refers to the number of such storeys comprised of habitable rooms such that car parking generally below ground, or a roof top garden area will not be treated as separate storeys provided the mean height of the building is not exceeded.

Minimum Site Area

6.5.7.3 The minimum site area for the purpose of erecting multiple dwellings shall be: -

- (a) 800m² where two or more detached dwelling units or more than two attached dwelling units are proposed; or
- (b) 600m² where two only attached dwelling units are proposed.

Site Density

6.5.7.4 The maximum number of dwelling units on any one allotment shall be determined as one dwelling unit per 250m² of site area exclusive of any public road or park dedications as may be required by the Council.

Maximum number of attached dwelling units

6.5.7.5 Except where otherwise permitted by the Council the maximum number of attached dwelling units in any one development shall be: -

- (a) six (6) where the dwelling units are generally perpendicular to and orientated towards the road frontage; or
- (b) eight (8) where the dwelling units are generally parallel to the road frontage and orientated towards a central driveway.

Site Coverage

6.5.7.6 Unless otherwise provided in this Section, site coverage shall not exceed: -

- (a) 50% in the case of buildings or other structures with a mean height not exceeding 4.5 metres;

- (b) 40% in the case of buildings or other structures with a mean height exceeding 4.5 metres.

Driveways and Parking areas

6.5.8.1 Driveways, parking areas and vehicle turning areas shall be paved, concrete or such other load bearing material as may be approved by Council: Provided that in the case of visitor parking areas grassed revetment pavers or similar load bearing surfaces may be approved by Council.

6.5.8.2 Unless otherwise permitted by the Council, a maximum of two (2) only access points shall be provided for each premises: Provided that in the case of two only dwelling units, a single common driveway shall be provided, except in the case of a corner site Council may permit two access points.

6.5.8.3 Unless otherwise permitted by the Council, driveways and parking areas shall be located and designed to enable motor vehicles to enter and leave the premises in a forward gear.

Landscaping and Recreation areas

6.5.9.1 In the case of detached or attached dwelling units where such units are not erected above other dwelling units, a private courtyard with a minimum dimension of five (5) metres shall be provided for each dwelling unit: The area shall be directly accessible from the dwelling unit.

6.5.9.2 In cases other than in clause 6.5.9.1, communal landscape and recreation areas shall be provided with a minimum dimension of five (5) metres, a maximum width to depth ratio of 1:3, and shall be determined at a rate of ten square metres (10m²) of outdoor area for each bedroom.

6.5.9.3 In addition to the requirements of clause 6.5.9.1 or 6.5.9.2, twenty five percent (25%) of the site area shall be planted and landscaped to the satisfaction of the Council: Provided that the total area of recreation space and landscaping shall not be required to exceed forty percent (40%) of the site area.

6.5.9.4 The landscaping requirements shall include a nominal two (2) metre wide but irregular shaped or planted area of landscaping across the road frontage. This area is to be exclusive of driveways, private or communal open space, and parking areas.

6.5.9.5 Landscape and recreation areas shall be located for the convenience and enjoyment of all residents or occupants within the site and for the aesthetic enhancement of the development.

6.5.9.6 Landscaping within the common areas shall consist predominantly of trees and shrubs and shall be established and thereafter maintained to the satisfaction of the Council.

6.5.9.7 Internal fences or screen walls may be erected in locations approved by the Council to create private gardens or courtyards.

6.5.9.8 The landscape and recreation areas may include pathways, swimming pools or recreation facilities, but excludes clothes drying areas, recreation buildings or visitor parking areas: Provided that where visitor parking is constructed with concrete reinforced grass or artificial grass this area may be included in the landscape requirements.

6.5.9.9 Except for dwelling houses on separate allotments, and unless otherwise approved by the Council, the site shall have a minimum frontage and average width of twenty (20) metres: Provided that in the case of an irregular shaped allotment or parcel of land, the width of the site shall be at least twenty (20) metres measured along a line six (6) metres from and parallel to the road frontage.

6.5.9.10 The Council may waive the requirements of clause 6.5.9.9 in particular circumstances where in the opinion of Council: -

- (a) the proposed development would otherwise comply with the requirements of this sub-section; and
- (b) the proposed development would not or be likely to be detrimental to the amenity of adjoining allotments.

Privacy

6.5.10.1 Windows within dwelling units shall be designed with due regard to the privacy of residents within the dwelling unit and those within adjoining or opposite dwelling units. Windows generally should face a court or other outdoor space open to the sky, or an open verandah, open carport or the like.

6.5.10.2 Alternatively, privacy elements may include the installation of windows glazed in obscure glass, windows constructed with sills a minimum of one and one half (1.5) metres above the floor level or the erection of suitable screens or landscaping features. Design elements relating to privacy are set forth in Council's Policy on Residential Development Guidelines.

6.5.10.3 The Council may vary the requirements having due regard to the circumstances relating to each particular development.

Aesthetics

6.5.11 The design, materials, standard of construction and density of development shall generally be in keeping with the existing character of the area: Provided that the Council may modify this requirement in order to reflect the likely future character or a desired effect within areas which are in the process of redevelopment.

Maximum Length of Continuous Walls

6.5.12.1 The length of one continuous wall plane shall not be greater than sixteen (16) metres provided that: -

- (a) in the case of the dominant facade through which entry is provided to each unit, the lengths of wall which are offset by more than three (3) metres from one another, may be measured separately;
- (b) in the case of other external walls, the lengths which are offset by more than one and one-half (1.5) metres from one another may be measured separately; and

- (c) where buildings or other structures are separated by more than six (6) metres, the lengths may be measured separately.

6.5.12.2 The provisions of clause 6.5.12.1 may be modified where it can be shown to the satisfaction of Council that a building by virtue of its height, architectural presentation, landscape treatment or location on an allotment or where because of the slope of the relevant land, the modification would not be in conflict with the intent of this sub-section, or the provisions of sub-sections 6.5.10 and 6.5.11.

Residential Developments - Particular Requirements

Caretakers' Residences

6.5.13.1 Premises shall not be erected or used for the purpose of a caretaker's residence except in accordance with the provisions of this sub-section:

- (a) An unroofed outdoor recreation space with a minimum area of fifty square metres (50m²) and a minimum dimension of five (5) metres shall be provided for use by the occupants in a location to be approved by the Council.
- (b) One lockable car parking space shall be provided for use by the occupants;
- (c) The design, location, orientation and access shall be to the satisfaction of Council.

Relatives' Flats

6.5.14.1 Premises shall not be erected or used for the purpose of a relative's flat except in accordance with the provisions of this sub-section.

6.5.14.2

- (a) Not more than one relative's flat shall be erected on any allotment or lot;
- (b) In the Residential zone total site coverage shall not exceed fifty percent (50%) of the site area;
- (c) The relative's flat shall be of a similar architectural style as the dwelling house to which it is annexed.

6.5.14.3 An attached relative's flat shall be designed so that it may be adapted to form an integral part of the principal dwelling unit should the relative's flat cease to be used for such purposes.

6.5.14.4 A relative's flat shall not be let as a dwelling unit.

6.5.14.5 A relative's flat may only be occupied by a member or members of the immediate family of members of the principal household resident on the same allotment or lot.

Removal Houses

6.5.15.1 Where a building designed for use as a dwelling house is proposed to be removed from one site and re-erected on another site and where, in the opinion of the Council, the building will not be in conformity with the provisions of the Building Act, 1975-1991 or that when re-erected it will not conform with the character, materials and general standard of construction of buildings or other structures in the locality in which it is proposed to be re-erected or that when re-erected it will detract from the general aesthetic appearance and not be compatible with that locality, the Council may refuse to grant a Certificate of Compliance enabling the removal or transport of such building or other structure or part of a building or other structure.

6.5.15.2 An applicant may, upon the refusal by Council to issue a Certificate of Compliance, apply for consent of Council to undertake to remove and re-erect such building or other structure. In considering a consent application for the re-erection of a dwelling house, Council shall have regard to the proposed site layout, provisions for access and services and particularly to the existing and likely future amenity of the locality in which it is proposed to re-erect the dwelling house.

6.5.15.3 Every building or other structure or part of a building or other structure which is so removed or transported into the Shire, or from one part of the Shire to another part of the Shire shall, if required by the Council, be completely painted or repainted.

6.5.15.4 Any building or other structure or part of a building or other structure that has been condemned as dilapidated, unsanitary or unfit for human habitation shall not be so removed or transported.

6.5.15.5 The Council's issuance of a Certificate of Compliance or consent to the removal or transport of any building or other structure or part of a building or other structure from one site to another, whether bodily or by demolition, for re-erection, shall be conditional on the applicant lodging with the Clerk such amount as the Council may determine as security that such building or other structure or part of a building or other structure will be re-erected in conformity with the provisions of the Building Act 1975-1991 and any conditions of the certificate or consent.

6.5.15.6 Unless such security is given, the application shall not be approved and the certificate or consent permit shall not be issued by the Council.

6.5.15.7 The security shall be returned to the person lodging it after the Council has approved of the completed work (as signified in writing by the Clerk) but should the Council not so approve, it may at its discretion and without prejudice to any other remedy which it may have in law, apply the security or so much of the amount as is necessary in completing, altering or demolishing the building or other structure or part of a building or other structure by its own employees or by an independent contractor.

6.5.15.8 Where the Council applies the security in completing, altering or demolishing the building or other structure or part of a building or other structure, any balance of the security not expended shall be repaid to the person lodging the security or, if the security is not sufficient, the Council may nevertheless proceed with the work and recover the balance from the person by whom or on whose behalf the building or other structure or part of a building or other structure was proposed to be re-erected.

6.5.15.9 Release of the security, upon request, prior to the completion of the building or other structure or part of a building or other structure shall be conditional on the complete demolition of any erection and the removal of all materials from the site. Such release shall only apply after the consent has been revoked in accordance with Section 4.14 of the Act.

Motels

6.5.16.1 A building or other structure shall not be erected or used and land shall not be used for the purpose of a motel unless the development complies with the requirements of this sub-section.

6.5.16.2 The area of the allotment or parcel of land used or intended to be used for a motel shall be four thousand (4 000) square metres or more if located within an unsewered area or two thousand (2000) square metres or more if located within a sewerage area provided that Council may dispense with this requirement if it is considered that such dispensation is justified having regard to: -

- (a) the existing development of the area;
- (b) the existing and proposed amenity of the area;
- (c) the topography of the site;
- (d) the number of roads to which the site has frontage; and
- (e) the methods of waste water disposal to be used.

6.5.16.3 The requirements of the Council in respect of footpaths, roads, drainage, disposal of wastewater, adequate and suitable water supply and adequate and suitable sewerage or septic tank facilities shall be complied with at all times.

6.5.16.4 A landscaped open space area of at least twenty percent (20%) of the total site area shall be provided on the site and landscaped to the satisfaction of the Council.

6.5.16.5 When required by the Council, provision for loading and unloading buses shall be made on the same allotment in the case of motels having thirty (30) or more units.

6.5.16.6 The roadways and parking areas within the site shall be bitumen sealed or otherwise constructed to the satisfaction of the Council.

6.5.16.7 The roofed area of the motel, whether as one building or as a series of buildings shall be less than fifty percent (50%) of the total area of the site where such building or buildings are of one (1) storey, otherwise site coverage shall not exceed forty percent (40%) of the total area of the site.

6.5.16.8 The required external works shall be provided; and the applicant shall comply with such other reasonable and relevant requirements of the Council.

Accommodation Buildings

6.5.17 A building comprising an accommodation building shall conform with the requirements of sub-sections 6.5.6-6.5.12 where such provisions reasonably apply except that: -

- (a) the minimum site area shall be 800m²;
- (b) the maximum number of bedrooms or rooming units as the case may be shall be calculated on the basis of one bedroom for each 100m² of site area; and
- (c) the provisions of clauses 6.5.7.3, 6.5.7.4 and 6.5.7.5 shall not apply.

Section 6.6 SERVICE STATIONS

6.6.1 The provision of this Section shall apply in addition to the requirements of any other By-laws of the Council relating to service stations.

6.6.2.1 Service stations established after the appointed day shall conform to the requirements of this Section.

6.6.2.2 In the case of a corner site, the frontage to either road: -

- (a) shall be a minimum of twenty-eight (28) metres if only one vehicular crossing is required; or
- (b) shall be a minimum of thirty-seven (37) metres if two vehicular crossings are required; and
- (c) shall have no part of any crossing closer than fourteen (14) metres to the boundary of the intersecting street; and
- (d) shall not have more than two crossings on that frontage;

6.6.2.3 In the case of a site which is not a corner site the frontage shall be a minimum of forty (40) metres and not more than two crossings shall be permitted on the frontage.

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

6.6.3.2 A service station shall not be erected on any site having a frontage to a stock route where, in the opinion of the Council, the movement of vehicles could interfere with the movement of stock along the stock route: Provided that if vehicular access is not to the stock route, this provision does not apply.

6.6.3.3 Where the site of a proposed service station adjoins allotments which are used or are likely to be used for residential purposes under the provisions of the Planning Scheme a screen fence shall be erected and a landscaped strip three (3) metres wide along the boundary of the allotment abutting the residential allotments shall be planted and maintained in accordance with the Council's requirements: Provided that where such walls contain any openings a minimum setback of five (5) metres shall be provided where such walls adjoin land in the residential zone.

6.6.4.1 In the Rural A zone or a Future Rural Residential zone or within a rural area in any other zone the Council may require motor fuel pumps to be set back not less than fifty (50) metres from road frontages to all roads proclaimed under the Main Roads Act 1920-1983 and not less than twenty (20) metres for all other road frontages. Buildings and other structures (other than fuel pumps) shall be set back at least six (6) metres further than the motor fuel pumps.

6.6.4.2 Except as provided for in clause 6.6.4.1: -

- (a) motor fuel pumps shall be set back not less than eight (8) metres from road frontages;
- (b) buildings and other structures (other than motor fuel pumps) shall be set back not less than fourteen (14) metres from such frontages.

6.6.4.3 If the site abuts any land included in a Residential, Rural Residential or Village zone, the minimum clearances of buildings and structures from side and rear boundaries shall be three metres.

6.6.4.4 Clearances from road frontages shall be measured from the new road frontages created by a road widening or a truncation of the corner.

6.6.5.1 An applicant for consent or approval to erect a service station shall submit with the application a plan of layout showing the location and size of the proposed building, or other structure, or in the case of a service station within a building or other structure, of such service station in relation to the Real Property boundaries and roads fronting the service station and the position of motor fuel pumps.

6.6.5.2 The applicant shall, if Council consents or approves to such application, carry out to Council's satisfaction the works set out in this sub-section:

- (a) Remove all existing structures on the land before any new building is used as a service station where a service station was not being conducted on the land at the date of application, except where the approved building plans for the proposed service station provide for all or any part of such existing structures to be incorporated into the proposed service station and pursuant thereto such existing structures are so incorporated;
- (b) Dedicate as a road free of cost to the Council such part of the land as the Council requires to be so dedicated for corner truncation and for a deceleration lane not more than six (6) metres wide along the frontage of the land.

The maximum area which may be required under this clause to be dedicated for the purpose of a corner truncation free of cost to the Council shall not exceed the area of truncation at a right angled corner of nine (9) metres by three (3) equal chords. If the Council requires a corner truncation of an area in excess of such maximum area, the Council shall make to the applicant compensation in respect of such excess area;

- (c) Along such length of the road frontage to the subject land as Council may require: -
- (i) form, grade and construct a footpath;
 - (ii) construct concrete kerb and channelling; and
 - (iii) construct on the alignment of the road frontage, other than where industrial crossings are provided, a kerb, dwarf wall or similar vehicular barrier;
- (d) Form and grade the deceleration lane and area of truncation and construct the deceleration lane and roadway on the truncated area;
- (e) Construct reinforced industrial crossings from the kerb and channelling to the property alignment at locations approved by the Council where vehicular access to the property is required;
- (f) Provide such drainage work as is considered by the Council as being rendered necessary by the construction of the aforesaid works; and
- (g) Pay to the Council the cost of alterations to public infrastructure mains and services rendered necessary as a consequence of road works, drainage works or the construction of crossings to be carried out as aforesaid or pursuant to any By-law of the Council or conditions of consent imposed by the Council.

6.6.5.3 The applicant may, in lieu of carrying out such works, pay to the Council such sum as shall be approved by the Council for the carrying out thereof by the Council, in which event the Council shall, subject to the provisions hereof complete such works within the time agreed between the parties.

6.6.6.1 All service station buildings shall be constructed in fire-resisting materials within the meaning of the Building Act 1975-1991.

6.6.6.2 Compliance by the applicant with the requirements of this section and with any other relevant By-laws of the Council shall be a condition precedent to the granting by the Council of a licence or licences for a motor fuel pump or pumps installed on the subject land and such licences shall not be granted until such time as all requirements shall have been complied with in every respect.

6.6.6.3 Where the proposed service station adjoins a main road, the applicant shall provide such additional works as are required by the Department of Transport with regard to access to the site from the main road.

6.6.7 Notwithstanding the provisions of sub-sections 6.6.1 - 6.6.5, the Council may approve of the erection of fuel pumps on a site containing a general store situated not closer than five (5) kilometres from the nearest service station where such proposed pumps are ancillary to the primary use of the site as a general store. The erection of fuel pumps in conjunction with a general store as permitted by this sub-section shall be subject only to those requirements of this section which Council determines.

Section 6.7 SHOPS, SHOPPING CENTRES AND GENERAL STORES, COMMERCIAL USES AND OTHER USES IN THE COMMERCIAL ZONE.

6.7.1 In addition to the requirements of any other By-law of the Council where consent or approval of the Council is required, in addition to any conditions imposed by the Council, the conditions and requirements shall apply subject to the provisions of sub-section 6.7.5, with respect to every building to be erected for the purpose of a general store, a shop or a shopping centre, or a commercial use in any zone and any other use in a Commercial zone whether the building is for a purpose permitted by the Planning Scheme or for which the Consent of the Council is required under such Scheme.

6.7.2 If a dwelling house is on the site on which the proposed building is to be erected it shall be removed from the site before the proposed building is occupied except where, in the case of a general store, the approved building plans for the proposed general store provide for the dwelling house being attached thereto and pursuant thereto the dwelling house is so attached.

6.7.3.1 The owner of the land on which a building is to be erected where consent of the Council is not required or the application for consent, where consent to erect a building is required under the Planning Scheme and has been granted, shall, to Council's satisfaction and along such length of the frontage to the subject land as Council may require: -

- (a) construct a footpath to a width of three point five (3.5) metres or such lesser width as may be determined by Council;
- (b) construct concrete kerb and channelling;
- (c) where the road is paved but is not paved for the full width, construct and pave with bitumen a strip of road for a width of three (3) metres, or such other width as may be determined by Council, measured from the lip of the channel referred to clause 6.7.3.1(b);
- (d) where the road is not paved, construct and pave with bitumen a strip of road for a width of three (3) metres measured from the lip of the channel referred to in clause 6.7.3.1(b);
- (e) construct reinforced concrete industrial crossings from the kerb and channelling to the property alignment at locations approved by the Council where vehicular access to the property is required;
- (f) provide such drainage work as is considered by the Council as being rendered necessary by the construction of the aforesaid works; except that the Council shall not be authorised hereby to require drainage works to be provided otherwise than in respect of the subject land and the road frontage or frontages to such land.

6.7.3.2 The works referred to in clause 6.7.3.1 shall be carried out before the new building is occupied.

6.7.4.1 If required by the Council, the applicant shall provide a sewerage system to the requirements of the Council and, where the gross lettable area exceeds 460 m², provide public toilets.

6.7.4.2 The owner or applicant shall bear the cost of any alterations necessary to public infrastructure mains, services or alterations involved in the construction of the above-mentioned works.

6.7.4.3 The materials used in and the execution of the above-mentioned works shall be to the requirements and satisfaction of the Council.

6.7.4.4 The proposed building shall be constructed of fire resisting materials within the meaning of the Act and the facade of the proposed building shall be constructed of brick, concrete, glass or other similar materials approved by Council.

6.7.4.5 A cantilever awning shall be provided, if required by the Council.

6.7.4.6 That part of the site on which vehicles will be parked and/or driven shall be surfaced, drained and maintained to Council's satisfaction.

6.7.4.7. Provision shall be made within the curtilage of the building for the loading and unloading of vehicles, unless otherwise specified by Council.

6.7.4.8 The location of each of the buildings and sealed parking areas for shops and shopping centres may be determined by the Council in accordance with a Policy for the whole shopping area.

6.7.4.9 Where the proposed development is on a site which is over two thousand square metres (2000m²) in area, then: -

- (a) a landscaped strip at least two (2) metres wide shall be provided along such property boundaries as Council shall determine (except for ingress and egress points) and shall be planted and maintained in accordance with the Council's requirements;
- (b) a minimum of ten percent (10%) of the area of the site is to be set aside for landscaping and pedestrian access in a manner suitable to the Council.

6.7.4.10 Where the site abuts land used for residential purposes or land included in the Residential zone the common boundary shall be fenced.

6.7.4.11 Advertising and other signs are to be approved by the Council in order that the visual amenity of the area is not affected.

6.7.4.12 No lighting shall fall on roads or on land in a Residential zone or land used for residential purposes such that the level of illumination exceeds eight (8) lux (measured upwards) outside the site boundary.

6.7.5 In rural areas the provisions of 6.7.3.1(c)-(e), 6.7.4.6 and 6.7.4.7 shall not apply to a general store to be erected on a single allotment not exceeding six hundred square (600) metres in area if the gross floor area of the general store is less than forty-five (45) square metres.

Parking

6.7.6.1 Subject to clause 6.7.6.3 sealed parking shall be provided within the curtilage of each shop and shopping centre erected or established after the appointed day in accordance with the provisions of Section 6.9. The parking area shall be completed before the use of the building is commenced.

6.7.6.2 Provision for sealed parking in association with general stores or roadside stalls shall be made in accordance with the provisions of Section 6.9. In built-up areas such parking may be permitted within the boundaries of the road reserve provided that no hindrance is caused to the smooth flow of traffic along the carriageway. Subject to the provisions of sub-section 6.7.5, in rural areas, such parking shall be provided off the carriageway.

6.7.6.3 In a Commercial zone and with the approval of the Council, the on site parking may be reduced provided that a contribution is made to the Council towards the provision of a public car park in the area. The amount of the contribution shall be as determined by Council having regard to the cost of providing such public car park or as set out in the relevant Council Policy.

6.7.7 The provisions of this section shall apply to the whole of a shop or a shopping centre including existing buildings where the new construction increases the gross floor area of the existing buildings on the site by more than fifty percent (50%).

Section 6.8 SPECIAL CONDITIONS IN RESPECT OF OTHER USES

6.8.1.1 In a Rural A zone the Council may require buildings and other structures to be set back not less than fifty (50) metres from road frontages to all roads proclaimed under the Main Roads Act 1920-1983 and not less than twenty (20) metres from all other road frontages.

6.8.1.2 Where a distance specified in sub-section 6.8.2 differs from the dimension of this sub-section then the greater distance shall prevail.

6.8.2 Subject to the provisions of sub-section 6.8.1 a person shall not, other than with the prior approval of the Council, erect nor cause to be erected a building or other structure or use land or cause land to be used for a purpose set out in Column 1 of Table 6.8.2 hereunder in contravention of the requirements set out in Column 2 of the said Table opposite that purpose.

TABLE 6.8.2

Column 1	Column 2
Purpose	Requirements
Advertising hoardings and Advertising Signs	Located more than five hundred (500) metres from any existing or approved hoarding or sign except when located within a Commercial or Industrial zone
Abattoir	Buildings and other structures shall be not less than: - 1. One (1) kilometre from any part of a Residential, Rural Residential or Village zone existing at the date of commencement of the use 2. Two hundred (200) metres from a residential building, natural watercourse or road 3. Fifty (50) metres from any other boundary of the land
Animal husbandry	Buildings and other structures (excluding boundary fences) shall be not less than: - 1. Thirty (30) metres from a residential building 2. Ten (10) metres from a road or natural watercourse 3. Fifteen (15) metres from any other boundary of the land
Bird aviaries and pigeon lofts	Buildings and structures shall be not less than six (6) metres from a residential building or one point five (1.5) metres from any allotment boundary
Cattle Dip	Buildings and other structures shall be not less than: - 1. One hundred (100) metres from a residential building 2. Two hundred (200) metres from a Residential, Rural Residential, Recreation or Village zone 3. Fifty (50) metres from a natural watercourse
Columbarium	When located on land within or adjoining a Residential zone, or on land which has a common boundary with other land whereon a residential building is located, a columbarium shall have a clearance from the common boundary of not less than twelve (12) metres and shall be screened to the satisfaction of the Council so that no part thereof is visible from such other land or from a road which forms a boundary of the land on which the columbarium is located
Coursing or trialling	The outer bounds of the track shall be not less than: -

TABLE 6.8.2 contd

Column 1	Column 2
Purpose	Requirements
	1. One (1) kilometre from any part of a Residential, Rural Residential or Village zone existing at the date of commencement of the use 2. Two hundred (200) metres from any residential building other than the owner's residence 3. Fifty (50) metres from a natural watercourse 4. Sixty (60) metres from any boundary of the land or the owner's residence.
Dairy	1. Bails and other non-residential structures or buildings shall be not less than sixty (60) metres from a residential building 2. Cattle shall not be kept nearer to a residential building than fifteen (15) metres 3. Shall not be established on land the area of which is less than two (2) hectares
Goat farm	1. The goats shall at all times be kept in an enclosure that is not less than six hundred (600) metres from any part of a Residential, Rural Residential or Village zone existing at the date of the commencement of the use and not less than sixty (60) metres from a residential building 2. Shall not be established on land the area of which is less than two (2) hectares
Hotel or motel	New buildings to be erected on land adjacent to a Residential zone shall not be within six (6) metres of an external boundary of the land on which they are located which adjoins a Residential zone. An hotel or a motel established after the appointed day shall have provision for off-street parking within the curtilage of the building in accordance with Section 6.9
Intensive animal husbandry (excluding stables)	1. Buildings and other structures (excluding boundary fences) intended for use for the containment of livestock shall be not less than: - (a) Two hundred (200) metres from any part of a Residential, Rural Residential or Village zone existing at the date of commencement of the use (b) One hundred (100) metres from a residential building or from a road

TABLE 6.8.2 contd

Column 1	Column 2
Purpose	Requirements
	<ul style="list-style-type: none"> (c) Fifty (50) metres from a natural watercourse (d) Fifty (50) metres from any other boundary of the land
	2. Shall not be established on land the area of which is less than two (2) hectares.
Liquid fuel depot	Any building to be erected or any areas of land to be used for the open storage of liquid fuel after the appointed day, shall not be within ten (10) metres of the external boundary of the land
Piggery (intensive)	<ul style="list-style-type: none"> 1. Buildings and other structures to be not less than: - <ul style="list-style-type: none"> (a) One (1) kilometre from any part of a Residential, Rural Residential or Village zone existing at the date of commencement of the use (b) Two hundred (200) metres from a residential building or a road (c) Sixty (60) metres from a natural watercourse (d) Sixteen (16) metres from any other boundary of the land

TABLE 6.8.2 contd

Column 1	Column 2
Purpose	Requirements
	<ul style="list-style-type: none"> 2. Shall not be established on land the area of which is less than twenty (20) hectares except with the approval of the Council 3. An industry, other than an industry related to the rural use of the land, shall not be permitted on the same site as a piggery
Poultry farm or poultry abattoir	<p>Buildings and other structures to be not less than: -</p> <ul style="list-style-type: none"> 1. Two hundred (200) metres from any part of a Residential, Rural Residential or Village zone existing at the date of commencement of that use 2. Thirty (30) metres from a residential building, natural watercourse or road 3. Fifteen (15) metres from any other boundary of the land 4. Shall not be established on land the area of which is less than ten (10) hectares
Poultry run (domestic)	<ul style="list-style-type: none"> 1. Buildings or other structures and enclosed yards in which poultry may roam are to be not less than fifteen (15) metres from any dwelling, shop or place where food for human consumption is stored or kept or prepared, or within six (6) metres of any roadway or within one (1) metre of a property boundary. 2. Places where poultry are kept are to consist of a weatherproof structure for the roosting or sheltering of such poultry together with any enclosure yard in which poultry may roam. 3. Places where poultry are kept are to be maintained at all times in a clean and sanitary condition. 4. A person is not to keep or allow to be kept poultry in such a manner as to cause nuisance or to be injurious or prejudicial to health.
Recycling depot	<ul style="list-style-type: none"> 1. Any building or open storage area or areas to be used as a recycling depot shall be screened to the satisfaction of the Council so that no part thereof is visible from any road which forms a boundary of the land

TABLE 6.8.2 contd

Column 1	Column 2
Purpose	Requirements
	<p>2. If a recycling depot is to be permitted on land adjacent to a Residential, Rural Residential or Village zone or other land whereon a residential building is located, it must be screened to the satisfaction of the Council so that no part thereof is visible from such other land</p> <p>3. A recycling depot shall not be located adjacent to a road declared under the Main Roads Act 1920-1989</p>
Sawmill	<p>1. A building or other structure in which the milling of timber is to be carried out shall be so located that no part of it is within one hundred and thirty-five (135) metres of a road or a building in other occupation, except where the type of structure, the method of operation and the method of waste disposal are such that the Council considers a lesser distance is acceptable; providing that in no case shall the distance be less than thirty (30) metres</p> <p>2. The system of collection and disposal of all sawdust shall be to the satisfaction of the Council</p>
Stable	<p>1. The area of the land on which a stable may be erected shall be not less than two (2) hectares in any zone in which a stable may be permitted excepting in a Rural Residential zone the area of the allotment or parcel of land on which a stable (limited to one horse only) may be erected shall not be less than eight thousand (8000) square metres</p> <p>2. A horse shall not be kept nearer than: -</p> <p>(a) Thirty (30) metres from a residential building</p> <p>(b) Ten (10) metres from a road or natural watercourse</p> <p>(c) Four (4) metres from any other boundary of the land</p> <p>(d) Thirty (30) metres from any place in which food for human consumption is stored</p> <p>3. That part of the land being used for stables shall be fenced and maintained to contain all horses within the site</p>

TABLE 6.8.2 contd

Column 1	Column 2
Purpose	Requirements
Stockyard	<p>Buildings and other structures shall be not less than: -</p> <p>1. One hundred (100) metres from a residential building</p> <p>2. Twenty (20) metres from a road or natural watercourse</p> <p>3. Ten (10) metres from any other boundary of the land</p> <p>4. Such greater distances as Council may require where the number of animals able to be held in the yard exceeds one hundred</p>
Veterinary Establishment	<p>Where the use is carried out in a Rural Residential, Village or Commercial zone, any animals kept on the premises shall be enclosed in a sound-proofed building</p>

6.8.3.1 The provisions of sub-sections 6.8.1 and 6.8.2 shall not apply to uses which are existing lawful uses on the appointed day, save and except that where an existing building or structure is extended or the area of land occupied by an existing use is increased, the requirements of this section shall apply to the extension of the building or structure or to the use of the additional land.

6.8.3.2 The requirements set out in Column 2 of Table 6.8.2 shall be in addition to any other requirements which the Council may lawfully impose.

Lot Feeding

6.8.4.1 For the purposes of this planning scheme, livestock otherwise kept in the rural zones in accordance with the terms "Lot feeding (intensive)" and "Lot feeding (non-intensive)" shall be disregarded where the animals are so kept from time to time for the purpose of weaning, dipping, veterinary treatment or other similar husbandry purposes, or where animals are so kept only for such periods as may be required for drought or other emergency feeding purposes.

6.8.4.2 Buildings, other structures, pens and yards shall be so located that they are not less than: -

- (a) 2500 metres from any part of a Residential, Rural Residential or Village Zone existing at the date of commencement of the use;
- (b) 400 metres from a residential building or from a road;
- (c) 400 metres from a natural watercourse;
- (d) 400 metres from another boundary of the allotment or parcel of land on which the operation is located.

6.8.4.3 Lot feeding shall not be established on any allotment with an area of less than 20 hectares.

6.8.4.4 An industry other than an industry related to the rural use of land shall not be permitted on the same site as a lot feeding operation.

6.8.4.5 All enclosures shall be established, maintained and operated in such a manner as to provide, in the opinion of the Council or an Authorised Officer, for effective control of flies, rodents, pests and weeds.

6.8.4.6 The lot feeding operation shall be located, designed and operated to conform to the requirements of the **Clean Waters Act 1971** as amended from time to time.

6.8.4.7 All potential fly breeding grounds shall be sprayed when necessary with an approved insecticide and such action as may be directed by the Council or an Authorised Officer shall be taken to control fly breeding.

6.8.4.8 In the case of an existing lot-feeding operation established before the appointed day and which continues after the appointed day to be operated upon land within the area, where such establishment is in the opinion of the Council substandard in relation to the requirements of the planning scheme, the Council may make an Order and serve it upon the occupier of such land, or if there is no occupier, upon the owner directing such occupier or owner within the time specified in such Order to carry out such alterations, additions or improvements as the Council may in its discretion deem necessary.

6.8.4.9 Notwithstanding the requirements of this sub-section, the Council may in its discretion modify or permit a relaxation of such requirements in circumstances where it is considered appropriate having regard to the matters set out in sub-section 6.8.7.

6.8.5 When granting an approval for the establishment of a home industry that approval will be conditional on a two (2) year time limit from the date of approval for the carrying out of such use. The two (2) year time limit shall also apply to the continuation of any home industry existing at the appointed day. The Council may, on application approve yearly extensions of the limit.

6.8.6 In this section, and for the purposes of this planning scheme, unless the context otherwise indicates or requires the following terms have the meanings set against them respectively, that is to say: -

- (a) "Fowl" - A cock or hen (*Gallus domesticus*);
- (b) "Poultry" - Fowls, ducks, geese, turkeys, especially as a source of food, and the young thereof;
- (c) "Dog" - A dog of either sex, or desexed, by whatever name the variety is known, including a pedigreed dog (registered with the Canine Control Council of Queensland), a non-registered pedigreed dog, a cross breed dog, or a native dog.
- (d) "Residential Building" - Any fid structure which or part of which is normally used or which is so designed or equipped that it is capable of being used for human habitation.

6.8.7.1 Notwithstanding any of the provisions contained in this Section, the Council may dispense with or modify any of the requirements contained herein if it considers that a dispensation is justified having regard to: -

- (a) the existing development in the area;
- (b) the existing and likely future amenity of the area;

- (c) the number of road frontages of the site and the importance of particular roads;
- (d) the provisions for access;
- (e) the particular circumstances of the proposed use.

6.8.7.2A a person may be permitted by the Council to establish or expand an existing operation on a site with a lesser area and/or at a lesser distance than set out in this section if, in the opinion of Council and subject to supporting evidence by the applicant following consideration of any or all the matters set out below, special circumstances exist which warrant such modification: -

- (a) prevailing winds;
- (b) topography of the area;
- (c) number of animals to be kept;
- (d) soil types and conditions on the site;
- (e) waste disposal methods;
- (f) site drainage;
- (g) adjoining land uses and future development potential;
- (h) proximity to adjoining residences and urban development; and
- (i) any other matters considered relevant to the proposal.

Section 6.9

GENERAL REQUIREMENTS

PARKING

6.9.1 An applicant for consent to development, or the person who carries out development which is permitted pursuant to Column III of the Tables of Development as the case may be, shall provide parking spaces in accordance with the requirements in Column 2 of Table 6.9.1, as they apply to the particular development set out in Column 1 of Table 6.9.1 and in accordance with this Section. For the purpose of Table 6.9.1 a parking space shall be not less than five point five (5.5) metres long by two point six (2.6) metres wide.

Part 6 - Special Requirements: Particular Development

TABLE 6.9.1

Column 1	Column 2
Development	Minimum Parking Requirements
Accommodation building	One space per rooming unit
A development in which an industry of any category (other than an extractive industry, a limited extractive industry or a temporary quarry) is carried on or proposed to be carried on	One space per three employees or one space for each two hundred (200) square metres or part thereof of the total site whichever is the great, having regard to the provisions of subsection 6.4.2 and 6.4.5
Bulk stores	Two spaces for every five employees or one space for each two hundred (200) square metres or part thereof of the total floor area whichever is the greater
Drive-in bottle shop subject to licence under the Liquor Act	An are off street for eight cars being served or awaiting service
General stores	Four spaces or one space per fourteen (14) square metres or part thereof of retail sales area, whichever is the greater
Hospitals	One space for every four beds, in addition one space for every two employees (except where employees' quarters are located in close proximity to the hospital) and a further one space for each staff doctor or such lesser number as the Council may approve having regard to the particular circumstances
Hotels and clubs subject to licence under the Liquor Act	One space for each guest suite, and one space per ten square metres or part thereof of lounge area, and one space per two (2) square metres or part thereof of bar floor area and beer garden floor area (excluding the bar service area)
Institutions	One space per eighty-five (85) square metres or part thereof of total accommodation floor area
Motels	One space per rooming unit

TABLE 6.9.1 cont'd

Column 1	Column 2
Development	Minimum Parking Requirements
Multiple dwellings	Two parking spaces per unit shall be provided. One covered space shall be integrated as part of each dwelling unit or attached thereto and designed, located and constructed so that it may be enclosed or secured if so desired.
Offices -	
(i) General	One space per forty-five (45) square metres or part thereof of gross floor area
(ii) Professional offices, clinics and veterinary establishments	One space per twenty-eight (28) square metres or part thereof of gross floor area
Plant nursery	One space per two hundred (200) square metres or part thereof with a minimum of four spaces
Residential development except as specified herein in relation to particular residential development	One space per dwelling unit and in addition where residential development is combined with other development, the requirements described for that other development
Restaurant and refreshments services	One space for every four dining table spaces plus one space per two (2) square metres or part thereof of bar floor area (excluding the bar service area)
Roadside stalls	Four spaces
Road transport, passenger terminals	One space and one bus space per fourteen(14) square metres or part thereof of building area except those parts for parking inside the building. Minimum two car spaces and two bus spaces
Shops and shopping centres -	
(i) Less than four hundred and sixty (460) square metres	One space per twenty (20) square metres or part thereof of retail sales area

TABLE 6.9.1 cont'd

Column 1	Column 2
Development	Minimum Parking Requirements
(ii) Four hundred and sixty (460) square metres or more of retail area	One space per ten (10) square metres or part thereof of retail sales area Where possible off street parking spaces will be in the front of the premises A physical demarcation of the frontage, such as a dwarf wall or fence, shall be erected along all street frontages to car park areas between exits and entrances
Special uses and outdoor entertainments	Sufficient parking spaces to accommodate the amount of vehicular traffic likely, in the opinion of the Council, to be generated by the particular development
Squash courts	Four spaces per court
Places of worship and indoor entertainments (other than squash courts)	Two spaces per nine (9) square metres or part thereof of auditorium
Transport terminals (other than road terminals)	Twenty-five (25) percent of site area (sites less than two (2) ha), or twenty (20) percent transport passenger of site area (sites of two (2) ha or more) is to be developed as parking area
Warehouses	One space per nine (9) square metres or part thereof of office area and one space per ninety-five (95) square metres or part thereof of storage space
All other development not particularised above	Sufficient spaces to accommodate the amount of traffic likely, in the opinion of the Council, to be generated by the particular development

6.9.2 Notwithstanding the provisions of subsection 6.9.1 the Council may require the construction of a greater number of parking spaces in respect of a development which it considers likely to generate a greater than normal peak parking demand.

6.9.3 Notwithstanding anything to the contrary, in respect of development which was in existence at the date of coming into force of this Planning Scheme, when a change of use, or an increase of the existing use involving increased floor space of more than fifty percent (50%), or an increase in the number of employees or in the number of vehicles used in connection with the development is carried out or proposed to be carried out as the case may be, the Council may from time to time require the owner or

person carrying out or proposing to carry out such change to provide additional parking areas for vehicles having regard to the nature and extent of the use existing and proposed.

6.9.4 A parking area shall be: -

- (a) level or of such a gradient as in the opinion of the Shire Engineer to be suitable for vehicular parking;
- (b) laid out to the satisfaction of the Shire Engineer in such a way as to provide adequate access to each parking space and to permit free circulation of vehicles entering, leaving and parking;
- (c) constructed, sealed, marked and maintained to the satisfaction of the Shire Engineer and continue until such time (if at all) as the Council permits a modification of such parking areas;
- (d) readily accessible for vehicular use and in the case of a parking area within the curtilage of a building, so designed that vehicles can enter and leave the area in forward gear;
- (e) indicated by means of a sign or signs to the satisfaction of the Shire Engineer;
- (f) not closer than three (3) metres from the alignment of any structure, if in the Council's opinion space is necessary for pedestrian traffic. If directed a concrete kerb shall be erected at the boundary of a parking area.

6.9.5 A parking area shall be located upon the allotment upon which the building is to be erected unless by special consent, which the Council is hereby empowered to give, the Council approves of the parking area being located upon an adjoining allotment or allotments so that any part of such parking area is generally not more than two hundred (200) metres from the allotment upon which the building is being erected.

6.9.6 The Council may require that access to the parking area be provided from two dedicated roads.

6.9.7 A parking area required by this section shall be: -

- (a) kept exclusively for parking;
- (b) used exclusively for parking; and
- (c) maintained in a fit and proper condition for parking purposes by the owner.

6.9.8. As an alternative to the provision of a parking area as required by this section, the Council may resolve to accept from the person carrying out the proposed development a monetary contribution towards the cost of establishing public car parking facilities for the proposed development. The amount of such contribution shall be determined by negotiation between the Council and the developer: Provided that the monetary contribution and the distance from the site to the car park is in accordance with any Council Policy for the development of the town areas.

6.9.9 Where there is more than one use on the same allotment, the Council may, if it considers that the motor vehicles attributable to one use are not likely to be parked at the same time as those attributable to any other use, relax these requirements so that the parking area is not less than would be required for the motor vehicles likely to be parked at any one time.

6.9.10 Notwithstanding the provisions of subsection 6.9.1 the Council may approve the construction of a lesser number of parking spaces in respect of a development which it considers likely to generate less than normal peak parking demand.

6.9.11 After policy statements have been confirmed by the Council they shall be deemed to express the policy of the Council in relation to the desirable development of land in that part of the Planning Scheme area to which they relate, but they shall not for any purpose be deemed to be a rezoning of land provided however, that the Council in determining any application for approval to develop or subdivide land in an area included in a policy statement shall have regard thereto.

PART 7 BUILDING LINES AND SITE PLANNING

Section 7.1 INTERPRETATION

7.1.1 The provisions of this Part apply in addition to the provisions of other Parts of this Planning Scheme, any other By-law of the Council, any provision of The Standard Building By-laws and any other Acts or Regulations. Where different distances, site and coverage are required by this Part and any other provisions, the more restrictive shall apply.

7.1.2 References in this Part to "The Standard Building By-laws" refer to the Standard Building By-laws made under the Building Act 1975-1991.

7.1.3 Reference in this Part to buildings of a particular class refers to classes of buildings defined and used in The Standard Building By-laws.

7.1.4 The provisions of this Part shall not apply to any building of Class I occupancy.

Section 7.2 BUILDING LINES

7.2.1 The following building lines apply in any zone under this Planning Scheme: -

Zone	Building Line Minimum Distance from Road
Residential	6 metres (except where otherwise approved as part of an integrated housing development)
Rural Residential	10 metres
Future Rural Residential	10 metres
Village	6 metres
Rural A	10 metres
Commercial	..
Industrial	10 metres
Noxious, Offensive or Hazardous Industry	10 metres
Parks and Open Space	10 metres
Special Purpose	..
Special Facilities	..
Rural B	10 metres
Water Storage Buffer	10 metres
Recreation	10 metres
Unserviced Land	6 metres

7.2.2 Provided that Council may, at its discretion, require a greater distance for specific uses in any zone as provided for under Part 4 of this Planning Scheme.

7.2.3 Where a building is to be constructed on land having more than one road frontage, the Council may permit a lesser building line distance from any minor road. The minimum distances applied in subsection 7.2.1 shall apply to the road which has the largest flow of traffic.

7.2.4 A building shall not be erected between a building line and any road.

7.2.5 A person shall not erect or cause to be erected between the building line and the road alignment of any allotment: -

- a screen or fence the height of which above the level of ground level surface exceeds two (2) metres save with the approval of the Council or its authorised officer; or
- any structure other than a screen or fence the height of which above the level of the ground exceeds one (1) metre.

7.2.6 Nothing in this Part shall be taken to prohibit the erection of structures (including screens and fences) which in the opinion of the Council or its authorised officer are merely ornamental structures for horticultural purposes.

Section 7.3 SITE PLANNING IN AND ADJACENT TO RESIDENTIAL ZONES

7.3.1 Any building of any class except Class X, erected within a Residential zone, a Rural Residential zone or a Village zone shall be located in accordance with the provisions of the "Standard Building By-laws" relating to distances from boundaries (other than roads) applicable to Class I, II and III buildings.

7.3.2 No building erected in a zone abutting a Residential zone, a Rural Residential zone or a Village zone shall be closer than one point five (1.5) metres to the boundary of the Residential zone, Rural Residential zone or Village zone.

Section 7.4 SITE PLANNING IN INDUSTRIAL ZONES

7.4.1 Any building erected within an Industrial zone or a Noxious, Offensive or Hazardous Industry zone shall be no closer than two (2) metres from property boundaries other than roads.

7.4.2 No more than seventy percent (70%) of any allotment shall be occupied by a building within an Industrial zone or a Noxious, Offensive or Hazardous Industry zone.

Section 7.5 SITE PLANNING IN THE COMMERCIAL ZONE

7.5.1 No more than seventy-five percent (75%) of any allotment shall be occupied by a building within the Commercial zone.

Section 7.6 VEHICULAR ACCESS AND OTHER SITE WORKS

7.6.1 Except as otherwise provided in this Planning Scheme or any By-law of the Council, points of ingress and egress for a proposed development shall be to the requirements and satisfaction of the Council.

7.6.2 It shall be a condition of every consent or approval pursuant to sub-section 3.3.8, granted by the Council to use land or to erect and use a building that the applicant shall provide, at his or her own cost, entrances and exits to and from the site by way of an existing or proposed road.

7.6.3 The road referred to in sub-section 7.6.2 shall be a road constructed to Council standard and provide a practical means of access.

7.6.4 As a condition of consent or approval pursuant to sub-section 3.3.8, the Council may require that kerb and channel, bitumen widening, footpaths, construction of roads, relocation of public infrastructure or other similar works be provided by the applicant at his or her cost.

Section 7.7

ALLOTMENTS AFFECTED BY FLOODING, SLOPE INSTABILITY OR ACCESS DIFFICULTIES

7.7.1 The Council may refuse to issue a building permit for any structure, where an allotment:

- (a) does not contain a building site at natural ground level, which is above the defined flood level; or
- (b) contains an area above the defined flood level, but such an area is not accessible to a road at the time of such flood via flood free land or via land flooded to depths less than six hundred (600) millimetres and the velocity of flood waters across such access is not greater than three hundred (300) millimetres per second; or
- (c) contains an area above the defined flood level which, in the opinion of the Council on the advice of the Shire Engineer, may become endangered by stream action; or
- (d) does not contain an area which, in the opinion of the Council on the advice of the Shire Engineer, is of a slope suitable for and/or is sufficiently stable to be used for the purpose of a building site; or
- (e) does not contain a building site which is located so as, in the opinion of the Council on the advice of the Shire Engineer, to enable practical means of entry to such building site by persons and vehicles from the road frontage of such allotment, or the road frontage of any easement proposed as means of entry to such allotment.

PART 8 SPECIAL REQUIREMENTS PERTAINING TO DEVELOPMENT IN A PARTICULAR ZONE

Section 8.1 THE RURAL B, WATER STORAGE BUFFER AND RECREATION ZONES

8.1.1 In a Rural B, Water Storage Buffer or Recreation zone the erection or use of any building or structure or any use of land permitted in Column III or permissible in Column IV of the respective Table of Development in Part 3 shall be subject to the owner of the land in question complying with the requirements of the Council as to the development of such land in addition to such conditions as may be recommended or required by an administering authority pursuant to sub-section 8.1.8. These requirements shall be imposed by the Council to ensure that the quality of the ponded water is maintained and that any pollution of the water is minimised. In imposing such requirements the Council shall have regard to the extent of the existing uses in the zone and such other requirements as may be prescribed by regulation, By-law, ordinance or the like by the relevant Administering Authority.

Extractive Industries

8.1.2 An application to use land or erect a building or other structure for the purposes of any extractive industry or quarry shall be accompanied by an Environmental Impact Study Report and Statement of Impact.

Public infrastructure, Tourist Facility or Special Use

8.1.3 In respect of an application to use land or erect a building or other structure for the purpose of a public infrastructure, tourist facility or special use, the Council may, where it considers that the proposed development might have a detrimental effect on the quality of any ponded water storage, require the applicant to submit an Environmental Impact Study Report and Statement of Impact.

Environmental Impact Study Reports and Statements of Impact

8.1.4 The Environmental Impact Study Reports and Statements of Impact referred to in sub-sections 8.1.2 and 8.1.3 are to be prepared in accordance with guidelines issued pursuant to the requirements of the Act and are to place particular emphasis on the impacts the proposed development would be likely to have on the quality of the ponded water storage.

Agriculture, Animal Husbandry or Intensive Animal Husbandry

8.1.5 New cattle dips and yards shall be located at least two hundred (200) metres from the Minimum Resumption Line or defined flood margin and defined

watercourses, unless, in the opinion of the Brisbane and Area Water Board, a lesser distance would not be detrimental to water quality. Any application for approval pursuant to sub-section 3.3.8 or for consent to use land for agriculture or for the preparation of improved pasture in association with intensive animal husbandry shall be accompanied by an approved property plan prepared pursuant to the Soil Conservation Act 1986.

8.1.6 The installation of septic tanks within the Rural B zone or the Water Storage Buffer zone shall comply with the minimum requirements of the Council's Policy on Septic Tank Systems in Declared Catchments. Except in the case of a building or structure containing more than two dwelling units, the application shall be accompanied by an Impact Statement prepared by a qualified Engineer.

8.1.7 Notwithstanding the requirements of sub-section 8.1.4, any application for approval pursuant to sub-section 3.3.8 or for consent of Council to use land within the declared catchment areas of Lake Somerset and Lake Wivenhoe shall be accompanied by a report and statement of impact as to whether and to what extent the proposed development would: -

- (a) increase the turbidity of any watercourse or the ponded water storages;
- (b) result in the disposal of concentrated animal waste in such a manner as to affect any watercourse or the ponded water storages;
- (c) potentially result in the leakage or disposal of toxic or chemical substances including pesticides, herbicides, fertilisers and the like into any watercourse or the ponded e or the ponded water storages;

Such report shall address what measures are proposed and what alternative measures could be adopted to minimise any such adverse effects on water quality.

8.1.8 Any application for approval pursuant to sub-section 3.3.8 or for consent of Council to use land within the declared catchment areas of Lake Somerset and Lake Wivenhoe shall be accompanied by a Certificate of Compliance with the Regulations made pursuant to Section 54 of the Brisbane and Area Water Board Act 1979-1984 and the approval in writing of the Administering Authority.

8.1.9 Any approval granted by Council to an application to which sub-section 8.1.8 applies, shall include as conditions of approval those conditions, if any, contained within the said Certificate of Compliance issued by the Board.

Section 8.2 RURAL A AND RURAL RESIDENTIAL ZONES

8.2.1 In a Rural A or Rural Residential zone any application for the erection or use of any building or structure or any use of land permitted in Column III or permissible in Column IV of the respective Table of Development within Part 3 and within fifty (50) metres of any existing or proposed oil or gas pipeline shall be required to provide Council with evidence of consultation with the pipeline operator stating that the pipeline will not be exposed to any risk of damage from the proposed development.

8.2.2 Notwithstanding the requirements of subsection 8.2.1 Council may not approve any application for the erection or use of any building or structure within five hundred (500) metres of any existing or proposed oil or gas pipeline if, in the opinion of Council, the nature of the development is such that potential occupants of the development will be exposed to any risk from the pipeline.

PART 9 MISCELLANEOUS PROVISIONS

Section 9.1 KEEPING OF RECORDS

- 9.1.1 The Council shall keep a record of: -
- (a) all consents, permissions and approvals granted by the Council under this Planning Scheme and of all conditions attached to such consents, permission and approvals;
 - (b) all orders and decisions made by it under this Planning Scheme; and
 - (c) all decisions of the Planning and Environment Court on appeals from decisions of the Council under this Planning Scheme.

9.1.2 These records shall be kept at the office of the Council and shall be open to the public during the Council's normal hours of business. Upon verbal or written request the Council shall supply to the person making the request copies of any part of these records. The Council may fix by resolution a charge for supplying the copies but this charge shall not exceed the actual cost of producing the copies.

Temporary Use of Land

9.1.3 Nothing in this Planning Scheme shall prevent the temporary use of any land, building or other structure in a particular zone for a purpose which would constitute a purpose 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 that zone in accordance with the terms of a licence or permit, as the case may be, granted by the Council.

Section 9.2 DRAINAGE AND FILLING

9.2.1 Whether or not the consent of the Council is required for the use of land or for the erection or use of a building or other structure for any purpose, not being a dwelling house, the owner, before any use is commenced or plans of the proposed building or other structure are submitted for approval of the Council, shall ascertain the Council's requirements, if any, as to draining or filling or draining and filling the subject land to render it fit for such use or building or other structure.

9.2.2 The owner shall comply with all such requirements of Council, if any, as to draining or filling or both, 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.

9.2.3 No person shall fill any land without first obtaining the permission of the Council.

9.2.4 No person shall cause any dust nuisance in the movement of any material and shall ensure that the site or fill material being removed or introduced to the site is dampened to the requirements of the Shire Engineer.

Section 9.3 SITE AMALGAMATION

9.3.1 Where a person proposes to use land or a building or to erect and use a building or to extend an existing building and where the site comprises a number of separate parcels of land, the Council may require the person concerned to amalgamate the land and the plan of amalgamation shall be sealed by the Council and lodged in the office of the Registrar of Titles for registration before the use of the land and/or the building is commenced.

9.3.2 This section does not apply to Parts 3 and 4 of this Planning Scheme.

Section 9.4 AREAS OF SCIENTIFIC, HISTORIC OR SCENIC VALUE

9.4.1 When, in the opinion of the Council, any land, building or other structure: -

- (a) is of such scientific or historic interest; or
- (b) is of such natural beauty that it is undesirable that any development or the removal of trees or shrubs should take place thereon without the consent of the Council;

the Council may by resolution declare that land to be an area of scientific, historic or scenic value.

9.4.2 A resolution to declare an area of scientific, historic or scenic value shall not be passed unless: -

- (a) the Clerk has caused a written notice to be served upon the owners of land affected by the proposed resolution;
- (b) the Clerk has caused an advertisement to be published at least once in a newspaper circulating in the area; and
- (c) the Council has considered all written objections within the time specified in the advertisement for the receipt of objections.

9.4.3 A notice under this section shall: -

- (a) set forth the terms or general intent of the proposed resolution; and
- (b) state that, if the person upon whom the notice is served objects to the passing of the resolution he may lodge with the Clerk, within thirty (30) days from the date of the service thereof, a written objection stating the facts, circumstances and arguments on which such person relies to support his objection to the passing of the resolution.

9.4.4 An advertisement under this section shall: -

- (a) set forth the terms or general intent of the proposed resolution; and
- (b) state that written objections lodged under the provisions of this section may be lodged with the Clerk within thirty (30) days from the date of publication thereof.

9.4.5 A written objection under this section: -

- (a) may be lodged by any person upon whom a notice under this section has been served, within the period specified in such notice;
- (b) may be lodged by any other person within the period specified in an advertisement under this section;

- (c) shall state the facts, circumstances and arguments on which the person lodging the objections relies to support his or her opposition to passing of the proposed resolution.

9.4.6 The Council may acquire any land, building or other structure declared to be of scientific, historic or scenic value to preserve it for public use and enjoyment.

9.4.7 Where any land, building or other structure has been declared by the Council to be an area of scientific, historic or scenic value, a person shall not carry out any development or remove any trees or shrubs without the consent of the Council. The Council in granting consent to any development, is empowered to place any conditions it considers necessary on such consent, in order that the scientific, historic or scenic value of the land, building or other structure is conserved or enhanced.

9.4.8 Any development proposed within an area declared by the Council under this section shall be required to conserve or enhance the historical character and value of the precinct in accordance with Council's Guidelines for Development.

Section 9.5 GENERAL SECURITY FOR PERFORMANCE OF WORKS AND CONDITIONS

9.5.1 Subject to the express provisions of this Planning Scheme in relation of the giving of security to the Council for the carrying out of any particular requirement, the Council may: -

- (a) in respect of any requirement imposed pursuant to an application for consent or approval; or
- (b) in respect of any obligation imposed upon any person to do or refrain from doing any work, matter or thing; or
- (c) in respect of any condition imposed by The Court upon any person to do or refrain from doing any work, matter or thing;

require the person proposing to carry out the development or the person referred to in (b) or (c) hereof to furnish to the Council security to its satisfaction in an amount and in such form as the Council shall approve, to secure the due performance of any such requirement, condition or obligation .

9.5.2 Any consent for development, in respect of which a requirement to give security applies, shall be deemed not to be operative until such security has been furnished.

9.5.3 Wherever it is a requirement that any work, matter or thing be carried out in accordance with the requirements of, or as determined by the Council, or any officer of the Council, the person proposing to carry out the relevant development shall not commence such development unless he or she has ascertained such requirements, or such determination.

9.5.4 Wherever it is a requirement that any work, matter or thing be carried out to the satisfaction of the Council, or any officer of the Council, the person proposing to carry out the development shall not commence such development unless he or she has ascertained the requirements of the Council, the Shire Engineer and/or the Shire Planner.

PART 10 OFFENCES

10.1.1 Where in respect of the use of any land, building or other structure established before or after the coming into force of this Planning Scheme and which is established with the consent or approval of the Council subject to reasonable and relevant conditions, any person who in any respect fails to comply with any one or more of the conditions imposed by the Council in granting of its consent or approval as the case may be within the time specified or if no time is specified then after the use commences whether in whole or in part shall be guilty of an offence under this Planning Scheme.

10.1.2 Where in respect of any application to rezone whether approved by the Council before or after the coming into force of this Planning Scheme and which is approved by the Council subject to reasonable and relevant conditions, any person who in any respect fails to comply with any one or more of the conditions imposed by the Council in granting the approval within the time specified or if no time is specified then after the use of the land commences whether in whole or in part shall be guilty of an offence under this Planning Scheme.

10.1.3 A person who in any respect contravenes or fails to comply with any provisions of this Planning Scheme shall be guilty of an offence and liable to a penalty and additionally, in the case of a continuing offence, to a daily penalty for each and every day on which the offence is continued.

10.1.4 Any offence under the scheme may be prosecuted in a summary way under the Justices Act 1886-1988 or any Act in substitution of same.

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

PART 11 SUBDIVISION OF LAND PROVISIONS

Section 11.1 INTERPRETATION

11.1.1 In this Part unless the context otherwise indicates or requires, the following terms have the meanings respectively assigned to them; that is to say: -

"Access" - The practical means of entry of persons and vehicles on to every 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;

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

"Approved" - Approved by the Council;

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

"Blind Road" - A road or street one end of which has no direct vehicular connections with another street or road and which meets the requirements of Section 35 of the Local Government Act;

"Building Site" - That part of an allotment on which, in the opinion of the Council, a building may be erected in compliance with the provisions of this Planning Scheme or any By-law controlling the erection and use of buildings and structures;

"Chief Health and Building Surveyor" - The Officer appointed by the Council to be the Chief Health and Building Surveyor; or any Officer of the Council performing the duties of the Chief Health and Building Surveyor in lieu thereof;

"Constructed Road" - A dedicated road which has been constructed to the appropriate standards specified in this Part;

"Construction of Road System" - In the case of a road, lane or pathway includes provision for drainage, levelling, grassing, paving, sealing, kerbing, channelling, turn-outs and crossovers and otherwise making and building such features required for the proper functioning of such road systems;

"Construction of Drainage System" - The provision and installation of any enclosed underground stormwater drainage system or the making of any open drain or the enlargement of existing open drains or the provision and installation of any sub-surface drains and the making and installation of any appurtenances required for the proper functioning of such drainage system;

"Construction of Sewerage System" - The provision and installation of a system designed for the collection and removal of sewage and the making and installation of any appurtenances required for the proper functioning of such sewerage system;

"Construction of Water Supply System" - The provision and installation of a system designed for the reticulation of water and the making and installation of any appurtenances required for the proper functioning of such reticulation system;

"Construction Plan" - Any engineering design and calculations, working plans, schedules and specifications prepared by, or under the supervision of, an Engineer with a qualification acceptable to the Shire Engineer;

"Cost" - Shall include any estimated cost provided by the Council;

"Cul-de-sac" - The return-end of a blind road;

"Defined Flood Level" - The flood level which the Council, on the advice of the Shire Engineer, may from time to time determine;

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

"Land resource assessment report" - A report which establishes the current and proposed agricultural and pastoral quality of the subject land. In this respect it must address the requirements of State Planning Policy 1/92 and the relevant planning scheme provisions;

"Licensed Surveyor" - A Surveyor registered for the performance of cadastral surveys under the Surveyors Act 1977-1991;

"Owner" - In relation to any land, includes every person who jointly or severally, whether at law or in equity: -

- (a) is entitled to the land for any state of freehold in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant a fee-simple of the land; or
- (c) is a lessee from the Crown acting with the approval of the Crown;

"Pipeline Operator" - The administrator, owner or operator of any gas or oil pipeline; or statutory authority, company, body corporate, individual or nominee performing the duties of administration, operation or maintenance, of any oil or gas pipeline as defined in the Gas Act 1965 - 1990 and Petroleum Act 1923 - 1990;

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

"Plan of Subdivision" - A plan properly drawn to scale which delineates the subdivision of any land in allotments or otherwise;

"Plan of Survey" - A plan of subdivision prepared by and certified by a Licensed Surveyor;

"Proper Conveniences" - In relation to land or the subdivision of such land, the establishment or improvement of appropriate services and the amenity thereof, including: -

- (a) a full road system; or
- (b) a full drainage system; or
- (c) a system of water supply; or
- (d) a system of sewerage; or
- (e) a system of electricity supply;

Part 11 - Subdivision of Land

The term "system" shall include a particular single unit of such system;

"Proposal Plan" - Any plan which proposes to divide or subdivide any land into allotments or otherwise whether or not such division or subdivision includes any new road, pathway, lane or reserve;

"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 external boundary of the land to be subdivided;

"Rear Allotment" - An allotment that has access to a road by means only of an access strip which forms part of the allotment, or, where the Council by resolution approves, by means only of an easement over contiguous land;

"Sewerage Works External" - The extension of sewers to the land which is the subject of the particular application, the augmentation receiving sewers, receiving pumping station and rising mains;

"Shire Engineer" - The person appointed by the Council to be Shire Engineer. The term includes a person from time to time authorised by the Council to carry out the duties of the Shire Engineer for the purposes of this Planning Scheme;

"Shire Planner" - The Officer appointed by the Council to be the Shire Planner; or any officer of the Council performing the duties of the Shire Planner in lieu thereof; or any consultant commissioned by the Council to perform all or any of the duties of the Shire Planner;

"Subdivision, Subdivide" and similar expressions - Dividing into parts whether the dividing is: -

- by sale, conveyance transfer or partition; or
- by any agreement, dealing or instrument inter vivos (other than a lease for any term not exceeding five years without right of renewal) rendering different parts thereof immediately available for separate disposition or separate occupation; or
- by procuring the issue of a certificate of title under the Real Property Act 1861 - 1990 in respect of a part of the land;

"Water Supply Works External" - The extension of distribution mains to the land which is the subject of the particular application, the augmentation of existing mains in the distribution system and booster pumps.

11.1.2 Where any term used in this Part is not herein defined but is defined in the Act or elsewhere in the Planning Scheme, the term shall, for the purposes of this Part and unless the context otherwise indicates or requires, have the meaning assigned to it by the Act or the Planning Scheme as the case may be.

Section 11.2 APPLICATIONS

Application to this Chapter

11.2.1 The provisions of this Part shall apply throughout the Shire of Esk.

Approval Required

11.2.2 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 the provisions of this Part and where applicable, the relevant provisions of the Planning Scheme.

Application to Council

11.2.3 Every owner of land desiring to open a new road on, or to subdivide such land, shall personally or by authorised agent make application to the Council in accordance with the form of application prescribed by the Clerk and shall at the time of making application lodge the fee determined by Council from time to time, by resolution.

11.2.4.1 The application shall be accompanied by a proposal plan, prepared or certified by a Licensed Surveyor, certificated Town Planner or a professional Engineer, and which shall be submitted in triplicate.

11.2.4.2 The proposal plans shall be a black and white print or drawn in ink on tracing cloth or drawing paper but not on tracing paper or any other non-durable medium; accurately plotted with the north point upwards and drawn to the scale (the scale to which the proposal plan is drawn shall be stated on such proposal plan) as set out hereunder: -

Area of Allotment Size of Subdivision	Scale
Less than 2.0 hectares - a scale not less than	1:1,000
Greater than 2.0 hectares but not exceeding 30.0 hectares - a scale not less than	
Greater than 30.0 hectares - a scale not less than	1:10,000
	1:25,000

11.2.4.3 The proposal plan shall be properly and accurately drafted and 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 ownerships shall be indicated clearly on the plan by the light shading of all separately owned parcels in other distinctive colours.

Particulars on Proposal Plan

11.2.5.1 The proposal plan shall be lodged in triplicate, be signed and dated by the person who prepared it and shall include the information and particulars set out in this sub-section:

- the full real property description of the land and the name and postal address of the owner of the land;
- the location of all watercourses, waterholes and creeks and the highest known flood levels and the defined flood levels;
- the lines of all existing services including sewers, water and electricity mains and gas and oil pipelines;

- (d) 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;
- (e) the proposed names of all new roads in the subdivision;
- (f) the size and situation of all buildings, on the land proposed to be subdivided and in the case where more than two proposed parcels abut onto the side boundary of an adjoining parcel, or where the building site of any proposed parcel could affect the adjoining property, the position of any building on the adjoining land;
- (g) the area to be transferred to the Crown for public garden and recreation space shall be shown in the location proposed by the subdivider; and
- (h) all proposed drainage easements.

11.2.5.2 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 Shire Engineer agrees otherwise, such levels shall be referred to Australian Height Datum and 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 zero point five (0.5) metres but if the gradient of the ground is greater than 1:5 the contour interval may be two (2) metres. In the case where the requirements stated in this clause do not seem practical, contours shall be shown at such intervals as shall adequately indicate the topography of the area to be subdivided. Such intervals shall be selected in consideration of the gradient of the land, the scale of the plan and be to the Shire Engineer's satisfaction.

11.2.6.1 In the case of a subdivision containing two or more allotments for the purpose of an integrated housing development, the application, proposal plan for subdivision and plan of development for such a development shall comply with the provisions of sub-section 6.5.4.

11.2.6.2 In the case of a subdivision containing two or more allotments for the purpose of multiple dwellings where dwelling units are subsequently proposed to be sold with fee simple title, the application, proposal plan for subdivision, and plan of development for such a development shall comply with the provisions of sub-section 6.5.4 as they sensibly apply in addition to compliance with the provisions of sub-sections 6.5.7 - 6.5.12.

11.2.6.3 In the case of any subdivision containing proposed allotments, in which the whole of the land is not so divided, if required by the Shire Engineer, 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 conveniences, present and prospective. Where necessary, the road system shall be shown through and over adjoining lands.

11.2.7.1

- (a) In the case of a subdivision containing rural residential allotments, sufficient topographical information shall be shown to indicate the true relationship between physical site features and the boundaries of allotments and road alignments;
- (b) such information shall include, where relevant, the ridges and valleys of any sub-catchments and the location and extent of significant rock outcrops, copses of trees, slope analysis and the like; and
- (c) areas suitable for a building platform as described under clause 11.11.6.4 shall be indicated for each proposed allotment in accordance with the provisions of this Part.

11.2.8 The overall layout of roads within the proposed subdivision shall be subject to the provisions of Section 35 of the Local Government Act and take into consideration: -

- (a) the safety of the public;
- (b) the convenience of the public;
- (c) the proper and orderly development of the subdivision and the locality;
- (d) whether or not the roads will connect satisfactorily with adjoining subdivisions and roads;
- (e) whether or not the roads are adequately coordinated with the drainage system of the proposed subdivision; and
- (f) whether service roads should be provided and otherwise shall be to the satisfaction of the Council.

11.2.9 The applicant shall satisfy Council that no deleterious effect on the environment would be occasioned by the implementation of the proposal which is the subject of the application. On the advice of the Shire Engineer, the Council may at its discretion require the applicant to submit an Environmental Impact Study of the proposal under the terms and conditions of Section 8.2 of the Act.

11.2.10 The applicant shall satisfy the Council that consultation has been held and agreement reached between the applicant and the pipeline operator concerning the allowable and safe proximity of the proposal to any gas or oil pipeline.

11.2.11 The applicant shall identify the elements from the Model Code used or intended to be used as a basis for design and construction of the works and the applicant shall provide such further and more detailed particulars required to support design elements which are not substantially in conformity with the Deemed-to-comply criteria set out in the Model Code.

11.2.12 The applicant shall satisfy the Council that the proposal will not jeopardise the economic viability of rural pursuits. In this regard, Council may request the submission of a land resource assessment report, addressing issues considered appropriate by Council and Queensland Department of Primary Industries.

11.2.13 In addition to the foregoing particulars and the particulars in the application form, the person submitting the plans shall, if the Shire Engineer so requires, furnish any further particulars which the Shire Engineer deems necessary to allow proper evaluation of the proposal and also any information which the Shire Engineer deems necessary regarding the catchment area which drains on to the land proposed to be subdivided.

Section 11.3 STAGE DEVELOPMENT

11.3.1 If a proposal plan provides for a new road or roads and the applicant proposes to subdivide the subject land or carry out developmental works therein in stages at different times (in this Part referred to as "Stage Development"), the applicant shall apply in the first instance for the Council's agreement to the concept of the proposal for the whole area and subject to such agreement shall, if he desires to proceed with the proposal, make separate application for the approval of the Council to a proposal for each stage.

11.3.2 The Council shall determine the conditions which shall apply to the development of each stage of the subdivision at the time of granting approval for that stage.

11.3.3 The applicant shall show on the proposal plan submitted for Council's agreement to the concept of the proposal, the boundaries of each proposed stage of development and shall mark each stage in numerical order to indicate the proposed order of development and shall state in the application the respective dates on which it is proposed to commence developmental work in the several stages and the proposed dates of completion thereof.

11.3.4 The agreement of the Council shall be required to the order of development. In deciding such matter the Council shall have regard to the following: -

- (a) its obligations, if any, to provide water supply and sewerage services in accordance with this Part; and
- (b) the distance of each proposed stage from existing Council water mains or sewerage mains or proposed sewerage treatment works, whether within or without the subject land.

11.3.5 The order of development agreed to by the Council shall in every case conform with the progressive installation of services.

11.3.6 Where the provisions of section 11.16 apply, the Council shall not give approval to a proposal plan for any stage unless the provisions of that section have been complied with.

11.3.7 In addition to the foregoing particulars, the applicant shall furnish any further particulars which the Shire Engineer deems necessary.

Section 11.4 SUBDIVISIONAL DESIGN

11.4.1 It shall be unlawful to subdivide: -

- (a) any land so that any boundary or area of any allotment would cause any existing building to contravene the provisions of this Planning Scheme and any relevant By-laws of the Council; or

- (b) any parcel of land on which an existing building is situated, so that a subdivision line passes through the building;

Provided that 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 allotment and in conformity with the provisions of this Planning Scheme and any relevant By-laws of the Council;

11.4.2 With regard to this section, nothing shall be construed to prevent the erection of any building partly on two or more contiguous allotments held under the same ownership, provided that such erection shall be subject to the provisions of the Building Act 1975-1991.

Approved Design

11.4.3.1 In any case where an application is made to subdivide part only of a larger parcel of land, or the land is in the opinion of the Shire Engineer, capable of being subdivided into smaller allotments in the future, the applicant shall provide a proposal plan for the ultimate subdivision of the land showing: -

- (a) the ultimate road design layout;
- (b) the ultimate drainage design layout;
- (c) the location of future parks and recreation areas; and
- (d) where appropriate, the location of future schools, shops, commercial, industrial and other public facilities.

11.4.3.2 The Council may approve of the proposed ultimate subdivisional layout plan and thereupon the said layout plan shall be the Approved Design for the said land.

11.4.3.3 In any case where in the Council's 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 in which the 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 thirty (30) days after being required to do so, the Council may itself prepare such a design. A design which has been so approved or substituted or prepared by the Council shall become 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.

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11.4.3.4 The Approved Design or a design substituted for it 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 Clerk and shall be binding on the owner of the land and their 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.

11.4.3.5 Notwithstanding the provisions of clauses 11.4.3.3 and 11.4.3.4: -

- (a) the Council may, from time to time, on the advice of the Shire Engineer, prepare an ultimate subdivisional layout plan for any land within the Shire;
- (b) the Council shall serve a copy of such ultimate subdivisional design layout plan on the owner of the land;
- (c) the owner of the land may object to all or any aspect of the said ultimate subdivisional design layout plan within thirty (30) days of the service upon himself or herself of a copy of the said layout plan;
- (d) the Council shall consider any objection made by the owner and shall if it thinks fit amend the said layout plan to take account of the objections;
- (e) the Council may approve the said ultimate subdivisional design layout plan and thereupon the said layout plan shall be the Approved Design for the said land.

11.4.3.6 The Clerk shall keep a register of all Approved Designs. Such register shall be open for inspection by the public. A copy of the Approved Design certified by the signature of the Clerk shall be admissible in evidence.

11.4.3.7 Any owner of land for which an Approved Design has been adopted may from time to time apply to the Council to alter or amend the Approved Design and such application shall be deemed to be an application for subdivision and an applicant shall have a right of appeal to the Planning and Environment Court in respect of any decision made by the Council on such application.

11.4.3.8 If an Approved Design has been adopted by the Council pursuant to clause 11.4.3.3 or clause 11.4.3.5, then at such time as the owner of the said land proceeds with the subdivision of the said land or part thereof, whether the applicant was the owner at the time of the preparation of the Approved Design or otherwise, the applicant shall pay to the Council its costs of preparing such Approved Design and the plan of survey shall not be sealed by the Council until such payment is made.

11.4.3.9 When an Approved Design has been adopted in respect of any land, the Shire Engineer may prepare an estimate of the cost of construction of roadworks and drainage in the land the subject of such design. The Council when considering any proposal for the subdivision of such land or part of such land, may require as a condition of approval of such proposal, that the applicant 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 purposes of making, or of contributing to the cost of making, the necessary roads and drainage in the said land as the Council shall think fit.

11.4.3.10 No land for which an Approved Design has been adopted may be subdivided in such a way as to be inconsistent with or prejudice the implementation of the Approved Design and no person shall erect, re-erect or commence to erect or re-erect any building or other structure on any part of the parcel of land shown in the Approved Design as a future road or drainage reserve, future park or recreational area or so that any part of a building or other structure is within six (6) metres of the boundary from any such road or drainage reserve, future park or recreation reserve.

Section 11.5 SUBDIVISION FOR LEASE PURPOSES

11.5.1 In the case of an application for approval of a subdivision where such subdivision is by an 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 unsigned copy of the plan of the subject land as incorporated in such agreement, dealing or instrument.

11.5.2 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.

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

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

Section 11.6 CONSIDERATION OF APPLICATION BY COUNCIL

11.6.1 Every application for subdivision made pursuant to this Planning Scheme shall, if it complies with the requirements of the Planning Scheme, be the subject of a report and recommendation by the Shire Planner, subsequent to its being referred to the Chief Health and Building Surveyor and the Shire Engineer, for their respective comments.

11.6.2.1 The Council may: -

- (a) approve the application; or
- (b) approve the application subject to conditions; or
- (c) refuse the application.

11.6.2.2 The Council shall within the time prescribed by the Act, notify the applicant in writing of its decision on the application. In the case of approval thereof subject to conditions, or refusal, the reasons for such decision shall be stated in the notice.

11.6.3 One copy of the original proposal plan shall be retained by the Council. In the case of a proposal plan approved subject to certain

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amendments, the Council may either mark the required amendments on the duplicate copy of the proposal plan and return it to the applicant, or the Council may require the applicant to prepare new plans incorporating the amendments and resubmit them in triplicate.

Refusal of Application

11.6.4.1 Without in any way limiting the discretion of the Council, it will be sufficient reason for refusing approval of an application if:

- (a) the proposal would lead to the alienation, degradation, fragmentation and/or encroachment of good quality agricultural or grazing land, or may prejudice the ongoing integrity, productivity and/or viability of rural uses or agricultural holdings in the locality, or would create unmanageable, unusable or inaccessible land holdings; or
- (b) the proposal would be likely to discourage good land management and conservation practices such as erosion control, soil conservation, retention of native flora and fauna, protection of water resources or waste management techniques and fire hazard control; or
- (c) the proposal would be likely to impede the optimum agricultural or grazing use of the land; or
- (d) it can not be demonstrated that the proposed allotments would sustain a proven and reliable water supply to ensure year-round irrigation; or
- (e) the proposal would be likely to result in the compounding of problems for fire hazard management; or
- (f) the proposal would be likely to result in an undesirable demand for services in the Shire which cannot reasonably be supplied; or
- (g) the proposal would be likely to detract from the Shire's traditional rural character and amenity; or
- (h) the proposal does not comply with the intent of State Planning Policy 1/92 and the accompanying Planning Guidelines "The Identification of Good Quality Agricultural Land";

11.6.4.2 any existing road or street bounding the land to be subdivided, or any intended road or street shown on such plan, is of less width than twenty (20) metres, or in the case of a cul-de-sac the turning area is of lesser width in any direction than thirty (30) metres, except as otherwise specified in this Part;

11.6.4.3 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 or quantity of traffic which will be encouraged or caused by the development on such road;

11.6.4.4 provision is not made for the transfer to the Crown (free of cost) to be placed under the control of the Council as trustee of an area of land to be used for public garden or recreational purposes as required. Such area being within the area affected by such subdivision, or any area which the Council may require to be dedicated free of cost for vehicular parking purposes, street widening or street truncation;

11.6.4.5 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;

11.6.4.6 provision is not made for the transfer free of cost to the Council of any drainage reserve or drainage easements of a minimum width of four (4) metres or such width as Council, on the advice of the Shire Engineer, may from time to time determine as being 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 watercourse to or along which the drainage from such land to any such road may lawfully be discharged or caused to flow;

11.6.4.7 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 maintenance thereof;

11.6.4.8 any proposed allotment 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;

11.6.4.9 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;

11.6.4.10 provision is not made for such connecting of 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 of adjoining land, to ensure the proper development of the surrounding locality;

11.6.4.11 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;

11.6.4.12 provision is not made to carry out such works on the land proposed to be subdivided as will provide proper drainage of proposed allotments;

11.6.4.13 provision is not made for access from constructed roads into each proposed allotment;

11.6.4.14 provision is not made for any improvement in the aspect, boundaries or grade of any allotment, or allotments, road or drainage deemed desirable by the Council to preserve the amenity of the locality and the desirability of the proposed allotments, or the future probable subdivision of these allotments, or adjacent subdivision. In determining the probable future subdivision of the area the Council shall give due consideration to any Policy Statement which is in effect at the time of application;

11.6.4.15 in accordance with Section 11.16 provision is not made for water supply service or sewerage service or both water supply and sewerage services to the land to be subdivided;

11.6.4.16 the applicant fails to provide the Council with a signed Certificate from the South-East Queensland Electricity Board stating that electricity supply has been made available to all the proposed allotments in the proposed subdivision;

11.6.4.17 the depth of any allotment exceeds three and one half times the frontage to a road, or the mean width of the allotment or parcel if such allotment or parcel is irregular in shape, except as otherwise specified in this Part;

11.6.4.18 the plan makes provision for crossroads;

11.6.4.19 the land has frontage to a declared main road and provision is not made for the proposed location and construction of a new road and/or access to any proposed allotment from a declared main road to the requirements of the Department of Transport;

11.6.4.20 a proposed allotment shown thereon does not conform with the provisions of this Planning Scheme;

11.6.4.21 the proposal plan or plan of survey includes any allotment which: -

- (a) does not contain a building site at natural ground level and above a defined floor level; or
- (b) contains an area above a defined flood level and such area is not accessible to a road at the time of such flood via flood free land or via land flooded to a depth of less than six hundred (600) millimetres and the velocity of flood waters across such access is not greater than three hundred (300) millimetres per second;
- (c) contains an area above a defined flood level and which in the opinion of the Council and on the advice of the Shire Engineer, such area may become endangered by stream action;
- (d) does not contain an area which in the opinion of the Council and on the advice of the Shire Engineer is of a slope and/or, is sufficiently stable to be used for the purpose of a building site;
- (e) does not contain a building site, located so as to enable practical means of entry to such building site, by persons and vehicles, from the road frontage of such allotment;

11.6.4.22 the proposal plan is inconsistent with, or will prejudice the implementation of an Approved Design;

11.6.4.23 the proposal relies on easement access to one or more proposed allotments;

11.6.4.24 any proposed allotment is unsewered and is not, in the opinion of the Council, suitable for the satisfactory on-site disposal of effluent;

11.6.4.25 the number of vacant allotments within a designated development precinct exceeds five times the annual rate of building approvals in that locality averaged over the preceding twenty four (24) months;

11.6.4.26 in the Future Rural Residential zone, the proposal plan or plan of survey: -

- (a) includes any allotment designed for rural residential purposes which does not contain a building site of a minimum area of two thousand (2000) square metres having one minimum dimension of thirty (30) metres which contains a slope of less than twenty (20) percent before the undertaking of any earthworks;
- (b) is not accompanied by a detailed slopes analysis;

(c) is not so designed such that as the allotments are progressively re-developed, extensive areas of steep land and major watercourses may be transferred to the Crown free of cost;

(d) is not so designed such that the allotments are capable of future re-subdivision in accordance with the requirements of allotments in a Rural Residential zone;

(e) does not dedicate the principal roads required to service the future rural residential subdivision; or

11.6.4.27 the proposal plan does not make provision for compliance with the relevant requirements of this Planning Scheme.

Section 11.7 FEES AND CHARGES, SECURITIES, HEADWORKS

11.7.1 Any private person or company applying to the Council pursuant to this Planning Scheme shall pay to the Council any fees, charges, headworks and/or securities; the amount of which may be fixed by the Council from time to time by resolution and as stated in detail in the current set of statements of policy.

Section 11.8 COMPLIANCE WITH CONDITIONS OF APPROVAL

11.8.1 Subject to the provisions of the Act, not later than two (2) years from the date of 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: -

- (a) execute to the satisfaction of the Council in conformity with the provisions of this Part and in accordance with the conditions of approval, all works the execution of which is a condition of such approval (including any required filling and the construction of new roads, drainage works, water supply or sewerage works involved in the subdivision); or
- (b) subject to the provisions of Part 5 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 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 or she will execute such works to its satisfaction, within such time as may be fixed by the Council.

11.8.2 The cost of preparation of documents, duty stamping of all documents, easements and agreements required by this Part shall be borne by the applicant.

11.8.3 Unless the applicant complies with the foregoing requirements of this section and the requirements of section 11.9, the approval, or approval subject to conditions, of the application shall be deemed to have lapsed.

Section 11.9 PLAN OF SURVEY

11.9.1 Subject to the provisions of the Act, within a period of two (2) years after notification of approval (or approval subject to conditions) of the subdivision, 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 Parts IV and V of the Surveyors Regulations 1991 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 four (4) copies of the said plan of survey duly certified by the Licensed Surveyor. Such copies shall be printed or reproduced on a medium which is durable and stable in dimension.

11.9.2 If the requirements set out in section 11.8 and sub-section 11.9.1 have been observed, the Shire Planner shall compare the plan of survey with the proposal plan as approved.

11.9.3 If the Shire Planner upon examination finds the plan of survey conforms with the proposal plan as approved and no material change, variation or alteration has been made and if all conditions of the approval of the proposal plan have been complied with to the satisfaction of the Shire Planner, the Council shall within thirty (30) days of the Shire Planner so finding, under seal, note its approval on the plan of survey, including a certificate that all the requirements of the Council have been complied with and shall return the plan of survey to the applicant to be lodged in the office of the Registrar of Titles, provided that the Council may in its absolute discretion note its approval under seal on a plan of survey which, though in every other respect conforming with the proposal plan as approved, is a plan showing a number of allotments fewer than those shown on the proposal plan as approved.

11.9.4 If the plan of survey required under sub-section 11.9.1 is not submitted within the period of two (2) years (or such extended period as may be approved by the Council), the Council's notification of approval of the proposal plan shall lapse.

11.9.5 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 obtaining their approval 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.

11.9.6 If the plan of survey receives the Council's approval and if all the terms and provisions of this Part 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.

11.9.7 Nothing herein contained shall render it obligatory upon the Council to reseat any plan of survey after the expiration of thirty (30) months from the notification of approval set out in sub-section 11.9.1.

Notification of Amendments as required by the Registrar of Titles

11.9.8 In the event of the Registrar of Titles, upon lodgement of a plan of survey approved by the Council, requiring the alteration of such plan in any particular, the Licensed Surveyor who prepared such plan, shall comply with the provisions of sub-section 11.9.5 where such alterations contravene the terms and conditions of Council's approval and 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.

Section 11.10 LAPSE OF APPROVAL

11.10.1 If approval for the application and proposal plan should lapse and the subdivider desires to have the proposal plan again approved, a fresh application shall be required to be lodged, together with the necessary application fee. In such case 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 Planning Scheme.

11.10.2 Agreement to the concept of the proposal does not constitute an approval of a proposal plan and Council's agreement shall remain valid for no longer than two (2) years from the date of notification or such extended period as may be agreed to by the Council.

Section 11.11 MINIMUM SIZE OF ALLOTMENTS

11.11.1 Land within the Planning Scheme area shall not be subdivided into allotments of smaller area or of smaller dimensions than are respectively set forth in this Part: Provided that the Council may on the advice of the Shire Planner: -

- (a) require dimensions or area greater than prescribed herein where it considers such modification is necessary because of the position, shape, utility or configuration of any allotment; or
- (b) permit a lesser dimension or area where Council considers it to be necessary by reason of exceptional circumstances including the suitability of the allotment(s) for a higher intensity use; special design features when access is otherwise adequate and where the general amenity of the area will not be adversely affected.

11.11.2 Council may from time to time adopt policy guidelines in relation to the use of its discretionary powers in respect of where allotments of area less than those specified in this Part may be permitted.

The Residential Zone

11.11.3.1 Subject to the provisions of clause 11.11.3.2 the minimum area, minimum frontage to a constructed road and minimum depth that shall be permitted in the subdivision of land for residential purposes in a Residential zone for any one allotment or parcel of such land shall be as follows: -

Minimum area - 450 square metres;

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Minimum frontage to a road - 15 metres;
Minimum depth - 25 metres;

Provided that all corner allotments shall each have a minimum area of six hundred (600) square metres and where the number of allotments comprised in a subdivision of land for residential purposes exceeds twenty allotments, at least one-fifth of the allotments shall each have a minimum area of six hundred (600) square metres.

11.11.3.2 In the subdivision of land for residential purposes the Council may permit:-

- (a) any corner allotment having a minimum area less than six hundred (600) square metres provided that the small area below six hundred (600) square metres has been caused by a road truncation on a corner of that allotment;
- (b) a subdivision fronting the turning circle of a cul-de-sac or the alignment of a curved road where the frontage is less than fifteen (15) metres at the road alignment, but the distance between the side boundaries of the subdivision at points six (6) metres from the road alignment is not less than fifteen (15) metres;
- (c) allotments with an area of not less than 300m² where a dwelling unit has been erected thereon in accordance with an approved plan of development and the conditions of the town planning consent permit or such other terms of agreement as may have been imposed have been complied with to the satisfaction of the Council.

11.11.3.3 Any allotments approved pursuant to this sub-clause shall generally have an average width to depth ratio of 1:2 but, unless otherwise approved by the Council, shall not exceed 1:3.

11.11.3.4 Any access strip or easement giving access to a rear allotment is not to have a greater length than the length of the allotment itself, provided, however, that this provision may be relaxed if, in the opinion of the Council, special circumstances exist to warrant such relaxation.

The Village Zone

11.11.4 The minimum area, minimum frontage to a constructed road and minimum depth that shall be permitted in the subdivision of land for any purpose in a Village zone for any one allotment or parcel of such land shall be as follows: -

Minimum area - 1200 square metres
Minimum frontage to a road - 30 metres
Minimum depth - 30 metres

The Rural A Zone and the Rural B Zone

11.11.5.1 Subject to the provisions of subsections 11.11.1 and 11.11.6, the minimum area that shall be permitted in the subdivision of land for any purpose in a Rural A Zone or a Rural B Zone for any one allotment or parcel of land shall reflect the productivity of the land. In this respect, it is recognised that a combination of different forms of primary production, topography and soil type requires different allotment sizes to achieve an economically viable agricultural or grazing unit. Therefore in addition to other matters contained in the Planning Scheme all subdivisional proposals in the Rural A and/or Rural B Zones will be assessed on land resource assessment criteria and the Department of Primary Industries' Land Class maps for Esk Shire. The following minimum allotment sizes will be required for Classes A, B, C1, C2 and D land as identified in the Land Class maps, subject to the requirements of provisions 11.11.5.2 to 11.11.5.5 inclusive:

Class A	- 60 hectares
Class B	- 100 hectares
Class C1	- 500 hectares
Class C2	- 500 hectares
Class D	- 500 hectares

11.11.5.2 If an application for subdivision of land in the Rural A and/or Rural B Zones involves land of different agricultural land classes as identified in the Land Class maps, Council will determine the minimum area to apply based on the circumstances of the case and having regard to the provision of State Planning Policy 1/92 and advice from the Queensland Department of Primary Industries. Council may require the applicant to lodge with the application a land resource assessment report, and may require inclusion in that report of an economic feasibility study which demonstrates that each of the proposed allotments following subdivision would be an economically viable agricultural or grazing unit.

11.11.5.3 If a land resource assessment report conflicts with the Queensland Department of Primary Industries' Agricultural Land Classes map, Council will refer the matter to that Department.

11.11.5.4 Council must not approve any application for subdivision of land in the Rural B Zone without the prior agreement in writing of the administering authority of the designated water storage or declared catchment area as the case may.

11.11.5.5 In exceptional circumstances Council may permit the subdivision of land in the Rural A and/or Rural B Zones with any proposed allotment having an area of less than the area referred to in provision 11.11.5.1 if the applicant, by way of a land resource assessment report, demonstrates to the satisfaction of Council and the Department of Primary Industries that each of the proposed allotments following subdivision would be an economically viable agricultural or grazing land unit and that the subdivision will not:

- a) impede the optimum agricultural or grazing use of the land as applicable; or
- b) detract from the Shire's traditional rural character and amenity; or

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- c) result in undesirable land management and conservation practices with respect to erosion control, water quality in designated water storage or catchment streams, soil erosion, flora and fauna protection and fire hazard control; or
- d) result in an undesirable demand for services:

Provided that in any case the smallest permissible lot size, subject to the provisions of this planning scheme, for any parcel of land in the various land classes is to be:

Class A	- 40 hectares
Class B	- 60 hectares
Class C1	- 100 hectares
Class C2	- 500 hectares
Class D	500 hectares.

Family Transfer

11.11.6.1 In the Rural A and Rural B Zones an allotment having an area of not less than two thousand square metres (2000m²) and not more than one hectare (1 Ha) may be excised from a rural property for family transfer purposes, provided that on any allotment so excised a dwelling is erected or a dwelling is proposed to be erected and that dwelling is occupied by and ownership of the land transferred to any of the following:

- a) the owner, where the balance of the original allotment is transferred to a person mentioned in b), c) or d) below; or
- b) the parent or parents of the owner or owner's spouse; or
- c) offspring eighteen (18) years or over of the owner or owner's spouse; or
- d) the spouse or ex-spouse of the owner only when pursuant to a settlement under the *Family Law Act*;

and provided further that the applicant establishes to the satisfaction of Council and the Department of Primary Industries that the purpose of the subdivision is for genuine agricultural purposes.

11.11.6.2 Where land is within the declared catchment area of Wivenhoe Dam, Council is to consider an excision under this subsection only as follows:

- a) where the registered proprietor was the owner on 16 June 1984; or
- b) the registered proprietor's parents or the parents of the registered proprietor's spouse were the owners of the land on 16 June 1984; or
- c) the registered proprietor inherited the property from a person who owned the property on 16 June 1984:

Provided that Council is not to approve the subdivision of more than one (1) family transfer allotment out of the parcel as it was on 16 June 1984.

11.11.6.3 This provision applies only to allotments that are not within the declared catchment of Wivenhoe Dam, and are in the Rural A zone or the Rural B zone (or both zones), and that existed before 2 April 1977 and that, in the case of allotments not more than 20 hectares, have not been subdivided since that date or, in the case of allotments greater than 20 hectares, have not had more than one family transfer allotment excised. Council may consider an application for the excision of a family transfer allotment if:

- a) the allotment is between 10.2 hectares and 20 hectares - one family transfer allotment (subject to compliance with the ribbon development provisions in provision 11.11.6.8); or
- b) the allotment is greater than 20 hectares - not more than two family transfer allotments (subject to the ribbon development provisions in provision 11.11.6.8).

11.11.6.4 The balance area of an allotment after the excision of a family transfer allotment referred to in provision 11.11.6.1 is to be not less than ten hectares (10 Ha), and is to have a frontage of not less than one hundred metres (100m) to a constructed road.

11.11.6.5 The proposed family transfer allotment must have a frontage of not less than thirty metres (30m) to a constructed road and a frontage to depth ratio not exceeding 1:3, except in the case of an allotment at the end of a cul-de-sac where the average width to depth ratio is not to exceed 1:3.

11.11.6.6 The proposed allotment is to be capable of being adequately serviced with a suitable effluent disposal system to the Council's satisfaction and is to contain within it an area of land capable of being used as a building platform and which satisfies the following requirements:

- a) has a minimum area of six hundred square metres (600m²); and
- b) is capable of containing a square with sides of twenty metres (20m); and
- c) has a slope of less than fifteen percent (15%) before the undertaking of earthworks; and
- d) is not inundated by the floodwaters of a storm event of one (1) in one hundred (100) years' frequency; and
- e) in the opinion of Council practical access can be obtained from a constructed road, including during a storm event of one (1) in one hundred (100) years' frequency; and
- f) conforms to such other requirements as Council in the particular case may require.

The Council may require the applicant to provide information which accompanies the application and which addresses the above matters.

11.11.6.7 Council shall approve an excision under this subsection only where:

- a) the owner gives an undertaking, in such form as may be required by Council, that the owner will transfer the excised allotment to the member or members of the family nominated pursuant to this subsection and the nominated person, in turn, gives an undertaking in such form as may be required by the Council; and
- b) the undertaking referred in subprovision a) may, in Council's absolute discretion, be required to include provisions relating to a bond.

11.11.6.8 Subdivision shall not be approved pursuant to this subsection where, in the opinion of the Council, it would constitute ribbon development. For the purposes of this provision, "ribbon development" will be deemed to occur where more than two allotments, each of an area less than two hectares (2 Ha) would be within six hundred metres (600m) of each other measured along the road frontage between the closest side boundaries of such allotments on the same side of the road, or within three hundred metres (300m) when on opposite sides of a road.

The Commercial Zone

11.11.7 The minimum area and minimum frontage to a constructed road that shall be permitted in the subdivision of land for any purpose in a Commercial zone for any one allotment or parcel of such land shall be as follows: -

Minimum area - 400 square metres
Minimum frontage to a road - 10 metres

The Industrial Zone

11.11.8.1 The minimum area and minimum frontage to a constructed road that shall be permitted in the subdivision of land for any purpose in an Industrial zone for any one allotment or parcel of such land shall be as follows: -

Minimum area - 1000 square metres
Minimum frontage to a road - 40 metres

11.11.8.2 All of the requirements of the Council relating to landscaping of the site, provision of an area for the manoeuvring and parking of vehicles within the metes and bounds of the land to be subdivided and storage of materials and goods are to be satisfied.

The Rural Residential Zone

11.11.9.1 Subject to provision 11.11.9.3, the minimum area and minimum dimensions that shall be permitted in the subdivision of land for any purpose in a Rural Residential zone for any one allotment or parcel of such land shall be as follows: -

Minimum Frontage - 30 metres
Minimum Area - 2000 square metres
Average Area - 4000 square metres
Maximum Area - 2.0 hectares

11.11.9.2 For the purposes of this sub-section: -

- (a) the average area of the allotments is the summation of the area of all proposed allotments (excluding but not limited to parks, roads and any balance area) divided by the total number of proposed allotments; and
- (b) the maximum area shall exclude any allotment required for park purposes;

11.11.9.3 Provided that: -

- (a) subject to provision 11.11.9.3(b), the Council may allow a minimum frontage of fifteen (15) metres at the end of a cul-de-sac;
- (b) the frontage to depth ratio shall not exceed 1:3 except in the case of an allotment at the end of a cul-de-sac where the average width to depth ratio shall not exceed 1:3;
- (c) not more than twenty percent (20%) of the allotments in the total subdivision, or any stage thereof, shall be less than the average area listed in provision 11.11.9.1;

- (d) every proposed allotment, except land required for park purposes, includes within it an area of land capable of being used as a building platform which satisfies the requirements of provision 11.11.6.6; and
- (e) every proposed allotment shall contain a contiguous area with natural slope of less than twenty percent (20%) across more than half of the area of the proposed allotment.

11.11.9.4 Approval to subdivide land in a Rural Residential zone shall only be given where the roads providing access to the relevant land are sealed, to a minimum width prescribed by section 11.12, from the land to be subdivided to a sealed principal or secondary road.

11.11.9.5 Any access strip or easement giving access to a rear allotment is not to have a greater length than the length of the allotment itself, provided, however, that this provision may be relaxed if, in the opinion of the Council, special circumstances exist to warrant such relaxation.

The Future Rural Residential Zone

11.11.10.1 The minimum area and dimensions that shall be permitted in the subdivision of land for any purpose in a Future Rural Residential zone for any one allotment or parcel of such land shall be as follows: -

Minimum Area - 4 hectares;
Maximum Area - 20 hectares;
Average Area - 8 hectares;
Max depth to width ratio - 3:1

11.11.10.2 For the purpose of this sub-section: -

- (a) every allotment shall be capable of future resubdivision in accordance with subsection 11.11.9;
- (b) subject to provision 11.11.10.2(c), every proposed new allotment shall be designed so that allotments of less than the prescribed average area shall not have direct access to any principal road;
- (c) the proposed road system within a Future Rural Residential zone shall be designed so as to facilitate the progressive re-subdivision of the resultant allotments, in accordance with the provisions of sub-section 11.11.9, independent of adjoining allotments; i.e. the principal roads required to service the ultimate rural residential subdivision shall be dedicated at the time of the interim subdivisional development - the extent of actual construction being limited to that required to immediately service the proposed development.

General Provisions

11.11.11 The provisions of this section shall not have application to allotments constituting access restriction strips as defined in Section 11.22.

11.11.12 The Council shall keep a Register of allotments approved pursuant to sub-sections 11.11.5, 11.11.6 and 11.11.10 and of dwelling houses erected thereon. A certificate signed by the Clerk shall be prima facie evidence of the facts therein stated.

Section 11.12 TRUNCATION

11.12.1 No proposal plan which involves the opening of a road shall be approved unless such subdivision provides for corner truncation of the land at: -

- (a) the intersection of existing roads, whether at right angles or otherwise, whose alignments form boundaries or parts thereof of the land; or
- (b) the intersection of new roads; or
- (c) the intersection of a new and an existing road; or
- (d) a corner where in the opinion of the Council, a future road will intersect an existing road; or
- (e) a corner which will be situated, in the opinion of the Council, at the intersection of future roads; or
- (f) at any angle, not being an intersection, in an existing road.

11.12.2 Sub-section 11.12.1 shall not apply in respect of a truncation of land at a corner which is already truncated.

11.12.3 Truncations shall be six (6) metres by one or more chords unless, the Council in its discretion requires a truncation of greater or lesser dimensions.

11.12.4 The applicant shall prior to the endorsement by the Council of its consent to the relevant 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 and subject to the proviso to this Clause, a Licensed Surveyor shall sign and furnish to the Council a certificate that such obstructions have been removed;

Provided that if a building existing at the time of the determination of an application encroaches on the truncated area then the Council shall not require the owner or any person having an estate or interest in the land out of which the truncated area was dedicated to remove the obstruction until the building is proposed to be re-built to the new alignment;

Provided further that the part of such building which is on the truncated area shall not be re-built or added to after opening of the truncated area as a road.

11.12.5 The 'truncated' area shall be dedicated as road free of cost to the Council.

Section 11.13 SUBMISSION OF ENGINEERING PLANS

11.13.1 In any subdivision involving a new road or works on an existing road, the applicant shall submit to Council for approval, road and drainage plans, together with specifications properly prepared by an Engineer holding a current certificate as Local Government Engineer pursuant to regulations gazetted under the Local Government Act, or by a Civil Engineer registered under the Professional Engineers Act of 1988. The Shire Engineer shall consider the plans and specifications and shall notify the applicant of his approval or otherwise.

11.13.2 The Council may, at the request of the subdivider, undertake the preparation of plans and specifications for the road and drainage works required on any subdivision. In such case, the Council shall charge the subdivider for such work in accordance with the scale of fees fixed from time to time by resolution of the Council.

Section 11.14 BASIC GENERAL CONDITIONS OF APPROVAL OF SUBDIVISION

11.14.1 Without limitation to the rights of the Council to impose reasonable conditions when granting approval to an application to subdivide land, the basic general conditions set out in this section shall be applicable to all approvals for subdivision.

11.14.2.1 The applicant shall carry out at his or her expense, to the satisfaction of the Shire Engineer and in accordance with this Part, the construction of all new roads, drainage installations and any other developmental works required by Council in connection with the subdivision. The applicant shall also carry out to the satisfaction of the Shire Engineer and in accordance with this Part, all necessary filling within the boundaries of the land proposed to be subdivided so as to conform to minimum levels as may be fixed by the Council.

11.14.2.2 Prior to proceeding with any filling, road construction, drainage or other development works associated with a subdivision as required by the provisions of this Part, full working plans and specifications of any such works shall be approved by the Shire Engineer.

11.14.2.3 The applicant shall construct, at his or her expense and to the satisfaction of the Shire Engineer all turnouts (including any pipe crossings thereunder) leading from any new road within the subdivision to an existing road.

11.14.2.4 Where allotments in a proposed subdivision will have frontage to an existing dedicated road the applicant shall pay to the Council such sum as may be determined by the Council as the cost of upgrading such road to the standards as set out in section 11.15 for new roads in the zone in which the subdivision is located, or alternatively with the approval of the Council construct such work at his or her own expense and to the satisfaction of the Shire Engineer.

11.14.2.5 Where an existing bridge or culvert in the opinion of the Shire Engineer will require reconstruction or upgrading in the future and the proposed subdivision will increase the traffic over such bridge or culvert the applicant shall pay to the Council such reasonable sum as may be determined by the Council as a contribution towards the future reconstruction or upgrading of the said bridge or culvert.

11.14.2.6 Where an existing road has been declared by the Council to form part of the principal road network for the area, or part of it and such road is not constructed to the ultimate standard of construction to which it ought in the opinion of the Shire Engineer to be constructed and the subdivision will in the opinion of the Shire Engineer contribute to the volume of traffic using such road, the applicant shall pay to the Council such reasonable sum as may be determined by the Council as a contribution towards the cost of upgrading the said road to the required ultimate standard of construction.

11.14.2.7 Where a proposal plan makes provision for the opening of a new pathway, such pathway shall be formed full width and paved to the requirements and satisfaction of the Shire Engineer.

11.14.2.8 Where a proposal plan makes provision for the opening of a new lane, such lane shall be formed, paved, bitumen surfaced and channelled to the requirements and satisfaction of the Shire Engineer.

11.14.2.9 The applicant shall be responsible for the cost of any alterations to electricity, telephone mains, water mains, sewers and/or any other public infrastructure installations which may be affected by the construction of any road or drainage works required in connection with the subdivision.

11.14.2.10

- (a) The applicant shall adequately drain every road and every allotment and the applicant shall carry the drainage to a point at which it may be lawfully discharged without causing nuisance or annoyance to any person.
- (b) If such drainage is to be carried through land whether owned by the applicant or not, the applicant must satisfy the Council that he or she has obtained, or can obtain, the consent of the owner of the land and an easement in favour of the Council, for drainage through the land to a place where drainage may be lawfully discharged and for support for drainage pipes therein. The Council shall not endorse its approval on the relevant plan of survey until the document evidencing the grant of such easement has been received by the Council.
- (c) All costs of and incidental to obtaining, stamping and lodging of the easements for registration shall be borne by the applicant.

11.14.2.11 All filling, roadworks, drainage installations and any other developmental works pertinent to the subdivision shall be carried out under the supervision of an Engineer, qualified as in sub-section 11.13.1, who shall set out full details of such works (including necessary survey data and constructed levels) and shall certify that such works have been satisfactorily performed, such details shall be furnished to the Shire Engineer by such Engineer.

Section 11.15 ROADS AND DRAINAGE DESIGN AND CONSTRUCTION

11.15.1.1 Without in any way limiting the Council's power to require a greater standard of construction in a subdivision involving the opening of a new road, or where an existing dedicated road fronting the proposed subdivision is not constructed to the standard set out in Table 11.15 following, the applicant for approval of the subdivision shall construct the road to the requirements set out in Table 11.15.

11.15.1.2 Access to Type E roads shall be limited to specified points as designated by the Shire Engineer. Each subdivider whose property includes a Type E road shall be required to provide these roads to such a standard as shall be determined by the Shire Engineer.

11.15.1.3 The definition of catchment shall be deemed to include all such occupied allotments, vacant allotments and future allotments which could be occupied, as determined by the Council and 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 including but not limited to schools, shopping areas and parks for organised sport.

11.15.1.4 In deciding the appropriate formation width for any residential streets, regard shall be given to the optimum catchment of that street: Provided that regard also shall be given to the character and function of each street in the locality in determining the appropriate standards.

11.15.1.5 The construction of existing dedicated roads fronting the proposed subdivision shall be carried out to the centreline of the road reserve or to a minimum width of six (6) metres.

11.15.1.6 The number of contributing lots served by the roads referred to in Table 11.15 shall be as determined by the Shire Engineer.

11.15.1.7 In the case of subdivision within a Future Rural Residential zone, road types and design standards shall be determined on the basis of the ultimate allotment yield: Provided, however, that the standard of construction shall be determined on the basis of the actual number of contributing allotments at the time of the subdivision approval.

11.15.2.1 Except where otherwise approved by the Council, a new road shall be constructed in accordance with the requirements of this sub-section.

11.15.2.2 In a Rural A zone or Rural B zone: -

- (a) the minimum formation width shall be in accordance with Table 11.15;
- (b) a gravel surface shall be provided to the satisfaction of the Shire Engineer for the minimum width as specified in Table 11.15; however, if three or more lots are proposed a bituminous sealed surface shall be provided to the satisfaction of the Shire Engineer for the minimum width as specified in Table 11.15;
- (c) all culverts across roadways within the land to be subdivided shall be constructed to a capacity sufficient for the passage of runoff from a design storm of five (5) year occurrence interval under the road pavement to the satisfaction of the Shire Engineer;
- (d) table drains shall be formed and loamed and grassed by means approved by the Shire Engineer and where in the opinion of the Shire Engineer the grades or soil type so require, approved anti-scouring measures shall be provided to the satisfaction of the Shire Engineer.

11.15.2.3 In a Rural Residential zone or Future Rural Residential zone: -

- (a) the minimum formation width shall be as specified in Table 11.15;
- (b) a bituminous sealed surface shall be provided to the satisfaction of the Shire Engineer to the width as specified in Table 11.15;
- (c) continuous footways of a minimum width of two (2) metres and a maximum one (1) vertical in six (6) horizontal crossfall shall be provided on both sides of the roadway formation to the satisfaction of the Shire Engineer. Such footways shall be formed full width to permanent levels and covered by loam approved by the Shire Engineer, to a depth of not less than fifty (50) millimetres;

- (d) table drains shall be formed and loamed and grassed by means approved by and to the satisfaction of the Shire Engineer and where in the opinion of the Shire Engineer the grades or soil type so require, concrete kerbing and channelling or similar approved anti-scouring measures shall be provided to the satisfaction of the Shire Engineer;
- (e) all culverts across roadways in the land to be subdivided or on the frontage of such lands shall be constructed to a capacity sufficient for the passage of runoff from a design storm of five (5) year occurrence interval under the road pavement to the satisfaction of the Shire Engineer. All such culverts shall be piped for a minimum distance of thirty (30) metres beyond the frontage of the proposed allotments and where in the opinion of the Shire Engineer the expected velocities or soil types so require, approved anti-scouring measures shall be provided to the satisfaction of the Shire Engineer;
- (f) proposed drainage easements and public garden and recreation reserves shall be shaped and drained in a manner approved by the Shire Engineer and where in the opinion of the Shire Engineer the grades or soil type so require, approved anti-scouring measures shall be provided to the satisfaction of the Shire Engineer;
- (g) provisions (b), (c) and (d) hereof, shall not apply in the case of a Future Rural Residential zone: Provided that the proposed standard of construction facilitates the inclusion of such provisions when the need arises.
- 11.15.2.4** In a Residential zone, Village zone, Commercial zone or Industrial zone,
- (a) a bituminous sealed surface shall be provided to the satisfaction of the Shire Engineer to the width as specified in Table 11.15;
- (b) concrete kerbing and channelling shall be provided on each side of the road;
- (c) footways shall be formed full width to permanent levels and covered by loam approved by the Shire Engineer, to a depth of not less than fifty (50) millimetres from the road property boundary to the kerb;
- (d) stormwater drainage shall be provided to such standard as may be determined from time to time by the Shire Engineer;
- (e) proposed drainage easements and public garden and recreation reserves shall be shaped and drained in a manner approved by the Shire Engineer and where in the opinion of the Shire Engineer the grades or soil type so require, approved anti-scouring measures shall be provided to the satisfaction of the Shire Engineer;
- (f) where it becomes necessary owing to the subdivision of the land, the removal or alteration of a post, pipe, work, installation or service of any kind whatsoever relating to electricity supply, gas, oil, water, sewerage, drainage, postal and telecommunication or other public infrastructure or convenience of any kind whatsoever, shall be effected to the satisfaction of the Shire Engineer and the relevant instrumentality.
- 11.15.3.1** Except as otherwise specified in this section, where in the opinion of the Shire Engineer, kerb and channelling is required, the distance between kerbs shall be fixed by the Council with respect to future traffic on the road, but shall not be less than six (6) metres between the lip of kerbs.
- 11.15.3.2** All footpaths are to be formed to permanent levels approved by the Council and are to be left with a surface of fine grained materials capable of supporting a good growth of grass and shall be graded to prevent scouring.
- 11.15.3.3** The table drain longitudinal gradients are to be a maximum of sixteen percent (16%) and a minimum of zero point five percent (0.5%) for earth table drains and zero point two five percent (0.25%) for concrete channels. Minimum gradients will be accepted in flat localities where it can be shown that silting will not occur. Grades of table drains over ten percent (10%) will only be accepted where it can be shown that scouring will not occur.
- 11.15.3.4** Footpaths, earth table drains and road shoulders are to be grassed to the satisfaction of the Shire Engineer. If earth table drains cannot be satisfactorily grassed, then concrete kerb and channelling must be provided. The standard of grassing to be

TABLE 11.15

Zone Under Planning Scheme	Road Type	Minimum Road Reserve (metres)	Optimum Catchment Equivalent household units or lots served	Pavement Width (metres)	Bitumen Seal (metres)	K & C	Max. Grade
Residential and Village	A	16	1 - 20	6	6	Yes	16%
	A	20	21 - 50	6	6	Yes	16%
	B	20	51 - 150	8	8	Yes	16%
	C	20	151 - 450	10	10	Yes	12%
	E	25	450+	To be determined by the Shire Engineer having regard to the ultimate traffic volume the road will most likely be required to carry.			10%
Rural A, Rural B, Rural Residential, And Future Rural Residential	A	20	1 - 20	8	4	No	16%
	B	20	21 - 150	8	6	No	16%
	C	20	151 - 450	10	6	No	12%
	E	25	450+	To be determined by the Shire Engineer having regard to the ultimate traffic volume the road will most likely be required to carry.			10%
Commercial	All	20	N/A	10	10	Yes	10%
Industrial	D	25	N/A	13	13	Yes	10%

In this Table: - K & C means Kerb and Channel
N/A means Not Applicable

Table of Road Types
(for use with Table 11.15 above)

Type A Roads (Access Roads)

- being a cul-de-sac of less than two hundred (200) metres in length and other minor access roads with the primary function of providing access to abutting properties and through which traffic, not having an origin or destination there, will not be attracted: Optimum Catchment 1 - 50 equivalent household units or allotments served.

Type B Roads (Minor Collector Roads)

- being access roads with the primary function of providing access to abutting properties, but which also provide for traffic using the road as a means of circulation from one road to another in a minor way: Optimum Catchment 51 - 150 equivalent household units or allotments served.

Type C Roads (Collector or Secondary Roads)

- being roads intended to provide for the collection and distribution of local traffic, but which also provide access to abutting properties: Optimum Catchment 151 - 450 equivalent household units or allotments served.

Type D Roads (Industrial Roads)

- being roads intended to provide access to land used for industrial purposes.

Type E Roads (Arterial or Principal Roads)

- being roads whose primary function is the movement of traffic from one local area to another: Optimum Catchment in excess of 450 equivalent household units or allotments served.

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achieved shall be such that not less than zero point eight square metres in any one (1) square metre is covered with a healthy growth of grass.

11.15.3.5 All turnouts (including any pipe crossing thereunder or concrete inverts of any new road) shall be connected to the existing road pavements.

11.15.3.6 The minimum road pavement depth shall be two hundred (200) millimetres of consolidated gravel, provided that the Shire Engineer, 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 Shire Engineer may require the applicant to provide Californian Bearing Ratio (C.B.R.) or other test results at locations and depths that he or she specifies. The applicant shall have the samples tested by an analyst registered with the National Association of Testing Authorities and submit the analyst's signed report to the Shire Engineer.

11.15.3.7 In an Industrial zone, the minimum radius for a curve in a road as measured to the centreline of the road shall be one hundred and fifty (150) metres.

11.15.3.8 Notwithstanding the provisions of sub-section 11.15.2, the applicant shall cause every new road and every new allotment in those parts of the area referred to in clauses 11.15.2.3 and 11.15.2.4 to be drained to the satisfaction of the Shire Engineer, the drainage to be carried out to a point at which it may be lawfully discharged without causing nuisance or annoyance to a person. If drainage or drainage discharge is to be carried through land not owned by the applicant, the applicant shall satisfy the Shire Engineer that there is a lawful right of discharge through such land and provide at no cost to Council such drainage easements as may be required by the Shire Engineer.

11.15.3.9 All details of road and drainage design and construction shall be to the requirements of the Shire Engineer. The Shire Engineer may from time to time issue standards setting out the requirements in respect of such design and construction and where such standards are issued all road and drainage design and construction shall conform to such standards, unless otherwise directed by the Shire Engineer.

11.15.3.10 Where in any subdivision of land subject to the provisions of this Part and in the opinion of the Shire Engineer the circumstances of the location, topography or expected future development of the land may warrant, the Shire Engineer may require a greater standard or permit a lesser standard than those set out in this section.

11.15.3.11 In a Rural A zone, Future Rural Residential zone or Rural Residential zone, the Shire Engineer may permit a lesser design frequency than that required in clauses 11.15.2.2(c) and 11.15.2.3(e) provided that: -

- (a) such lesser standards shall only apply in the case of Type A or Type B roads;
- (b) all culverts across such roadways shall be constructed to a capacity sufficient for the passage of run-off from a design storm of two (2) year occurrence interval under the road pavement;
- (c) adequate protection shall be provided for over-topping of the roadway by run-off from a higher intensity storm;
- (d) the horizontal and vertical alignment of the approaches to the culvert shall be consistent with the design speed of the adjoining road; and

- (e) the depth and velocity of flood water across the roadway shall not preclude access by emergency vehicles.

11.15.3.12 All culverts or structures across Type E roadways shall be constructed to a capacity sufficient for the passage of run-off from a design storm of fifty (50) year occurrence interval under the road pavement to the satisfaction of the Shire Engineer.

11.15.4.1 Notwithstanding the requirements of this section, the Council may approve development standards set out in the Model Code in respect of development within the Residential and Rural Residential zones: Provided that in the case of road reservation widths within the Rural Residential Zone, the requirements of Table 11.15 shall prevail.

11.15.4.2 The requirements of this section shall otherwise be read in the context of the provisions of the Model Code and in the event of any conflict between the provisions, the requirements of the Model Code shall prevail.

Section 11.16 WATER SUPPLY AND SEWERAGE SERVICES

11.16.1.1 The water supply provisions of sub-section 11.16.2 shall apply to every application for approval of subdivision of land situated in the Residential zone, Village zone, Rural Residential zone, Commercial zone and Industrial zone, unless the Council resolves to the contrary upon the recommendation of the Shire Engineer.

11.16.1.2 Where an application for subdivision of land is located in an area where in the opinion of the Shire Engineer it cannot be reasonably connected to a reticulated water supply network, the minimum water storage on each allotment shall be in accordance with the specifications adopted from time to time by the Council.

11.16.1.3 The sewerage provisions of this section shall apply to every application for approval of the subdivision of land situated in the Residential zone, Commercial zone and Industrial zone unless Council resolves to the contrary upon the recommendation of the Shire Engineer.

11.16.1.4 Where an application for subdivision of land is located in an area where in the opinion of the Shire Engineer it cannot be reasonably connected to a reticulated sewerage system, liquid wastes are to be disposed of in accordance with specifications adopted from time to time by the Council.

11.16.2.1 In the case of every application made for approval to subdivide land to which this section applies, the application shall not be approved except subject to the conditions set out in this sub-section: unless the Council in its discretion and upon the recommendation of the Shire Engineer considers that such conditions or any one or more of them should not be imposed by reason of the size, shape, location or topography of the said land or of the proposed new allotments, or by reason of any prior work or contributions.

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11.16.2.2 The applicant shall provide for the reticulation of water supply to the relevant land and every allotment to be subdivided, 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 Council's approval, the applicant may enter into an agreement with the Council for the supply of materials and performance of works at the expense of the applicant.

11.16.2.3 The applicant shall provide for the reticulation of sewerage to the relevant land and every allotment to be subdivided, 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 and with the Council's approval, the applicant may enter into agreement with the Council for the supply of materials and works including structures and equipment and performance of works by the Council at the expense of the applicant.

11.16.2.4 The applicant shall contribute towards the cost of the provision of a water supply service to the said land (other than by reticulation) by way of paying to the Council a contribution towards the costs (whether incurred before or after the making of the application), in connection with the construction of mains and the augmentation of existing mains and the construction of pumping stations and the augmentation of existing pumping stations required to be undertaken by the Council for such provision, or any of those costs.

11.16.2.5 The applicant shall contribute towards the cost of the provision of a sewerage service to the said land (other than by reticulation) by a contribution towards the costs (whether incurred before or after the making of the application), in connection with the construction of mains and the augmentation of existing mains and the construction of pumping stations and the augmentation of existing pumping stations required to be undertaken by the Council for such provision, or any of those costs.

11.16.3.1 If the Council shall approve an application subject to the condition that the applicant shall provide materials and perform works for the reticulation of water supply and the reticulation of sewerage or reticulation of water supply or the reticulation of sewerage then the applicant shall within six (6) months or such longer period as the Council may allow from the date of notification of such approval, lodge with the Council for examination by the Shire Engineer, such plans, specifications and other information as the Shire Engineer may reasonably require and an estimate of cost of such materials and work prepared by an Engineer qualified as in sub-section 11.13.1 and shall amend such plans and specifications as reasonably required by the Shire Engineer in accordance with good engineering practice and within the said period of six (6) 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 and if the applicant shall fail to do so, then the aforesaid approval shall lapse and be of no force or effect whatsoever: Provided always that if the application is for the subdivision of a parcel of land in stages and the Council approves the subdivision in stages, then the Council shall also state in the relevant condition of approval, the date on which the aforesaid period of six (6) months shall commence in respect of each approved subdivision

and that date shall for the purposes of this clause be deemed to be the date of notification of approval.

11.16.3.2 The Council shall not endorse its approval on and seal any plan of survey intended for registration by the Registrar of Titles in respect of land to which clause 11.16.3.1 applies, unless and until the applicant shall have carried out his or her obligation to supply materials and perform works or shall have given security to the entire satisfaction of the Council for the supply of material and performance of works.

11.16.4.1 If the Council shall approve an application subject to the condition that the applicant shall enter into an agreement with the Council for the supply of materials and performance by the Council of works at the expense of the applicant then the applicant shall within six (6) months from the date of notification of approval or such longer period as the Council may allow, cause to be prepared or pay the cost of preparation of all necessary plans and specifications and enter into a binding agreement with the Council for the supply of materials and performance of work by the Council at the expense of the applicant for such price and at such rates as the Council shall specify in the condition of approval (subject to variation in respect of increases and/or decreases in cost of materials and labour between date of approval and date of completion of work) and if the applicant shall not enter into such agreement within the aforesaid period of six (6) months or such longer period as the Council may allow then the said approval shall be deemed to have lapsed and to be of no force or effect whatever: Provided always that if the application is for the subdivision of a parcel of land in stages and the Council approves the subdivision in stages then the Council shall also state in the relevant condition of approval the date of which aforesaid period of six (6) months or such longer period as the Council may allow shall commence in respect of each approved stage of subdivision and that date shall for the purpose of this Clause be deemed to be the date of notification of approval.

11.16.4.2 If the Council requires the applicant to enter into an agreement pursuant clause 11.16.4.1 the Council shall not endorse its approval on and seal any plan of survey intended for registration by the Registrar of Titles in respect of the land to which that clause applies, until the applicant has entered into such agreement and either paid to the Council the amount payable pursuant to such agreement and given security entirely acceptable to the Council for any additional costs, or given to the Council security entirely acceptable to the Council for payment of all monies pursuant to such agreement.

11.16.4.3 Where the Council has imposed as a condition of approval that the applicant shall enter into an agreement with the Council for the supply by the Council of materials and performance by the Council of works at the expense of the applicant then the Council shall be obliged to perform its obligations under the relevant agreement within such time as the Council and the applicant may mutually agree or if the Council and the applicant fail to agree then within a period of twelve (12) months from the date on which the applicant shall duly execute the Agreement, or the date on which the applicant shall have paid to the Council all monies payable thereunder or given security for payment to the absolute satisfaction of the Council whichever is the later: Provided always that if the applicant has sought and the Council has approved subdivision in stages then the period for performance by the Council of its obligations under the agreement hereinbefore referred to shall be deemed to have commenced in respect of each

separate stage on the date on which the applicant has entered into the relevant agreement in respect of that stage or the date on which the applicant has made payment or provided security as hereinbefore provided in respect of that stage.

11.16.5.1 If the Council shall require an applicant to contribute towards the cost of the provision of a water supply service and the provision of sewerage (other than by reticulation), then the Council shall state in the relevant conditions of approval the amount of contribution required (which amount shall be reasonable in the opinion of the Council having regard to the reasonably foreseeable extent of usage of the facility concerned by, through, or as a result of the proposed subdivision) and such contribution shall be paid within the time specified in the relevant condition of approval (which shall be not less than six (6) months except with the consent of the Applicant): Provided always that the Council may allow a longer time for payment than six (6) months: And provided further that the Council may in its absolute discretion accept security for payment at any specified time in lieu of actual payment: And provided that where the applicant has sought and the Council has approved subdivision in stages then the period within which payment must be made or security given shall be deemed to commence on a date to be specified by the Council in the relevant condition of approval in respect of each stage.

11.16.5.2 If the applicant shall fail to make payment or give security as required by the Council pursuant to clause 11.16.5.1, then the approval of the subdivision shall be deemed to have lapsed and shall be of no force or effect whatsoever.

11.16.6 Where a subdivision is within part of the area where water supply and/or sewerage is not presently available for reticulation to the subdivision, but is likely to be available within five (5) years from the date of the approval, the applicant shall pay to the Council such reasonable sum as may be determined by the Council as a contribution towards headworks and reticulation costs of providing water supply and sewerage services to the subdivision.

11.16.7 Where the Council has imposed as a condition of approval that the applicant shall contribute towards the cost of the provision of water supply and the cost of provision of sewerage, or the cost of provision of water supply or the cost of provision of sewerage, the Council shall not endorse its approval on and seal any plan of survey 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.

11.16.8 Prior to connection to the existing systems of the water supply reticulation and/or the sewerage reticulation under the provisions of this section, the applicant shall contribute to the Council such reasonable sum as the Council, shall from time to time determine as being the cost of obtaining, treating and disposing of sewerage likely to be discharged from the subdivision.

11.16.9 All materials supplied and work performed by the applicant or by the Council pursuant to this Part shall be to the 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 herself or his or her 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 that applicant pursuant to this section or imposed by the applicant by any agreement entered into pursuant to this section.

11.16.10 Every agreement entered into pursuant to this section 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 of an amount determined by the Council but not exceeding an amount equal to five per centum (5%) of the total cost of the works to cover such maintenance, or at the option of Council the giving by the applicant to the Council of security to the satisfaction of the Council for payment to the Council of the cost of all maintenance works.

11.16.11 Every agreement entered into between an applicant and the Council pursuant to this Section 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 Solicitor's costs in respect of the Agreement.

Section 11.17 CONDITIONS FOR ROAD OR DRAINAGE OR WATER SUPPLY OR SEWERAGE CONSTRUCTION

11.17.1.1 In a subdivision involving the opening of a new road or new roads, or the provision of drainage water supply or sewerage services, where the applicant for approval of the subdivision elects to have such road or drainage or water supply or sewerage services constructed by persons other than the Council the applicant shall: -

11.17.1.2 provide for such work and/or services to be supervised by an Engineer qualified as in sub-section 11.13.1;

11.17.1.3 keep a competent overseer or foreperson constantly on the works during normal working hours. Instructions given by the Shire Engineer or his or her representative, to such person, shall be held to have been given to the applicant;

11.17.1.4 give uninterrupted access to the land and afford every facility for the supervision and examination of works or materials that may be requested by the Shire Engineer in connection with the construction;

11.17.1.5 commence, carry on, make, execute or construct the works in such order of time or locality or nature of work as the Shire Engineer may, in writing, direct;

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11.17.1.6 submit to the Shire Engineer the written consent of the owners of the land adjoining that being subdivided, permitting the applicant or his or her agents to enter upon their lands, if necessary, during the course of construction of the works;

11.17.1.7 assume liability for and indemnify the Council against all actions, claims and demands arising out of or in connection with, the carrying out of the works during the progress of the works. The form that the indemnity shall take shall be as is determined from time to time by the Council;

11.17.1.8 notify the Council prior to the commencement of the construction, of the name of the person or company who is to carry out the actual construction of the works and other relevant information as the Shire Engineer from time to time determines;

11.17.1.9 be responsible for providing and maintaining all barricades, warning signs and lights which, in the opinion of the Shire Engineer, are required for safety of traffic, both vehicular and pedestrian, during the time of construction;

11.17.1.10 be responsible for the whole of the costs of alterations to existing water mains and services, stormwater drains, gas mains and services, sewers, telephone cables and power lines necessary to complete the works, whether included in the Schedule of Quantities or not;

11.17.1.11 restrict to a minimum, consistent with the normal carrying out of such construction, interruption of public use of a road and shall comply with a direction given by the Shire Engineer to minimise interruption of use of a road by the public;

11.17.1.12 when the road or drainage and/or water supply and sewerage services have been completed in accordance with the approved plans, designs, schedules and specifications, the conditions of approval of subdivision and the requirements of this Part, ensure that the supervising Engineer shall give to the Shire Engineer a certificate to that effect;

The certificate shall set out full details of the work performed and include all necessary survey data, levels and other particulars in connection with such work;

11.17.1.13 reconstruct or repair as directed in writing by the Shire Engineer defects, shrinkages, or other faults arising out of defective materials or improper workmanship in the construction, which may appear within such period or periods as the Shire Engineer may see fit (provided that such period shall not exceed twelve (12) months) from the date of the Engineer's agreement with the certificate referred to in clause 11.17.1.12;

11.17.1.14 refer to the Shire Engineer for decision, any discrepancies in the drawings or between drawings and specifications;

11.17.1.15 be responsible for the preservation of all existing Real Property Survey Marks and Permanent Survey Marks and if such Marks are disturbed, bear the cost of their reinstatement upon completion of the works to the satisfaction of the Shire Engineer;

11.17.1.16 maintain during the period of construction all pegs or other marks established to set out or check the construction. Accurate written records of horizontal and vertical shifts of all pegs or marks offset shall be kept and if requested, made available to the Shire Engineer;

11.17.1.17 lodge with the Council as cash or bank guarantee or in other form approved by the Council, a deposit of five percent (5%) of the Council's estimate of the cost of the whole construction against failure by the applicant, or their agent, or contractor to comply with the provisions of this section. Such deposit shall be lodged prior to the issue of the relevant Certificate of Completion of Construction pursuant to clause 11.17.1.12 and shall be repaid within fourteen (14) days of the expiration of the period determined by the Shire Engineer, pursuant to clause 11.17.1.12, less an amount expended by the Shire Engineer, who is hereby authorised so to do, arising out of default by the applicant or their agent or contractor.

11.17.2.1 The applicant shall submit to Council a signed declaration from a Licensed Surveyor that all Permanent Survey Marks and Real Property Survey Marks have been placed, or reinstated where necessary, in their correct position as shown on the linen plan(s) of survey;

11.17.2.2 The certificate specified in clause 11.17.1.12 shall not be accepted by Council unless full reinstatement of the said survey marks has been completed.

Section 11.18 SUPERVISION OF ROAD, DRAINAGE, WATER SUPPLY AND/OR SEWERAGE CONSTRUCTION

11.18.1 A person shall not carry out road, drainage, water supply and/or sewerage construction until such time as the plans and specifications thereof have been received and approved by the Shire Engineer.

11.18.2 All road, drainage, water supply and/or sewerage construction shall be carried out under the supervision of an Engineer qualified as in sub-section 11.13.1, to the satisfaction of the Shire Engineer.

11.18.3 The applicant, their servants, agents, engineers and surveyors and every person engaged in the construction of roads, drainage, water supply and/or sewerage shall obey every written direction given by the Shire Engineer to bring the work into conformity with the plans and specifications approved by the Shire Engineer.

Section 11.19 SERVICES IN ROADS

11.19.1 An applicant shall install public infrastructure conduits, together with kerb markers for such conduits, where kerb and channel is constructed, at his or her expense as directed by the Shire Engineer. Where possible conduits shall be laid to the common boundary of two allotments so as to minimise the total number of conduits used.

Section 11.20 ROAD NAMES

11.20.1 An applicant may submit three suggested names for each proposed road.

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11.20.2 Subject to sub-section 11.20.4, the Council may allocate any name submitted by such applicant as the name of any road, or allocate such other names, as it deems appropriate.

11.20.3 Subject to sub-section 11.20.4, the Council may alter the name of a road from time to time.

11.20.4 The Council shall not allocate any name to a road which is then the name of any other road in the area of the Shire of Esk.

11.20.5 The applicant submitting a suggested road name shall lodge a written statement of the reasons for its selection.

11.20.6 The Council shall supply and erect road names at: -

- (a) such places within the subdivision boundaries as it considered necessary; and
- (b) every intersection of a road within the subdivision with a road outside the subdivision.

11.20.7 The cost of supplying and erecting road names shall be paid to the Council by the applicant.

Section 11.21 POWER OF ENTRY

11.21.1 The Chairman, members or officers of the Council may enter upon and inspect the land within the proposed subdivision (including the road, water supply and/or sewerage works) at any time until the plan of survey has been approved by the Council, or such later time as the works required pursuant to this Part have been accepted off maintenance by the Shire Engineer. This provision cannot be construed to negate the rights of entry of the Council or its officers or agents under the terms of any other By-laws or Act.

Section 11.22 BOUNDARY ROADS AND FIFTY CENTIMETRE STRIPS

11.22.1 If the Council is satisfied that for the proper subdivision of lands in two or more ownerships a 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 having a width of thirteen (13) metres or such lesser width as may be permitted under Section 11.15.

11.22.2 The Council may require a road having a width of ten (10) metres, or such lesser width as may be permitted under section 11.15 to have a three coat bitumen seal to the width required by the Shire Engineer and one concrete kerb and channel.

11.22.3 If the Council is satisfied that for the proper subdivision of lands in two or more ownerships a road should be constructed wholly within one of those parcels of land and that in the future subdivision of the adjoining lands, allotments should be created to abut on to that road, it may require the applicant to construct such road to the standard required under section 11.15.

11.22.4 If the Council exercises its power under sub-section 11.22.1, 11.22.2 or 11.22.3, the applicant shall transfer to the Council a piece of land fifty (50) centimetres wide along that part of the road that is conterminous with the boundary of the subdivision.

11.22.5 All costs, charges and expenses whatsoever connected with or incidental to that transfer referred to in sub-section 11.22.4 shall be paid by the applicant.

11.22.6 If the land within a subdivision abuts upon a road having a width of thirteen (13) metres or such lesser width as may be permitted by the Council, the applicant shall widen that road to the width as may be permitted under section 11.15, extend the bitumen seal to the width required by the Council and if required by the Council construct a concrete kerb and channel along the edge of that extended seal.

11.22.7 If land within a subdivision is separated from a road by a fifty (50) centimetre strip, the applicant shall pay to the Council such amount as the Council may consider, having regard to the advice of the Shire Engineer and taking into account the type of subdivisions and the standards of construction required under for those types of subdivisions, as well as the proportional value of the land as being a reasonable proportion of the cost incurred by the adjoining applicant under sub-sections 11.22.1, 11.22.2 and 11.22.3. Such amount paid to Council under this Clause shall be refundable to the adjoining applicant within a period of three (3) years from the date of Council's first sealing of the adjoining plan of survey.

11.22.8 Whenever sub-section 11.22.7 applies, the Council shall dedicate the fifty (50) centimetre strip as a road and all costs, charges and expenses whatsoever connected with or incidental to that dedication shall be paid by the applicant.

Section 11.23 PUBLIC GARDEN AND RECREATION SPACE

11.23.1.1 Where an application is made in respect of a proposal plan providing for an increase in the number of allotments over that existing the Council may require the applicant to either: -

- (a) provide land for public garden and recreation space in accordance with sub-section 11.23.2; or
- (b) make a monetary contribution to the Council in accordance with sub-section 11.23.3; or
- (c) undertake works for the improvement of land for use as public garden and recreation space (including the development of recreational facilities); or
- (d) provide any combination of matters specified in (a), (b) and (c);

Provided that any land, contributions, works or combination thereof shall not exceed the area or equivalent amounts determined in accordance with this section.

11.23.2.1 Where the Council considers that an area of the land to be developed 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 developed shall be comprised of land that is fair and average of the type of land to be developed and shall be at least ten percent (10%) of the area of the land to be subdivided.

11.23.2.2 The Council may accept a lesser area of fair and average land in any case where other land affected by drainage channels or flooding is to be transferred into public ownership provided that all or part of the affected land is able to be maintained by the Council and is otherwise able to be rendered suitable for use for public open space purposes.

11.23.3 Where the Council considers that an area of land need not be provided, or where the Council considers that land designated on the proposal plan is not fair and average land and suitable for public garden or recreation space, then the Council may require the applicant to pay to the Council an equivalent monetary contribution per each additional allotment proposed in the plan of subdivision. The amount of the contribution per allotment shall be determined as ten percent (10%) of the average of unimproved capital valuations for comparable allotments in that locality as calculated from Council's rates records based on the valuations used for current rating purposes.

11.23.4 Where the Council requires or accepts the undertaking of works for the improvement of land for use as public garden and recreation space, then the value of such works shall be determined on the basis of the amount of the equivalent monetary contribution which would otherwise be payable in accordance with the method outlined in sub-section 11.23.3.

11.23.5 Where the Council requires or accepts a combination of land and/or a monetary contribution and/or the undertaking of works, the respective components shall be determined on a pro rata basis for each separate component such that the equivalent ratio so determined shall not exceed the prescribed provisions for each separate element.

11.23.6 The Council shall immediately following the thirtieth day of June each year prepare a table which identifies the equivalent monetary contribution payable on an allotment basis for each locality identified by the Council for such purposes or as a Shire average as the case may be.

11.23.7.1 The monetary contributions shall be paid to the Council at the time of lodgement of the plan of survey for the endorsement of Council's consent and seal.

11.23.7.2 The works undertaken in lieu of other contributions shall be completed in association with other development works as may be conditions of approval: Provided that, as in the case of works specified in sub-section 11.23.3, all such works shall be completed or otherwise bonded to the satisfaction of the Council before the endorsement and release of the plan of survey.

11.23.8 Any sum so paid to the Council shall be expended in the manner and the time specified in the Act.

11.24.1 The applicant shall bear the cost of the preparation by Council's Solicitor and of the registration in the Titles Office in favour of the Council, of all easements required to be provided by him or her pursuant to this Part. The applicant shall lodge a copy of the easements documents as registered in the Titles Office for retention by the Council.

Section 11.25 ELECTRICITY SERVICES

11.25.1 Where the land the subject of an application for approval of subdivision, or any part of such land, is in the opinion of the Council situated in a part of the Shire which is being used, or will, if the subdivision is effected, be used for residential, commercial or industrial purposes, the Council may, as a condition of approval of the subdivision, require the applicant to satisfy the Council that a supply of electricity from the State Electricity Grid will be available to each and every allotment into which such land is proposed to be subdivided within such period (being not more than six (6) months) from the date of the sealing of the plan of survey as the Council sees fit: For the purposes of this section the term residential purposes shall also be taken to include allotments approved pursuant to sub-sections 11.11.9 and 11.11.10.

11.25.2 In any application to which sub-section 11.25.1 applies the Council may require the applicant to provide, by arrangement with the electricity authority, for the undergrounding of such supply.

Section 11.26 TREES

11.26.1 A person shall not, without the written approval of the Council, nor otherwise than in conformity with such approval when and if given, destroy, mutilate, or injuriously deal with an ornamental or shade tree or shrub, whether natural growth or planted, growing upon land: -

- (a) included in a plan of survey or proposal plan which has been approved by the Council or submitted for its approval; or
- (b) declared by the Council to be within the application of this section. Such declaration shall be dependent upon the likelihood of such land becoming, within a reasonable time in the future, not exceeding two (2) years, the subject of subdivisional development having regard to all relevant factors, including the situation and area of the said land.

11.26.2 This section shall not apply to a tree or shrub on a parcel of subdivided land, which land has been acquired directly or indirectly from the subdivider and which the owner or occupier thereof proposes to utilise for the purpose of building thereon.

Section 11.24 EASEMENTS

Section 11.27 BUILDING

11.27.1 Except where approval has otherwise been obtained pursuant to the provisions of the Planning Scheme, where there is a dwelling unit on any allotment or parcel of land, no plan for the erection of any further dwelling units shall be approved on such allotment or parcel, until a plan of survey of the said land has been approved by Council and registered in the office of the Registrar of Titles or, where Council considers the circumstances may warrant, the plan of survey has been lodged in the office of the Registrar of Titles and all relevant fees pursuant to the registration of the plan of survey have been paid.

Section 11.28
SHIRE ENGINEER'S
CERTIFICATE OF COMPLETION
OF CONSTRUCTION

11.28.1 Notwithstanding the receipt by the Shire Engineer of advice that the work is completed satisfactorily pursuant to the requirements of this Part, the works the subject of such advice shall not be deemed to have been executed to the satisfaction of the Shire Engineer until he or she issues to the Clerk a Certificate of Completion of Construction. The Shire Engineer shall not issue such Certificate of Completion of Construction until a period of twelve (12) months has elapsed after receipt of the advice pursuant to the requirements of this section.

Section 11.29
STATEMENTS OF POLICY

11.29.1 The Council may from time to time adopt Statements of Policy in relation to this Part for the purpose of interpretation of the provisions and/or use of discretionary powers of the Council within this Part and/or requirements and/or any standards and/or any specification and/or any other matter required from the application of the provisions of this Part.

PART 12 APPLICATIONS AND ADMINISTRATION

Section 12.1 INTERPRETATION

12.1.1 Where a term used in this Part is not herein defined but is defined in an Act or elsewhere in the Planning Scheme such term shall, for the purposes of this Part and unless the context otherwise indicates or requires, have the meaning assigned to it by that Act or the Planning Scheme, as the case may be.

12.1.2 Where an application relates to all or part of any or all of the particular types of applications included in this Part, in addition to those pursuant to the Act, then for the purposes of the Act and this Planning Scheme such applications shall be comprised of the relevant particulars for the respective applications set out in this Part.

Section 12.2 APPLICATIONS UNDER SUB- SECTION 3.3.8 - NOTIFICATION OF CONDITIONS OF DEVELOPMENT

12.2.1 Any person intending to undertake development that is subject to the requirements of sub-section 3.3.8 shall make application in the form required by the Clerk and shall accompany such application with an application fee in accordance with a scale of fees determined by the Council from time to time by resolution. Different fees may be determined for different classes of applications.

12.2.2 The application shall be in writing; and

- (a) 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 body corporate or an unincorporated association, by an authorised officer thereof;
- (b) 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 the registered lessee from the Crown; and
- (c) accompanied by a certificate of compliance with the regulations made pursuant to Section 54 of the Brisbane and Area Water Board Act 1979-1991 and the approval in writing of the Board, if the application relates to land within the declared catchment area of Lake Somerset or Lake Wivenhoe.

12.2.3 The application shall be addressed to the Clerk and truly set forth the following particulars: -

- (a) the full real property description of the land, together with the postal address thereof;
- (b) 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.
- (c) the name of the occupier, if any;
- (d) the area of the land;

- (e) the length of road frontage (frontage to each road, if more than one (l) to be shown separately);
- (f) the nature of the proposed use;
- (g) the dimensions and gross floor area of proposed buildings or other structures;
- (h) the height and number of storeys of proposed buildings or other structures;
- (i) a site plan and layout of any buildings or other structures proposed to be erected on the land;
- (j) the number of persons engaged or proposed to be engaged in the particular use;
- (k) the number of motor vehicles for which parking provision is to be made on the land;
- (l) such details required pursuant to section 6.5 as they apply to the particular application; and
- (m) such other information relative to the application as may be required in writing by the Clerk, or the Council, within fourteen (14) days of the lodging of the application.

12.2.4 An application shall be taken to have been made only if the requirements of sub-sections 12.2.2 and 12.2.3 hereof have been complied with in full.

12.2.5 Every application under this section shall, if it complies with the requirements set out therein, be referred by the Clerk to the Council.

12.2.6.1 In considering an application under this section the Council shall, amongst other things, take into consideration the following matters: -

- (a) whether the proposal would create a traffic problem, or increase an existing traffic problem;
- (b) the size and shape of the site, the siting of the proposed development and the area of the site to be occupied;
- (c) the character of the proposed development in relation to the character of the development on adjacent land and in the locality;
- (d) whether the means of ingress to and egress from the site are adequate and whether provision has been made for the loading, unloading and parking of vehicles on site;
- (e) the existing and future amenity of the area;
- (f) the intentions of the Planning Scheme and current Council policies;
- (g) the proximity of the site to any water storages and the possible effect of the proposal on the quality of the water in that storage;
- (h) any regulations declared pursuant to Section 54 of the Brisbane and Area Water Board Act 1979-1991;
- (i) the proximity of the proposed development to existing or proposed gas and oil pipelines; and
- (j) the elements of the Model Code as they may reasonably apply to the proposed development.

12.2.6.2 The term "current Council policies" is used as that term is used in the Act.

12.2.7 Conditions notified to the applicant shall only provide for: -

- (a) the development complying with an approved plan of development or to a site plan and layout; dimensions, floor area and number of storeys or any of them to the satisfaction of the Council;
- (b) landscaping of the site;
- (c) buffering of the site;
- (d) building lines and boundary clearances;
- (e) specified place of ingress to and egress from the land for motor vehicles;
- (f) traffic control within the site;
- (g) on site parking layout;
- (h) the control of the emission of noise, smoke, smell, dust, waste water and waste products, light and glare or any of them;
- (i) any prescribed external works; and
- (j) any matters set out in this Planning Scheme.

12.2.8 Should the notification of conditions not be issued within forty (40) days of lodgment, subject to sub-section 12.2.4, then that application, without it being subject to any conditions, shall be deemed to have issued at the expiration of that time limit.

12.2.9 A person shall not fail to comply with any condition of a notification issued under this section.

Section 12.3 APPLICATIONS FOR PLANNING CONSENT

12.3.1 A person who desires to obtain the consent of the Council under the Planning Scheme in force in the Scheme Area, shall make application in the form required by the Clerk and shall accompany such application with an application fee in accordance with a scale or scales of fees determined by the Council from time to time by resolution. In the scale or scales of fees different fees may be determined for different classes of applications.

12.3.2 The application shall be in writing; and

- (a) 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 body corporate or an unincorporated association, by an authorised officer thereof;
- (b) 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 the registered lessee from the Crown; and
- (c) accompanied by a certificate of compliance with the regulations made pursuant to Section 54 of the Brisbane and Area Water Board Act 1979-1991 and the approval in writing of the Board, if the application relates to land within the declared catchment area of Lake Somerset or Lake Wivenhoe.

12.3.3 The application shall be addressed to the Clerk and truly set forth the following particulars: -

- (a) the full real property description of the land, together with the postal address thereof;
- (b) 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;
- (c) the name of the occupier, if any;
- (d) the area of the land;

- (e) the length of road frontage (frontage to each road, if more than one to be shown separately);
- (f) the nature of the proposed use;
- (g) the use being made of the land (including any building or other structure thereon) at the date of application;
- (h) a description of the buildings or other structures erected on the land and the use being made thereof at the date of application;
- (i) the dimensions and gross floor area of proposed buildings or other structures;
- (j) the height and number of storeys of proposed buildings or other structures;
- (k) a site plan and layout plan including the location of any services and contour levels of the site at a contour interval of not more than two (2) metres and when requested by the Clerk or the Council, an elevation of any buildings or other structures proposed to be erected on the land;
- (l) the number of persons engaged or proposed to be engaged in the particular use;
- (m) the nature of and the total connected load of any mechanical power proposed to be employed in the particular use;
- (n) a description of any machinery or plant employed or proposed to be employed in the particular use; and
- (o) the number of motor vehicles for which parking provision is to be made on the land.

12.3.4 An application for consent to carry out an extractive industry, a limited extractive industry or a temporary quarry on any land, shall also be accompanied by two (2) copies of a plan showing: -

- (a) sufficient detail to enable the Council to understand the nature of the proposed excavation;
- (b) the limits of the area proposed to be excavated;
- (c) the existing contours of the land;
- (d) the depth and extent of the proposed excavation;
- (e) the estimated depth and description of the overburden present;
- (f) the location of any existing or proposed buildings, so far as it is known on the site or within five hundred (500) metres of the boundary of the site; and
- (g) the distance of the proposed excavation from adjoining drains or watercourses.

12.3.5.1 In the case of land contained within the declared catchment area of a dam used for water supply purposes the application shall be accompanied by a report and statement of impact as to whether and to what extent the proposed development would: -

- (a) increase the turbidity of any watercourse or ponded water storage;
- (b) result in the disposal of concentrated animal waste in such a manner as to affect any watercourse or ponded water storage;
- (c) potentially result in the leakage or disposal of toxic or chemical substances including pesticides, herbicides, fertilisers and the like into any watercourse or ponded water storage;
- (d) involve any storage or processes whatever which may affect the quality of any ponded water storage; and

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- (e) result in the disposal of septic, sewage, sullage or other waste water in such a manner as to affect any watercourse or ponded water storage.

12.3.5.2 Such report shall address what measures are proposed and what alternative measures could be adopted to minimise any such adverse effects on water quality.

12.3.6.1 The application shall be accompanied by an Environmental Impact Study Report if so required under the provisions of the Act.

- (a) Where applicable, the application shall also comply with the requirements of section 6.5; and
 (b) such other information relative to the application as may be required by the Clerk, or the Council.

12.3.7 An application made pursuant to this section shall be deemed not to have been made unless the requirements of this section and the Act have been complied with in full.

12.3.8 Without limiting the generality of the provisions of this section, the Council, in respect of any application for its consent to the erection or use of a building or other structure or to the use of land, shall take into consideration the matters set out in this subsection: -

- (a) the character of the proposed development in relation to the character of the development on the adjoining land and in the locality;
 (b) 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;
 (c) whether the proposed means of ingress to and egress from the site are adequate and whether adequate provision has been made for the parking and standing of vehicles, the provision of space for loading, unloading or fuelling of vehicles and traffic facilities within the site;
 (d) whether the roads giving access to the site are, in the opinion of Council, constructed to a standard sufficient to carry traffic of the nature and volume likely to be generated by the proposed use;
 (e) any representation made by any statutory authority in relation to the application or to the development of the area and the rights and powers of any such authority;
 (f) the Strategic Plan and any Development Control Plan prepared by Council in accordance with the provisions of the Act;
 (g) any policy adopted by resolution of the Council for the ordered development of the locality in which the land to which the application relates is situated;
 (h) whether adequate provision has been made for the landscaping of the site;
 (i) the existing and future amenity of the locality;
 (j) the circumstances of the case and the public interest and safety;
 (k) the provisions of the Planning Scheme;
 (l) all objections which have been duly lodged with the Council against the granting of its consent;

- (m) the disposal of waste products from the proposed use;
 (n) the adequacy of the existing infrastructure to service the proposed development;
 (o) whether adequate provision has been made for the movement of vehicles and pedestrians and whether traffic hazards are created or intensified;
 (p) whether there is sufficient protection for the public from severe climatic conditions;
 (q) whether the environment will be significantly detrimentally affected;
 (r) regulations declared pursuant to Section 54 of the Brisbane and Area Water Board Act 1979-1991;
 (s) the proximity of the proposed development to existing or proposed gas and oil pipelines; and
 (t) the provisions of the Model Code.

12.3.9.1 In respect of any application for the Consent of the Council under the Planning Scheme for the erection or use of any building or other structure on land, or the use of land, within view of any waterway, or adjacent to any state highway, main road or secondary road declared pursuant to the provisions of the Main Roads Act, or public reserve or land zoned Parks and Open Space, or Recreation, 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, state highway, main road or secondary road declared pursuant to the provisions of the Main Roads Act, public reserve or any such zoned land; and

12.3.9.2 in the case of 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.

12.3.10 Without limiting the generality of the provisions of this section, the Council may refuse an application for consent to use land or to erect or use a building or other structure for any purpose in a zone in which the consent of the Council to the use or erection is required under the Planning Scheme if in the opinion of the Council: -

- (a) the proposal would, if permitted, create or be likely to create a traffic hazard, or increase an existing traffic hazard, or does not provide sufficient parking for vehicles;
 (b) the proposed building or other structure or use would or would be likely to detrimentally affect the amenity of the neighbourhood or any existing lawful use therein including, but without limiting the foregoing by the emission of smoke, fumes, dust, soot, smell, ash, grit or oil, the discharge of waste products or the creation of noise, electrical interference or vibration;
 (c) the proposal is to erect a building or other structure on land which is low-lying and subject to flooding, or should be drained or filled, or drained and filled to make a satisfactory building site;
 (d) the proposal is not in the public interest;
 (e) the proposal does not comply with any provision of the Planning Scheme or of any By-law of the Council;

- (f) the proposed building or other structure or use is situated in an area where essential public infrastructure are not available;
- (g) the proposal is sufficiently detrimental to damage the environment to a major extent;
- (h) the proposal would adversely affect the quality of a ponded water storage;
- (i) the proposed development substantially changes the use of the land so that its natural protection against the elements will only be replaced (if practicable) by the expenditure of public monies; or
- (j) the proposal is in such a location, with respect to any oil or gas pipeline, as to expose the pipeline and thus risk damage occasioned by construction or operation of the proposal; or to expose potential occupants to any health risk from unreasonable proximity to the pipeline.

12.3.11 Every application made pursuant to this section shall, if it complies with the requirements set out herein and of the Act, be referred by the Clerk to the Council and the Council shall subject to the Act, decide the application. Before referring the application to the Council the Clerk shall prepare or cause to be prepared a report setting out the various planning and other matters which are considered to be relevant to the application and shall submit the report to the Council with the application.

12.3.12 Upon application for consent under the Planning Scheme, the Council may, subject to the Act: -

- (a) grant its consent; or
- (b) refuse to grant its consent; or
- (c) grant its consent subject to reasonable and relevant conditions.

12.3.13 Any consent granted by the Council pursuant to this Planning Scheme may be limited as to its duration, or the hours during which the consent may be exercised.

12.3.14 Unless within the period of four (4) years from the date of notice of consent or such longer period, if any, as the Council may in a particular case determine, substantial progress has been made in erecting a building or other structure, or the land is being substantially used according, as the case may be, to the purpose for which consent was granted, such consent shall lapse and cease to have force and effect. The provisions of the Act shall apply to any revocation of an approval, consent or permission.

12.3.15 A person who fails to comply with a condition to which the Council has subjected a consent shall be guilty of an offence.

Section 12.4 APPLICATIONS FOR REZONING OF LAND

12.4.1 A person who desires 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 and shall accompany such application with an application fee in accordance with a scale or scale of fees determined by the Council by resolution from time to time. In the scale or scale of fees, different fees may be determined for different classes of applications.

12.4.2 The application shall be in writing; and 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.

12.4.3 The application shall be accompanied by: -

- (a) 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 the registered lessee from the Crown;
- (b) an Economic Impact Assessment where following rezoning it is intended to carry out on the land to which the application relates or applies, or part thereof, a major shopping development;
- (c) a certificate of compliance with the regulations made pursuant to Section 54 of the Brisbane and Area Water Board Act 1979-1991 and the approval of the Board, if the application relates to land within the declared catchment area of Lake Somerset or Lake Wivenhoe;
- (d) an Environmental Impact Study Report if required under the provisions of the Act.

12.4.4 The application shall be addressed to the Clerk and truly set forth the following particulars: -

- (a) the full real property description of the land, together with the postal address thereof;
- (b) 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;
- (c) the name and full postal address of the applicant;
- (d) the name of the occupier, if any;
- (e) the area of the land;
- (f) the length of the road frontage (frontage to each road, if more than one to be shown separately);
- (g) the nature of the proposed use and whether it is proposed to subdivide the land to facilitate that use;
- (h) the use being made of the land (including any building or other structure thereon) at the date of the application;
- (i) the zone or zones in which the land is situated at the date of the application;
- (j) the zone or zones in which the land is proposed to be included and if in more than one zone, details of the apportionment of the land to each proposed zone;
- (k) the grounds upon which the applicant requests that the land be rezoned;
- (l) a description of the buildings or other structures erected on the land and the use being made thereof at the date of application;
- (m) the height and number of storeys of proposed buildings or other structures;
- (n) a site plan and layout plan including the location of any services and contour levels of the site at a contour interval of not more than two (2) metres with all dimensions shown accurately and when requested by the Council, an elevation of any buildings or other structures proposed to be erected on the land;
- (o) the dimensions and gross floor area of proposed buildings or other structures;
- (p) the number of persons engaged or proposed to be engaged in the particular use;

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- (q) the nature of and the total connected load of any mechanical power proposed to be employed in the particular use;
- (r) the position and layout of all access driveways and parking areas and the number of motor vehicles for which parking provision is to be made on the land;
- (s) where applicable, compliance with the requirements of section 6.5; and
- (t) such other information relative to the application as may be requested by the Council or the Clerk.

12.4.5 Every application made pursuant to this section shall, if it complies with the requirements of this section and the Act, be referred by the Clerk to the Council and the Council shall, subject to the Act, decide the application. Before referring the application to the Council the Clerk shall prepare or cause to be prepared a report setting out the various planning and other matters which are considered to be relevant to the application and shall submit the report to the Council with the application.

12.4.6 Upon an application being referred to the Council pursuant to this section, the Council may: -

- (a) approve the application; or
- (b) approve the application subject to reasonable and relevant conditions; or
- (c) refuse the application.

12.4.7 The Council in respect of any application for rezoning of land shall, amongst other things, take into consideration the following: -

- (a) the character of the proposed development, or any possible development, in relation to the adjoining land and the amenity of the locality;
- (b) the size, shape and topography 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;
- (c) any representations made by any statutory authority in relation to the application or to the development of the area and the rights and powers of any such authority;
- (d) the provisions of this Planning Scheme and any Development Control Plan in force in the Shire;
- (e) the existing and future amenity of the locality including the question whether the proposed development is likely to have a deleterious effect on such amenity;
- (f) all objections which have been duly lodged with the Council;
- (g) whether the proposal would be likely to create a traffic hazard or increase an existing traffic hazard;
- (h) whether the roads providing access to the site are in the opinion of the Council constructed to a standard adequate to carry traffic of the nature and volume likely to be generated by the use proposed;
- (i) whether the land or any part thereof is so low-lying or so subject to flooding as to be unsuitable for use for all or any of the uses permitted with or without the consent of the Council in the zone in which the land is proposed to be excluded and in the zone in which the land is proposed to be included;

- (j) whether electricity and other essential services should be made available to the land and to each separate parcel thereof if the land were subsequently subdivided;
- (k) whether the proposal would alienate valuable agricultural land for non-agricultural land use;
- (l) whether the proposal would interfere with, create danger to, or be within hazardous distance of existing or proposed gas or oil pipelines;
- (m) the provisions of the Model Code; and
- (n) other considerations as required by the Act or determined by the Council as being reasonable and relevant requirements.

12.4.8 If the Council approves an application subject to reasonable and relevant conditions, and the performance of works or the payment of contributions to the Council are required, then that approval shall lapse if, within a period of two (2) years of the date of approval, satisfactory security has not been provided to the Council to guarantee performance of those conditions.

12.4.9 In addition to the requirement of the Act, the provisions of this section shall apply in respect of any combined application or application for staged rezoning.

Section 12.5 PLANNING CERTIFICATES

12.5.1 An application for a Planning Certificate shall be in such form as the Clerk may from time to time determine.

12.5.2 The fee payable to the Council for the issue of a Planning Certificate shall be as determined by the Council from time to time by resolution.

12.5.3 The Council shall, within seven (7) days or such longer times permitted by the Act, 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 Planning Certificate, setting forth in respect of the land specified in the application those details set out in the Act in respect of each type of certificate specified therein.

12.5.4 The Council shall keep a record of: -

- (a) all consents, permissions and approvals granted by the Council under the Planning Scheme and of all conditions attached to such consents, permissions and approvals;
- (b) all orders and decisions made by it under the Planning Scheme; and
- (c) all decisions of The Planning and Environment Court on appeals from decisions of the Council under the Planning Scheme in force in the Shire.

Section 12.6 CLAIMS FOR COMPENSATION

12.6.1 Any claims lodged in respect of conditions imposed or actions taken by Council in respect of matters to which section 4.1.8 or sub-section 8.1.9 apply, shall be deemed to be claims pursuant to Section 58 of the Brisbane and Area Water Board Act 1979-1991.

12.6.2 A claim for compensation under the Act shall be in or to the effect of the form set out in the Local Government (Planning and Environment) Regulations 1991.

Section 12.7

REGISTER OF EXISTING LAWFUL NON-CONFORMING USES

12.7.1 The Clerk shall, if the Council so directs, keep a register to be called "The Register of Existing Lawful Non-Conforming Uses". If a register is to be kept then the provisions of this section shall apply in respect of such register.

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

12.7.3 An application for the registration of an existing lawful non-conforming use shall state the full real property description of the land, the nature of the non-conforming use being carried on thereon at the date of the coming into effect of the Planning Scheme and shall be accompanied by a plan delineating the site of any building or other structure thereon in relation to the boundaries of the allotment of land.

12.7.4 Where a person fails within the time allowed by this Section to make application for the inclusion of an existing lawful non-conforming use in The Register of Existing Lawful 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 decides to be the true and correct information relating thereto and which the Council proposes to enter in the said Register.

12.7.5 In making an entry in The Register of Existing Lawful Non-Conforming Uses the Council shall be bound by the determination of an appeal lodged pursuant to the provisions of the Act.

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

12.7.7 Where the Council grants any consent in relation to any lawful non-conforming use under a Planning Scheme as aforesaid, it shall cause particulars thereof to be entered in the said Register.

Section 12.8

REGISTER

NATIONAL TRUST ACT 1963

12.8.1 In respect of any object or place of historical or scientific interest or of natural beauty which is specified by Council resolution under the Planning Scheme as intended to be preserved in accordance with the National Trust Act 1963, the Council shall enter particulars thereof in a Register to be kept at the public office of the Council and shall forthwith notify the National Trust of Queensland and the owner and the occupier of the land upon which such object or place as specified is situated, that such an object or place has been registered and is required under the Scheme to be preserved.

12.8.2 No person shall without the written consent of the Council, wilfully destroy, remove or damage or cause to be destroyed, removed or damaged, any object or place registered by the Council as aforesaid.

12.8.3 The Council may at any time cancel such registration and shall thereupon make an appropriate alteration in the Register and accordingly notify the owner and occupier of the land in question.