

PART 4 – GENERAL DEVELOPMENT REQUIREMENTS

4.1 EXCLUSIONS

The development requirements or standards specified in clauses 4.5 and 4.7 to 4.12 inclusive shall apply to all development other than development controlled by the Residential Design Codes. In the Mixed Use Zone, the Business Zone, the Service Industrial Zone, the Special Residential Zone and the Rural Zone, the provisions of Clauses 3.5, 3.6, 3.10, 3.13 and 3.14 as the case may be, shall prevail if there is any conflict or inconsistency with this Part.

4.2 RESIDENTIAL DESIGN CODES

4.2.1 For the purposes of this Scheme “Residential Design Codes” means the Residential Design Codes set out in Appendix 2 to the Commission’s Statement of Planning Policy No. 1, together with any amendments thereto.

4.2.2 A copy of the Residential Design Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

4.2.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes shall conform to the provisions of those Codes.

4.2.4 Subject to clause 4.2.5, the Residential Design Code density applicable to land within the Scheme Area shall be determined by reference to the legend shown on the Residential Density Codes maps which form part of this Scheme.

Unless otherwise specified on the map the R20 density code applies unless the Council determines that a higher code should apply.

4.2.5 Notwithstanding the provisions of clause 4.2.4, where land within the Scheme is subject to an Agreed Structure Plan, the Residential Density Codes for the area shall be determined according to the Agreed Structure Plan.

4.3 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES

4.3.1 Where residential development is proposed to be mixed with non-residential development, Council may vary any provision of the Codes with the exception of the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the Codes.

Before exercising its powers of discretion Council may require that a proposal be advertised and plans made available for public inspection in accordance with the procedures laid down in clause 6.7.

4.3.2 In areas that are covered by an Agreed Structure Plan the provisions of the Residential Design Codes may be varied by the provisions of the Agreed Structure Plan set out under clause 9.8.3(b).

4.4 HOME BUSINESS

4.4.1 Home Business – Category 1

4.4.1.1 Subject to Clause 4.4.4, a person may conduct a Home Business – Category 1 within a dwelling without the need to submit an application for approval to commence development.

4.4.1.2 Deleted (Amendment 31 – 14/8/2007).

4.4.2 Home Business – Category 2

4.4.2.1 A person wishing to conduct a Home Business - Category 2 on residential premises is required to apply to Council for an approval to commence development, and such use or occupation may be approved by Council at its discretion.

4.4.3 Home Business – Category 3

4.4.3.1 A person wishing to conduct a Home Business – Category 3 on residential premises is required to apply to Council for an approval to commence development, and such use or occupation may be approved by Council at its discretion.

4.4.3.2 The provisions of the Residential Design Codes and all other clauses in the Scheme relating to developments in a Residential Zone shall apply to a Home Business – Category 3. Council may exercise its discretion and vary a provision of the Codes, except the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the Codes.

4.4.4 Review

4.4.4.1 At any time Council may undertake a review of the status of an occupation being carried out in a dwelling as a Home Business – Category 1, by requiring the resident to submit a statement setting out the nature and extent of the occupation being carried out on the premises or, on reasonable notice, permitting inspection of the dwelling by Council.

4.4.4.2 Following completion of a review, Council may designate the occupation either as a Home Business – Category 1, Category 2 or 3 and require the resident to comply with the requirements of the Scheme in a manner applicable to that designation and if the designation has changed, then notwithstanding that the occupation may have been lawful up to the time of the review, such occupation shall be carried out only in conformity with Council provisions of either a Home Business Category 2 or a Home Business – Category 3, whichever is applicable, once issued.

4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

- 4.5.1 Except for development in respect of which the Residential Design Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.
- 4.5.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:
- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1 and
 - (b) have regard to any expressed views prior to making its decision to grant the variation.
- 4.5.3 The power conferred by this clause may only be exercised if the Council is satisfied that:
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and
 - (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.

4.6 ENVIRONMENTAL CONDITIONS

- 4.6.1 In accordance with section 50 of the Act, environmental conditions imposed by the Minister for the Environment on the Scheme or amendments to the Scheme and contained in Statements under Section 48F Environmental Protection Act 1986, are incorporated into the Scheme by Schedule 9 of the Scheme.
- 4.6.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol "EC" to indicate that environmental conditions apply to the land.
- 4.6.3 The Council shall maintain a register of all the Statements published under Section 48F referred to in sub-clause 4.6.1 which shall be made available for public inspection at the offices of the Council.

4.7 BUILDING SETBACKS FOR NON RESIDENTIAL BUILDINGS

- 4.7.1 Unless otherwise provided for in Part 3 of the Scheme, buildings shall be set back from property boundaries as follows:

Setback from street boundary	9.0 metres
Setback from side boundary	3.0 metres
Setback from rear boundary	6.0 metres

- 4.7.2 Where a lot has a boundary with more than one street the Council shall designate one such street as the frontage and the other street boundaries as side boundaries, if it is satisfied that there will be no adverse effect on traffic safety, and no adverse effect on the amenity of any adjoining properties or the locality generally.

4.8 CAR PARKING STANDARDS

- 4.8.1 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council.
- 4.8.2 The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.

4.9 PEDESTRIAN AND VEHICLE RECIPROCAL ACCESS REQUIREMENTS

If the Council approves car parking and pedestrian access on neighbouring premises in a manner which relies on the reciprocal movement of vehicles and pedestrians between or across the premises, the owners concerned shall allow the necessary reciprocal access and parking at all times to the Council's satisfaction.

4.10 TRAFFIC ENTRANCES

The Council may where it considers it desirable and in the interests of traffic safety direct the owner of any lot to limit access and egress or provide such additional access and egress as it requires to any premises.

4.11 CAR PARKING – CASH IN LIEU OR STAGING

- 4.11.1 The Council may permit car parking to be provided in stages subject to the developer setting aside for future development for parking the total required area of land and entering into an agreement to satisfactorily complete all the remaining stages when requested to do so by the Council.
- 4.11.2 Council may accept a cash payment in lieu of the provision of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.

4.11.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the Council shall from time to time determine.

4.11.4 Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by Council.

4.12 LANDSCAPING REQUIREMENTS FOR NON RESIDENTIAL BUILDINGS

4.12.1 A minimum of 8% of the area of a development site shall be designed, developed and maintained as landscaping to a standard satisfactory to the Council. In addition the road verge adjacent to the lot shall be landscaped and maintained in a clean and tidy condition to the satisfaction of the Council.

4.12.2 When a proposed development includes a car parking area abutting a street, an area no less than 3 metres wide within the lot along all street boundaries shall be designed, developed and maintained as landscaping to a standard satisfactory to the Council. This landscaped area shall be included in the minimum 8% of the area of the total development site referred to in the previous subclause.

4.12.3 Landscaping shall be carried out on all those areas of a development site which are not approved for buildings, accessways, storage purposes or car parking with the exception that shade trees shall be planted and maintained by the owners in car parking areas at the rate of one tree for every four (4) car parking bays, to the Council's satisfaction.

4.13 MINIMUM LOT DIMENSIONS

Minimum lot sizes and frontages are not specifically set for the purposes of this Part. The extent of any development on any lot shall be dependent upon other development requirements. Notwithstanding the foregoing, the Council may establish policies outlining specific minimum lot dimensions for specific types of development where it considers that it is prudent to do so.

4.14 STORAGE AND RUBBISH ACCUMULATION

4.14.1 All storage, including the storage of accumulated rubbish, shall be confined to within a building, or a suitably enclosed area screened from its immediate surrounds and any adjacent public street or road by normal viewing by a wall not less than 1.8 metres in height constructed of brick, masonry or other approved material. All storage of accumulated rubbish shall be located in a position accessible to rubbish collection vehicles and where vehicular access and car parking will not be adversely affected.

4.14.2 Development requirements for enclosed storage areas and garbage storage areas relating to residential developments for grouped and multiple dwellings are contained within the 'Residential Design Codes'.

4.15 COMMERCIAL VEHICLE PARKING

Parking of commercial vehicles in the Residential, Mixed Use, Business, Urban Development, Centre, Commercial and Special Residential Zones shall not be permitted except in accordance with the provisions set out in the following paragraphs of this clause;

- (a) a person shall not park, or permit to be parked, more than one commercial vehicle on any lot in the zones referred to in this clause;
- (b) a person may only park a commercial vehicle on any lot in the zones referred to in this clause if:
 - (i) the lot on which the vehicle is parked contains only a single house (including any associated outbuildings) provided that Council may permit the parking of such vehicle on a lot which contains grouped dwellings if it is of the opinion that this will not adversely affect the amenity of the grouped dwelling development or the surrounding area;
 - (ii) the vehicle is parked entirely on the subject lot and is located on a hard standing area which is located behind the front of the dwelling, or alternatively the vehicle is parked within a garage;
 - (iii) the vehicle is used as an essential part of the lawful occupation of an occupant of the dwelling. The foregoing requirement of this item shall not be satisfied in any case unless the owner of the vehicle or an occupier of the dwelling within seven days of the Council making a request, supplies to the Council full information as to the name and occupation of the person said to be using the vehicle. The request for that information is made for the purpose of this item by posting the request to the address of the owner of the vehicle shown on the vehicle registration, or by posting the request to or leaving it at the dwelling addressed in general way to the occupier. The parking of the vehicle on the lot does not authorise the conduct on that lot of the occupation of the vehicle user;
 - (iv) the vehicle does not exceed 3 metres in height (including the load), 2.5 metres in width, or 8 metres in length;
 - (v) the vehicle is not started or manoeuvred on site between the hours of 10.00 pm and 6.00 am the next following day;
 - (vi) while on the lot, the vehicle's motor is not left running while the vehicle is unattended or in any event for any period in excess of five minutes;
 - (vii) where a noise complaint is substantiated in accordance with the relevant Regulations made pursuant to the Environmental Protection Act 1986, the hours of operation shall be restricted to 7.00 am – 9.00 pm Monday to Saturday and 9.30 am – 9.00 pm Sundays and Public Holidays.

Any restrictions imposed on the hours of operation shall not limit further application of the relevant Regulations made pursuant to the Environmental Protection Act 1986;

- (viii) only minor servicing, including minor mechanical repairs and adjustments, and/or cleaning that generates easily contained liquid waste is carried out on the lot. Liquid waste shall be as defined in the Health (Liquid Waste) Regulations 1993 and shall be disposed of in accordance with the same.

All cleaning and servicing shall be conducted behind the front of the dwelling;

- (ix) storage of liquid fuels on the lot complies with the Explosive and Dangerous Goods Act, 1961;
 - (x) the vehicle is not used or designed for use for the transportation of livestock or the transportation or disposal of liquid or solid wastes or other use so as to cause nuisance or pollution as defined in the Health Act 1911 and/or the Environmental Protection Act 1986;
 - (xi) the vehicle is not carrying a refrigeration unit which is operating on a continuous or intermittent basis;
 - (xii) while on the lot, there is no transfer of goods or passengers from one vehicle to another vehicle, unloading or loading of the vehicle, or storage of goods associated with the use of the vehicle;
 - (xiii) the vehicle is not used or operated as a tow truck or other emergency vehicle, between the hours of 10.00 pm to 6.00 am in a manner that adversely affects the residential amenity of the area;.
- (c) the Council may in writing approve a variation to any of the requirements of items (ii) and (iv) in paragraph (b) provided the Council is satisfied in the circumstances that the variation will not adversely affect the amenity of the area surrounding the subject land. Surrounding landowners and occupants may be invited to comment on the proposed variation;
 - (d) an approval of the Council granted under paragraph (c) is personal to the person to whom it is granted, is not capable of being transferred or assigned to any other person, and does not run with the land in respect of which it is granted;
 - (e) a vehicle shall be considered to be parked on a lot for the purpose of this clause if it remains on that lot for more than one hour in aggregate over any period of 24 hours unless the vehicle is being used bona fide in connection with ongoing construction work legally being carried out on the lot, the burden of proving which shall lie upon the person asserting it.

4.16 RECREATIONAL VEHICLE PARKING

- 4.16.1 Parking of one (1) recreational vehicle in the Residential zone shall be permitted as of right and without the need for Council approval provided that the vehicle does not exceed 3 metres in height, 2.5 metres in width and 8 metres in length.
- 4.16.2 The Council may in writing approve a variation to Clause 4.16.1 provided the Council is satisfied in the circumstances that the variation will not adversely affect the amenity of the area surrounding the subject land. Surrounding landowners and occupants may be invited to comment on the proposed variation in accordance with the “D” use provisions contained within Clause 6.6.2.
- 4.16.3 In supporting a variation to Clause 4.16.1, Council shall impose the following in addition to any other requirements:
- (i) The vehicle(s) shall be parked entirely on the subject lot and shall be located on a hard standing area behind the facade of the dwelling, or alternatively the vehicle being parked within a garage.
 - (ii) The vehicle(s) shall not be started or manoeuvred on site between the hours of 10.00 pm and 6.00 am.
- 4.16.4 Any approval of the Council granted under Clauses 4.16.2 and 4.16.3 is personal to the person to whom it is granted, is not capable of being transferred or assigned to any other person, and does not run with the land in respect of which it is granted.

4.17 RESTRICTIVE COVENANTS

- 4.17.1 Subject to clause 4.17.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.
- 4.17.2 Where clause 4.17.1 operates to extinguish or vary a restrictive covenant Council will not grant planning approval to the development of the land which would, but for the operation of clause 4.17.1, have been prohibited unless the application has been dealt with as an ‘A’ use and has complied with all of the advertising requirements of clause 6.7.