

PART 7 - NON-CONFORMING USES

7.1 NON-CONFORMING USES

Except as otherwise provided in this Scheme, no provision of the Scheme shall be deemed to prevent:

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date of the Scheme; or
- (b) the carrying out of any development thereon for which, immediately prior to that time, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current, provided that any conditions stipulated in the approval or approvals shall be complied with and these conditions shall be enforced by Council as if they had been imposed under the Scheme; or
- (c) subject to subclause 5.1.6, the continued display of advertisements which were lawfully erected, placed or displayed prior to the approval of this Scheme.

7.2 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE

- 7.2.1 A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use or change the use of land from a non-conforming use to another non-conforming use without first having applied for and obtained planning approval under the Scheme.
- 7.2.2 An application for planning approval under this Clause shall be advertised in accordance with subclause 6.7.1.
- 7.2.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the Council shall not grant its planning approval unless the proposed use is:
 - (a) substantially less detrimental to the amenity of the locality than the existing non-conforming use; and
 - (b) in the opinion of the Council is closer to the intended purpose of the zone.

7.3 DISCONTINUANCE OF NON-CONFORMING USE

When a non-conforming use of any land or buildings has been discontinued for a period of six consecutive months or the building is destroyed or damaged to the extent of at least 75% of its value, such land or buildings shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.

7.4 TERMINATION OF A NON-CONFORMING USE

The Council may effect the discontinuance of a non-conforming use by the purchase of the land and buildings, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that land, and may enter into an agreement with the owner for that purpose.