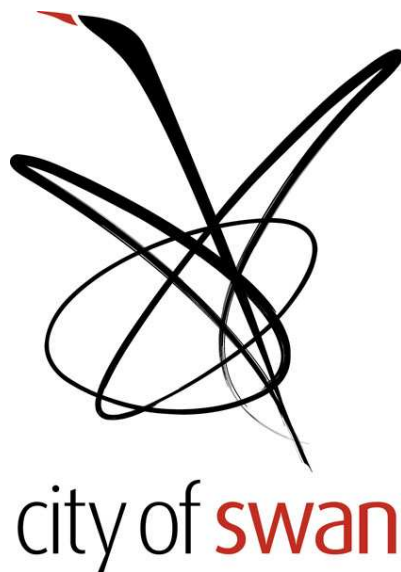


**Proposed Amendment No. 40 to
*Local Planning Scheme No. 17:***



PARKING OF COMMERCIAL VEHICLES

DISCUSSION PAPER

September 2010

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Summary

In mid 2009 the City of Swan commenced a significant review of its legislative and policy framework with respect to the parking of commercial vehicles and the development of 'Transport Depots' within rural and residential localities. This review was largely in response to concerns from the local community and elected officials over the prevalence of commercial vehicle parking within these sensitive localities, and the need for suitable control mechanisms to be established to minimise land use conflict.

In late 2009 the City of Swan drafted a range of proposed amendments to *Local Planning Scheme 17* which aimed to ensure that commercial vehicle parking was compatible with surrounding land uses. In summary, the City proposed the following amendments to *Local Planning Scheme 17*:

- a) A revision of the definition of 'Commercial Vehicle';
- b) The introduction of a 'Commercial Vehicle Parking' land use class
- c) The introduction of a 'Rural Transport Depot' land use class; and
- d) A modification to the definition and permissibility of the 'Transport Depot' land use class.

In addition to the above, the City drafted two local planning policies that were aimed at assisting applicants and City officers with the application process and defining the information that would be required and the conditions that may be imposed.

The proposed amendments and the two draft policies were advertised publicly and referred to the relevant government authorities in April 2010. During the six week advertising period the City received a total of 24 written submissions that raised a number of issues and recommendations for change. A public meeting was also held as part of the consultation process on 25th March 2010.

The City has now considered each of the issues raised and proposes a range of modifications to the scheme amendments to ensure that they are fair and reasonable to all stakeholders concerned. As a result of the public submissions the City is proposing the following key modifications to the documentation that was advertised in April 2010:

- a) A revision to the definition of a 'Commercial Vehicle';
- b) A revision to the definition and permissibility of 'Commercial Vehicle Parking';
- c) The discontinuation of the 'Rural Transport Depot' land use class proposal, instead allowing larger lots within the 'General Rural' and 'Resource' zones to accommodate the parking of up to five commercial vehicles (subject to development approval);
- d) A revision to the proposed definition of 'Transport Depot' to ensure that it is suitably distinguished from the 'Commercial Vehicle Parking' provisions; and
- e) The discontinuation of the two draft local planning policies, instead ensuring that all policy provisions are incorporated within *Local Planning Scheme 17* and all guidance

to applicants is provided through the publication of a 'Commercial Vehicle Parking Information Sheet' (Appendix II).

This discussion paper is intended to outline the public comment that was received in April 2010, the City's response to the issues raised, and the proposed modifications to the scheme amendments that have been proposed. These modified amendment proposals are now being put forward to the public for further consideration and feedback, prior to the amendments being put to Council for final consideration. A public submission form has been included within this paper as Appendix III.

Background

As an outer metropolitan local government, the City of Swan is well positioned to accommodate a wide range of both primary and secondary industrial land uses. Due to the convergence of a number of major regional, inter-regional and national transport routes, the City also accommodates a significant proportion of heavy haulage traffic moving in all directions.

These attributes make the City of Swan an ideal location for the parking and garaging of commercial vehicles. The provision of suitable industrial land for the parking of these vehicles, however, is difficult to accommodate within traditional industrial areas, primarily due to:

- The spiralling cost of industrial land within the Perth metropolitan area;
- The significant area of land required to facilitate the parking of multiple commercial vehicles;
- The social problems experienced in traditional industrial areas outside of normal business hours, particularly theft and vandalism; and
- The nature of the transport industry, with many individual owner operator businesses lacking sufficient capital to invest in property specifically for the parking or garaging of commercial vehicles.

As a result of the above difficulties there has been significant pressure for the parking of commercial vehicles on lots within the City of Swan's rural and residential localities. Whilst the City of Swan wishes to support transport related businesses, the uncontrolled growth of this industry into sensitive rural and residential areas is causing land use conflict.

In order to ensure that this conflict is minimised in the future, the City of Swan is obligated to establish suitable control mechanisms that allow the City to assess the impact that the parking of commercial vehicle(s) may have on the amenity of neighbouring properties and the surrounding localities.

In mid 2009 the City of Swan commenced a review of the existing control mechanisms that existed for the parking of commercial vehicles within rural and residential localities. This review was largely in response to local residents and elected members concern over the prevalence of commercial vehicle parking within rural and residential localities and the impact that this land use was having on amenity, neighbourhood character and traffic safety within these localities.

The results of the review indicated that the City does not have sufficient control over the parking of commercial vehicles. This lack of control was largely attributed to insufficient planning controls and decisions by property owners to park commercial vehicles in contravention of those planning controls which are in place. In addition, some landowners did not clearly understand the number and size of vehicles they were permitted to park on their property.

In an attempt to rectify this issue the City of Swan drafted two policies and a number of amendments to *Local Planning Scheme 17* in late 2009. In drafting these changes the City of Swan was aiming to achieve the following objectives:

- a) To support owner operators of commercial vehicles parking a reasonable number of commercial vehicles at their place of residence;
- b) To ensure that industrial land uses such as 'Transport Depot' are not supported on an ad-hoc manner within rural localities;
- c) To ensure that the City has sufficient control of the parking of commercial vehicles within rural and residential localities in order to minimise land use conflict; and
- d) To ensure that the proposed provisions are clearly stated to assist stakeholders in understanding the City's intentions and the obligations on landowners.

The amendments that were proposed to *Local Planning Scheme 17* included:

- A revised definition of a 'Commercial Vehicle';
- The introduction of a 'Commercial Vehicle Parking' land use classification, definition and the associated permissibility within each of the relevant zones;
- The introduction of a 'Rural Transport Depot' land use classification and definition and associated permissibility within each of the relevant zones; and
- A revised definition of a 'Transport Depot' and the reduced permissibility of this land use within the 'Rural' zones.

These amendments and the two draft local planning policies were publicly advertised by the City of Swan for a period of 42 days from April to May 2010. During the public comment period the City of Swan received a total of 24 written submissions, which raised a variety of concerns, issues and recommendations.

This discussion paper aims to outline and respond to each of the key matters raised in the public submissions and clearly demonstrate how the proposed amendments to *Local Planning Scheme No. 17* will be modified to ensure that they are fair and reasonable to all stakeholders.

1. Results of the Public Comment Period – March/April 2010

The following section outlines the proposed changes to *Local Planning Scheme No. 17* as advertised in April 2010, the public comments received in relation to each of these changes, and the proposed revisions recommended as a result of the public comments received.

1.1. The Definition of 'Commercial Vehicle'

As a first step, it is critically important that the City clearly define what a 'commercial vehicle' is for the purposes of the Scheme. The City must have in place a definition that clearly identifies the size and scale of vehicles that may potentially impact on amenity, traffic and neighbourhood character, whilst not inadvertently incorporating other vehicles that cause no such nuisance.

1.1.1. Definition of 'Commercial Vehicle' under Local Planning Scheme No. 17

The City of Swan's *Local Planning Scheme 17* currently includes a definition for 'Commercial Vehicle' as follows:

"Commercial Vehicle" means a vehicle, whether licensed or not, which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any attachment to any of them or any article designed to be an attachment to any of them, and any omnibus or any earthmoving machine whether self-propelled or not. The term does not include a vehicle not greater than 4.5 tonnes gross vehicle mass (gvm) designed for use as a passenger car, utility, van or light truck which is rated by the manufacturer as having a gross vehicle mass not greater than 4.5 tonnes.

This definition was considered by the City to be overly cumbersome and confusing, as it identifies a range of characteristics that define a commercial vehicle but fails to set a clearly defined threshold at which a vehicle becomes a 'commercial vehicle'. It is considered that this definition only causes uncertainty within the minds of City officers, applicants and Councillors, and as such requires review.

Any amendment to the current definition must ensure, at a minimum, that a commonly understood threshold is identified to distinguish between a larger commercial vehicle and a smaller vehicle used for general commuter or other purposes.

In response the City of Swan proposed to amend the definition of 'Commercial Vehicle' under *Local Planning Scheme 17* as follows:

"Commercial Vehicle" means a vehicle, whether licensed or not, which has a gross vehicle mass of greater than 4.5 tonnes and includes the following vehicles above that weight:

- i. Any utility, van, truck, trailer or tractor or any attachment to any of them or any article designed to be an attachment to them; and
- ii. Any omnibus and any earthmoving machine whether self-propelled or not.

1.1.2. Public Comment on the amended definition of 'Commercial Vehicle'

During the period of public comment there were seven submissions that related to the amended definition for 'Commercial Vehicle', with a number of landowners considering that:

- *The threshold of 4.5 tonnes gross vehicle mass is too low, and will result in a number of common commuter vehicles (e.g. Ford F350) and small trucks being identified when these vehicles may in fact not cause a nuisance to road users or detract from the residential or rural setting;*
- *The definition of 'Commercial Vehicle' does not in fact refer to the nature or use of the vehicle being for commercial or business purposes;*
- *The identification of a 'trailer' or 'any attachment to any of them or any article designed to be attached to them' as a separate 'Commercial Vehicle' is inappropriate, as these trailers or attachments cannot be moved without a motorised vehicle, and as such should be considered a component part of this motor vehicle;*
- *The inclusion of unlicensed vehicles is unnecessary, as these vehicles cannot legally be operated on a road network and as such are confined to the property;*
- *The inclusion of 'tractors' and 'earthmoving machines' is unnecessary, as these vehicles are used for maintenance of the land and should not require any further approval;*
- *The inclusion of vehicles that are not 'self-propelled' is inappropriate, as any such vehicle is unlikely to leave the property, and would not detract from the residential or rural character of the area in any event; and*

- *There is no mention of other vehicles that may have a gross vehicle mass of greater than 4.5 tonnes (e.g. boats, planes, helicopters) that may inadvertently fall under this definition and require approval.*

1.1.3. City of Swan Response to Public Comment

The City has considered the proposed definition in light of the above public comments and the City's proposals are outlined as follows:

- a) The threshold for 'Commercial Vehicle':** In order to create a suitable threshold the City needs to identify a commonly understood measurement that will identify a larger vehicle from a smaller vehicle. The use of gross vehicle mass, which is defined as the total mass of the vehicle in addition to its maximum load, has been selected in both the current and amended definitions as it is a commonly understood technical specification for rigid and articulated commercial vehicles.

The threshold of 4.5 tonnes has been identified as an appropriate threshold for a 'heavy vehicle' for licensing purposes under the *Road Traffic (Licensing) Regulations 1975*. The City considers this to be a useful definition for vehicles that may cause concern from a traffic management and visual amenity perspective. It is proposed that the 4.5 tonne threshold be retained within the definition.

- b) The relationship between the size of the vehicle and the nature of use:** The City is of the opinion that the commercial nature of the vehicle should be included within the definition, but vehicles designed for commercial purposes should also be included within this definition. The City does not consider that the actual use of a vehicle with a gross vehicle mass of greater than 4.5 tonnes (whether for commercial or personal purposes) effects its impact on amenity, neighbourhood character or traffic management. It is proposed that all vehicles greater than the threshold of 4.5 tonne gross vehicle mass be included within the definition of 'commercial vehicle'.

- c) The identification of a 'trailer' or 'attachment' as a separate 'Commercial Vehicle':** The identification of a trailer or attachment as a separate vehicle was considered to be appropriate on the basis that trailers parked on a property will have an impact upon the amenity of the area.

It is recognised, however, that a prime mover will be associated with at least one trailer. In order to address this, it is considered appropriate to modify the number of vehicles permitted under the

'Commercial Vehicle Parking' provisions rather than to modify the definition of 'Commercial Vehicle'.

- d) The inclusion of 'unlicensed vehicles':** Any unlicensed vehicles that have a gross vehicle mass of greater than 4.5 tonnes are identified as 'Commercial Vehicles' in both the current definition and the proposed amended definition. Unlicensed vehicles were included to ensure that persons did not avoid the requirement for development approval for a vehicle solely on the basis that it is unlicensed and could not be moved from the subject lot.

Whilst such a vehicle cannot be operated legally within the road network, it will still have an impact on the amenity and character of the surrounding area. It is considered appropriate to maintain the inclusion of 'unlicensed vehicles' as a component of the definition of 'Commercial Vehicle'.

- e) The inclusion of 'tractors' and 'earthmoving machines':** The inclusion of 'tractors' and 'earthmoving machines' was considered appropriate as these are also identified as 'heavy vehicles' under the *Road Traffic (Licensing) Regulations 1975*, and due to their size and scale will have a similar impact on amenity and traffic safety.

In retrospect, however, the City accepts that tractors and earthmoving equipment used to maintain an individual lot are not likely to be out of place or cause a nuisance within a rural area. Their impact on traffic safety and road condition is also considered to be minimal. As a result, it is considered appropriate to ensure tractors and earthmoving machines used for work on the subject lot should not require a separate approval as part of the 'Commercial Vehicle Parking' provisions.

- f) The inclusion of vehicles that are not 'self-propelled':** The inclusion of vehicles that are not 'self-propelled' was to ensure that any trailer or attachment to a motorised vehicle was clearly identified as a separate commercial vehicle.

Given that the definition specifies that any trailers will be considered additional commercial vehicles, the reference to vehicles that are not 'self propelled' is no longer necessary. It is recommended that references to vehicles that are not self-propelled be removed.

- g) Other types of vehicles not described:** The definition of 'Commercial Vehicle' was not intended to refer to **any** motorised vehicles that may have a gross vehicle mass of 4.5 tonnes, and was never intended to identify non-road based motor vehicles. In order to

avoid confusion it is proposed to modify the definition to clearly articulate the type of vehicles included.

1.1.4. Final Review of 'Commercial Vehicle' Definition

In response to the issues raised during the public comment period, the following revised definition has been proposed for 'Commercial Vehicle' under *Local Planning Scheme No. 17*:

"Commercial Vehicle" means a vehicle, whether licensed or not, which is rated at a gross vehicle mass of greater than 4.5 tonnes and which is used or designed for use in association with a business or trade, and for the removal of doubt includes the following vehicles above that mass:

- i. Any rigid (non-articulated) vehicle, including any utility, van, truck, bus, tractor or earthmoving equipment; and
- ii. Any Prime Mover or Semi-Trailer Truck,

together with any trailer or similar article designed to be an attachment to either i) or ii), whether rated at a gross vehicle mass of greater than 4.5 tonnes or not.

1.2. The Introduction of a ‘Commercial Vehicle Parking’ Land Use Class

The second step in this review was for the City to outline suitable provisions for the parking of commercial vehicles on private property within the municipality. These provisions must be cognisant of the objectives to facilitate owner operators of commercial vehicles in the parking of a reasonable number of commercial vehicles at their place of residence, whilst taking account of the potential impacts on neighbouring properties.

1.2.1. *Definition of Commercial Vehicle Parking under Local Planning Scheme No. 17*

Under the existing provisions of *Local Planning Scheme 17* the City does not have a definition for ‘Commercial Vehicle Parking’, and as such currently considers applications for the parking of commercial vehicles on residential and rural lots as either a ‘Transport Depot’ under clause 4.3 or a ‘Use Not Listed’ under clause 4.4.3.

This method of assessment is not ideal as it results in the inconsistent assessment of applications for commercial vehicle parking.

In order to address this situation the City proposed to introduce a land use class definition of ‘Commercial Vehicle Parking’ under *Local Planning Scheme 17* as follows:

“Commercial Vehicle Parking” means the parking or garaging of not more than two Commercial Vehicles for more than two hours in any 24 hour period.

This ‘Commercial Vehicle Parking’ land use was proposed to be a ‘D’ (discretionary) and ‘P’ (permitted) use class throughout the Commercial/Industrial, Residential, Rural and Other zones, meaning that it was permissible on lots within these zones subject to an application.

1.2.2. *Public Comment on the introduction of the ‘Commercial Vehicle Parking’ use class for Local Planning Scheme No. 17*

During the period of public comment there were 19 submissions that related to the land use and permissibility of ‘Commercial Vehicle Parking’, with a number of landowners considering that:

- *The land use of ‘Commercial Vehicle Parking’ should not be restricted to only two commercial vehicles, as this is too restrictive and will result in many landowners not being able to run their current business;*

- *The provisions are confusing and unclear and should be revised to ensure that landowners are able to determine whether they can comply or not;*
- *The proposed land use definition for 'Commercial Vehicle Parking' should not include those vehicles used ancillary to an approved land use (e.g. educational institution, keeping of horses, vineyard, etc.);*
- *The permissibility of commercial vehicle parking should be related to lot size rather than simply applying a blanket maximum number of vehicles;*
- *Those persons that have been parking vehicles on their property until now should be given the right to continue doing so through a 'Grandfather clause' mechanism;*
- *The proposed exemption of farm equipment should be more flexible, as this equipment will need to be moved between properties;*
- *The requirement for a vehicle to be in an approved shed under the draft 'Commercial Vehicle Parking Policy' should be made more clear;*
- *Any landowners within the Commercial/Industrial zones should not be made to submit an application for commercial vehicle parking, as this is ancillary to any existing land use within these zones;*
- *The requirements for screening outline in the draft 'Commercial Vehicle Parking Policy' should be made more flexible so that the entire vehicle is not required to be screened, and the type of screening can be selected by the landowner;*
- *The 2hr time limit is insufficient for temporary visitors and should be expanded to include overnight/weekend visitors; and*
- *The City of Swan must ensure that any policy or provisions for the parking of Commercial Vehicles is consistent with the Swan Valley Planning Act 1995.*

1.2.3. City of Swan Response to Public Comment

The City has considered the proposed definition in light of the above public comments and proposes the following:

- a) Restriction to two commercial vehicles:** The City has noted the objection to the proposed maximum of two commercial vehicles

under the 'Commercial vehicle parking' definition, and the proposition that this will inhibit existing transport businesses.

The City has taken account of the comments received and now proposes that a combination of the zoning of the land and the size of the lot should guide the number of commercial vehicles being parked. The proposed amended provisions are contained in Schedule 14 of Appendix 1.

- b) The provisions and policies are confusing and unclear:** The City has noted that some landowners found the provisions that were advertised in April 2010 to be confusing, particularly with respect to what constituted a commercial vehicle and what size of vehicle was permitted to be parked within certain areas.

In order to address this, the City has proposed a commercial vehicle parking provisions table outlined in Appendix I, which is proposed to be inserted as Schedule 14 of *Local Planning Scheme 17*.

- c) Inclusion of vehicles ancillary to an approved use:** The City agrees that the parking of commercial vehicles required as an ancillary component of an approved land use should not require any further development approval.

In response to public comment it is proposed that the land use of 'Commercial Vehicle Parking' be revised to clearly stipulate that the parking of commercial vehicles ancillary to an approved land use will not be subject to a requirement for further planning approval.

- d) Relationship between number of vehicles and size of lot:** The City agrees that the permissibility of commercial vehicle parking should be influenced by the relative size of the subject lot, as this will have a bearing upon the ability to minimise any negative impacts on the surrounding locality.

In response to the public comment the City has revised the commercial vehicle parking provisions and produced the table outlined in Appendix I.

- e) Proposed 'Grandfather' clause for selected properties:** It is noted that a number of landowners have suggested that if they cannot comply with the proposed maximum number of commercial vehicles, they should be granted planning approval by Council as part of a 'grandfather clause', as their commercial vehicles have been parked on their property for a number of years.

The suggested 'grandfather clause' will only be made possible through further amendments to *Local Planning Scheme 17* that specifically identify the subject property and outline the modified

permissibility for the land use of 'commercial vehicle parking' as part of an 'Additional Use'. The proposed 'Additional Use' mechanism is further outlined in section 2.4.

Taking account of the need to allow owners sufficient time to transition to the new arrangements, it is proposed to allow a 12 month transition period.

- f) **Proposed exemption of farm equipment:** It is noted that some landowners considered that the proposed exemption of farm equipment was too inflexible, as it did not allow for such farm equipment to be moved between lots.

It is therefore proposed to remove reference to tractors or farm equipment be removed from the definition of 'Commercial Vehicle' so that this equipment is no longer considered to be a commercial vehicle, and as such does not require separate planning approval. In addition, it is recommended that the definition of commercial vehicle parking be modified to stipulate that vehicles used primarily for the maintenance of the subject lot should not require separate planning approval.

- g) **Proposed requirement for garaging in a shed where no dwelling exists:** It is noted that in the draft 'Commercial Vehicle Parking Policy' it was recommended that where commercial vehicle parking was proposed on a rural lot that contained no dwelling, the City would require the vehicle to be parked within an approved shed.

Upon review the City does not consider it appropriate to support applications for commercial vehicle parking on lots without a dwelling, as this is not considered to support the primary objective of the commercial vehicle parking land use – that is, to support owner/operators in parking their commercial vehicle at their residence.

As a result, it is considered appropriate to modify the definition of commercial vehicle parking to ensure that approval will not be granted for the parking of a commercial vehicle on a property that is not occupied by the owner or operator of the commercial vehicle.

- h) **Proposed requirement for Commercial/Industrial zones:** It is noted that some landowners questioned the rationale for requiring approval for the parking of commercial vehicles in industrial and commercial zones.

Upon review it is considered that the parking of commercial vehicles within these zones is likely to be ancillary to the approved land use or for the purposes of delivery or receiving of goods, and as such no further development approval should be required. It is proposed to

modify the definition of commercial vehicle parking to ensure that there is no requirement for separate planning approval for commercial vehicle parking within commercial or industrial zones.

- i) **Proposed requirement for screening of commercial vehicles:** It is noted that the proposed requirement for screening of parked commercial vehicles outlined within the draft Commercial Vehicle Parking Policy was considered by some landowners to be too onerous and inflexible.

The City agrees that the extent of screening should take account of site characteristics, and some flexibility should be incorporated into the provisions. It is proposed to allow the applicant to develop their own screening measures based on the size and layout of the subject lot for approval by Council.

- j) **Proposed 2hr time limit:** The proposed 2hr time limit was intended to ensure that the commercial vehicle parking land use did not apply to vehicles that were parked solely for the purpose of delivery or receiving of goods.

Some submissions proposed that the parking of commercial vehicles that are owned by visitors to a residence should be exempt from planning approval. The City does not support this view as the intention of the 'Commercial Vehicle Parking' provisions is to facilitate owner operators while also maintaining the amenity of surrounding land owners, and the parking of 'visitor' vehicles does not support this objective. It is therefore proposed that no modification be made.

- k) **Consistency with *Swan Valley Planning Act 1995*:** The proposed modifications are considered by the City to be consistent with the *Swan Valley Planning Act 1995*. In assessing the final amendment documentation the Minister for Planning will take into account the consistency of the proposed provisions with the objectives of the *Swan Valley Planning Act 1995* and the advice of the Swan Valley Planning Committee.

1.2.4. Final Review of 'Commercial Vehicle Parking' land use class

As a result of the above considerations, the following revised provisions have been proposed for the parking of commercial vehicles under *Local Planning Scheme 17*:

5.10 Parking of Commercial Vehicles

- 5.10.1 *Subject to this clause, the parking or garaging of a commercial vehicle(s) on any land within the Scheme area requires the prior approval of the Council.*
- 5.10.2 *An application for the approval of the Council under this clause may be made on the form prescribed in Schedule 6.*
- 5.10.3 *This clause does not apply where the proposed parking or garaging of a commercial vehicle(s):*
- a) *occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);*
 - b) *is solely for the delivery or receiving of goods and is for a duration of no longer than 2 hours in any 24 hour period;*
 - c) *is approved under this Scheme as a transport depot;*
 - d) *is part of the approved use of the land upon which the commercial vehicle(s) is parked or garaged; or*
 - e) *is exempted from the need to obtain approval pursuant to Schedule 5.*
- 5.10.4 *The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone is set out in Schedule 14.*
- 5.10.5 *An approval under this clause may only be granted where an occupier of the lot upon which the commercial vehicle(s) is to be parked is also:*
- a) *the owner of; or*
 - b) *the driver of; or*
 - c) *the proprietor of a business which owns or operates, every commercial vehicle which is to be parked or garaged there.*
- 5.10.6 *An approval granted under this clause may be subject to conditions, including conditions which:*
- a) *limit the time for which the approval operates;*
 - b) *restrict the location in which the vehicle may be parked and/or require appropriate visual screening to be established to the satisfaction of Council;*
 - c) *restrict the movements of the commercial vehicle(s) to times which reduce its affect on amenity, or to ensure compliance with the Environmental Protection (Noise) Regulations 1997;"*
 - d) *make the approval personal to the occupier of the lot upon which the commercial vehicle(s) are parked or garaged.*
- 5.10.7 *The requirements of clause 5.10.4 and clause 5.10.5 are not capable of variation by clause 5.5 of the Scheme.*
- Note:** *Approval will not be granted for the parking of restricted access vehicles (RAV's) unless the applicant can demonstrate approval has been granted from the relevant authority for the operation of these vehicles within the road network.*

1.3. The Introduction of a ‘Rural Transport Depot’ Land Use Class

As part of this review it was recognised that there is a demand for large properties that are suitable for the parking of commercial vehicles that may exceed the proposed maximum under the ‘Commercial Vehicle Parking’ classification.

In order to assist in providing supply of suitable properties to meet this demand, the City proposed the introduction of a ‘Rural Transport Depot’ land use class that could accommodate the parking of a maximum of five commercial vehicles within some rural zones subject to approval.

1.3.1. Definition of ‘Rural Transport Depot’ under Local Planning Scheme 17

In order to facilitate the above land use the City proposed the introduction of a ‘Rural Transport Depot’ defined under *Local Planning Scheme 17* as follows:

“Rural Transport Depot” means premises, or a portion of premises, used for parking or garaging up to five Commercial Vehicles associated with the transport of rural produce or rural goods, and:

- i. may include the maintenance and refuelling of those vehicles, provided that those activities are ancillary to the parking or garaging of the motor vehicles; but
- ii. may include the storage of rural produce or rural goods for a period of no longer than 48 hours;
- iii. may include the transfer of rural produce or rural goods from one motor vehicle to another.

This land use was proposed to be a ‘D’ (discretionary) land use within the ‘General Rural’ and ‘Resource’ zones.

1.3.2. Public Comment on the introduction of the ‘Rural Transport Depot’ use class for Local Planning Scheme 17

During the period of public comment there were seven submissions that related to the land use and permissibility of ‘Rural Transport Depot’ with a number of landowners considering that:

- *The limitation of no more than five commercial vehicles is too restrictive, and should be increased to a size that accommodates the business needs;*
- *The requirement for the vehicle to be used for the transport of ‘rural goods or services’ is too restrictive, as a business within the locality cannot maintain viability by only transporting ‘rural goods and services’; and*

- *The properties that may be able to use this land use (i.e. those on rural lots with greater than 2 vehicles but less than five vehicles) do not consider themselves to be a 'Depot', as they do not transfer or store goods on their property. The land use should not be called a 'Depot' and should just refer to the parking of commercial vehicles.*

1.3.3. City of Swan Response to Public Comment

The City has considered the proposed definition in light of the above public comments and propose the following:

- a) Limitation of land use to five commercial vehicles:** The City recognises that some landowners consider the limitation of five commercial vehicles as part of the 'Rural Transport Depot' land use to be overly restrictive.

The limitation was established in an attempt to ensure that the land use did not achieve a size and scale that would have a negative impact on the surrounding locality. It is not considered appropriate for the number of vehicles permissible to exceed the maximum of five vehicles, and as such City does not propose any modifications.

- b) Requirement for vehicles to be used to transport 'rural goods or services':** It is noted that some landowners objected to the requirement for a 'Rural Transport Depot' to be restricted to the parking of commercial vehicles that transport 'rural goods or rural services', as there was not sufficient demand for such transport services.

The requirement for vehicles to carry 'rural goods or rural services' was included to ensure that the land use was consistent with the objectives of the 'General Rural' zone. In retrospect, however, it is no longer considered necessary to restrict the goods that the vehicle may carry, as this does not form a component of the primary land use, which is the parking of commercial vehicles.

As a result the City proposes that the restriction on the goods that commercial vehicles may carry under the 'Rural Transport Depot' land use be removed.

- c) Question of whether the term 'Depot' is appropriate to define the land use:** It is noted that many of the landowners that would utilise this proposed land use do not consider themselves to be a 'Depot' as they merely park the commercial vehicles on their property, but do not transfer or store any goods.

Upon review the city considers that the land use class of 'Rural Transport Depot' may not be necessary if the 'Commercial Vehicle Parking' land use is modified to permit up to five commercial vehicles

within the 'General Rural' and 'Resource' zones. This modification would ensure that landowners within these zones have the ability to park up to five commercial vehicles on their property (subject to approval) but would not be labelled as a 'Depot'.

As a result it is proposed that the land use class be discontinued in favour of modifying the 'Commercial Vehicle Parking' provisions.

1.3.4. Final Review of 'Rural Transport Depot' land use class

The City proposes that the introduction of the 'Rural Transport Depot' land use class be discontinued. It is instead proposed that the commercial vehicle parking provisions be modified to ensure that up to five commercial vehicles (with trailers) are permissible within the 'General Rural' and 'Resource' zones on lots of greater than 60,000m² (6 hectares), subject to the approval of Council. This modification is outlined in Appendix I.

1.4. Review of the definition and permissibility of ‘Transport Depots’

As part of the review the City noted that there were concerns regarding both the definition of the land use class ‘Transport Depot’ and the permissibility of this land use within rural zones. An attempt was made to address both of these concerns through the amendments proposed in April 2010.

1.4.1. Definition and permissibility of ‘Transport Depot’ under Local Planning Scheme No. 17

The City currently defines a ‘Transport Depot’ under Local Planning Scheme 17 as follows:

“Transport Depot” means land and/or buildings used for the transfer of goods or persons from one road motor vehicle to another such vehicle for hire or reward, or for the storage of goods delivered by road transport, and includes the maintenance, repair, garaging or parking or storage of such vehicles

This definition is considered to be insufficient, as it defines a ‘Transport Depot’ as premises used for the purposes of transferring or storage of goods and services and may include the garaging or parking of commercial vehicles. The City considered that a Transport Depot should be defined primarily as a place in which to park commercial vehicles, and ancillary to this it may also include the transfer or storage of goods and the maintenance of vehicles.

As a result the City proposed the following amended definition of a ‘Transport Depot’:

“Transport Depot” means premises, or a portion of premises, used for the parking or garaging of three or more commercial vehicles, and:

- i. may include the maintenance and refuelling of those vehicles and the storage of goods brought to the premises by those vehicles, provided that those activities are ancillary to the parking or garaging of the commercial vehicles; and*
- ii. may include the transfer of goods or persons from one motor vehicle to another.*

In addition to the amended definition, the City also noted concern regarding the permissibility of the ‘Transport Depot’ land use class within the ‘General Rural’ and ‘Resource’ zones. It is considered by the City that this land use class was not consistent with the objectives of the ‘General Rural’ zone and as such should be an ‘X’ use (not permitted). It was also recommended that the ‘Transport Depot’ use class should be considered a ‘D’ use (discretionary) within the ‘Resource’ zone, in order to give the City the ability to review the surrounding rural context of a Transport Depot

proposal within this zone prior to making a decision on a development application.

1.4.2. Public Comment on the introduction of the 'Transport Depot' use class for Local Planning Scheme 17

During the public comment period the City of Swan received a total of 10 submissions that related to the revised definition and permissibility of the 'Transport Depot' land use class. The primary issues raised in these submissions are summarised as follows:

- *The current permissibility of 'Transport Depot' as a 'D' use (discretionary) offers the City the ability to refuse applications and approve applications subject to condition. This is considered to be a suitable control mechanism to ensure that 'Transport Depot' development does not detract from the local rural amenity, and as such the permissibility of the 'Transport Depot' land use class within the 'General Rural' zone should not be altered;*
- *If the City proposes to amend Local Planning Scheme 17 to ensure that Transport Depots are no longer a permissible use within the 'General Rural' zone then the City should ensure that there is sufficient land available to meet the demand for transport depot premises; and*
- *The modification of the permissibility for 'Transport Depot's within the 'General Rural' zone will result in those properties that have an existing approval being required to seek an amendment for an 'Additional Use' should they wish to significantly alter their current business beyond the conditions of the existing approval. This is not considered fair and reasonable on the landowners that have an existing approval, and the City should ensure that landowners' rights are protected.*

1.4.3. City of Swan Response to Public Comment

The City has considered the proposed definition and permissibility in light of the above public comments and propose the following:

- a) Permissibility of the 'Transport Depot' land use within the 'General Rural' zone:** Whilst it is recognised that the City does have some control over the approval conditions for a 'Transport Depot' under the existing 'D' use (discretionary) classification, this is not considered to address the issue of the inconsistency between the land use of a 'Transport Depot' and the objectives of the zone.

The City considers a 'Transport Depot' to be an industrial land use that it is inherently inconsistent with the objectives of the 'General Rural'

land use, and as such consider that it is entirely appropriate that this use not be permitted within this zone.

- b) The City must ensure that there is sufficient land available for Transport Depots:** The City recognises that there is increasing demand for suitable properties that can be utilised for the development of a 'Transport Depot'. This increased demand is partly due to the rising costs of industrial land within the Perth metropolitan area, and partly due to the lack of availability of large parcels of land in traditional industrial areas that would be required for the development of a Transport Depot.

The City is attempting to facilitate the development of further industrial land within its municipality, particularly in the localities of Hazelmere, Perth Airport and Bullsbrook, in addition to reviewing the use of land within established industrial areas such as Malaga.

With respect to the development of land specifically for the transport industry, the City of Swan is reviewing a number of proposals for dedicated transport precincts particularly in the localities of Upper Swan and Bullsbrook.

The City does not consider that the increased demand should be addressed by allowing the uncontrolled development of Transport Depots on a relatively 'ad-hoc' basis throughout rural areas, as this will only cause further land use conflict.

- c) Existing approved 'Transport Depot' operators should be protected:** It is noted that there are several transport depots operating within the 'General Rural' zone under existing development approvals issued by the City of Swan. Any existing approval will be maintained as a 'non-conforming use' under clause 4.8 of *Local Planning Scheme 17*. Any landowner that wishes to modify a non-conforming use may apply to do so under clause 4.9 of *Local Planning Scheme 17* without the need to apply for an 'Additional Use'.

Should the landowners wish to significantly modify their existing business beyond that which is currently approved, and this modification is not permissible under the provisions of *Local Planning Scheme 17*, it is considered entirely appropriate for the landowner to be required to submit a request for a scheme amendment.

1.4.4. Final Review of 'Transport Depot' land use class

The City do not propose any modifications to the proposed amended definition of 'Transport Depot' of the permissibility of this land use as a result of the public submissions received.

The City has noted, however, that the amended definition included reference to a threshold of '3 or more vehicles' which is no longer considered appropriate given the revised provisions 'Parking of Commercial Vehicles' outlined in Section 1.2.4.

As a result, it is recommended that the reference to '3 or more vehicles' be removed from the amended definition of 'Transport Depot' as follows:

"Transport Depot" means premises, or a portion of premises, used for the parking or garaging of commercial vehicles, and:

- iii. may include the maintenance and refuelling of those vehicles and the storage of goods brought to the premises by those vehicles, provided that those activities are ancillary to the parking or garaging of the commercial vehicles; and*
- iv. may include the transfer of goods or persons from one motor vehicle to another.*

but does not include the parking or garaging of commercial vehicles approved pursuant to clause 5.10 of the Scheme.

2. The Impact of the Proposed Changes – Frequently Asked Questions

During the public comment period the City noted a number of common questions that arose with respect to the proposed amendments to *Local Planning Scheme 17*. In an effort to ensure that the impact of the revised amendments is made clear, each of the common questions and answers are outlined as follows:

2.1. Do I require approval for the parking of my commercial vehicles?

If you currently park or propose to park commercial vehicles on a residential or rural lot within the City of Swan and have not previously been granted development approval to do so, it is likely that you will be required to submit a development application once the proposed amendments are finalised.

In order to find out whether you will require approval for your current land use under the proposed amendments you must start by collecting the following information:

- a) The relevant zoning of your property under *Local Planning Scheme No. 17* (e.g. 'General Rural'; 'Residential')¹.
- b) The total area of the subject lot that you are currently parking or intend to park commercial vehicles within.
- c) The total number of commercial vehicles, based on the revised definition of a 'commercial vehicle' outlined in section 1.1.4, that you are currently parking or intend to park on the subject property; and
- d) Any existing development approvals that you may have been granted for the subject property that may include the parking of commercial vehicles as a component of the approval.

Once you have collected this information it is recommended that you review the commercial vehicle parking provisions and the exemptions table outlined in Appendix I. These tables, along with the above information, will tell you whether you will be able to comply with the maximum number of vehicles permitted, and whether you will be required to submit a development application².

¹ If you do not have a record of the total area or current zoning of your property you may obtain this information from the City of Swan website (www.cityofswan.com.au) or by contacting the City of Swan's administration centre on (08) 9267 9267.

² If you require assistance in reviewing or interpreting the permissibility table or the exemptions table please contact the City of Swan administration centre on (08) 9267 9267 and request to speak with a planning officer.

2.2. What if I already have a Development Approval?

If you have previously been granted development approval by the City of Swan for:

- a) The parking of a commercial vehicle(s);
- b) The development of a 'Transport Depot'; or
- c) Any land use that included the parking of commercial vehicles required to facilitate that land use,

and you are still operating within the conditions of the development approval, you will not be required to submit any further development application.

If you do not have any of the development approvals outlined above you may be required to submit a development application for your current or future proposed parking of commercial vehicles.

2.3. What will happen once the proposed amendments are adopted?

It is anticipated that once the proposed amendments become operational all landowners will be granted a period of 12 months in which they must ensure that they have lodged any development applications for the parking of their commercial vehicles that may be required.

After this 12 month period the City of Swan will commence enforcement proceedings against any landowner that cannot demonstrate that the parking of their commercial vehicles is compliant with the provisions of *Local Planning Scheme 17*.

2.4. What will happen if I cannot comply with the proposed provisions?

If you currently park more than the maximum number of commercial vehicles on your property³ and you have not been previously granted development approval to do so, you will be required to undertake one of the following courses of action:

Option A: An individual amendment to Local Planning Scheme No. 17

You may request the City of Swan to consider an amendment to *Local Planning Scheme No. 17* that will allow you to apply for the parking of more than the maximum number of commercial vehicles on your property. This amendment would be for an 'Additional Use' of 'Commercial Vehicle Parking' or 'Transport Depot'⁴ for your property only, and would be subject to specific conditions (e.g.

³ The maximum number of commercial vehicles that may be parked on an individual lot is outlined within the commercial vehicle parking provisions in Appendix I, and is dependent on the relevant zoning and lot size of the property.

⁴ Whether the 'Additional Use' should be for 'Commercial Vehicle Parking' or 'Transport Depot' will be dependant on the nature of the land use proposed. Further advice should be sought from City of Swan planning officers prior to any application being lodged.

total number of vehicles, person to whom the approval may be granted, length of time the 'Additional Use' is valid for).

The application for a scheme amendment must be submitted by the landowner(s) and will be assessed by City of Swan officers based on its individual merit. The application will also be subject to a public advertising period of 42 days, after which it will be considered by Council and referred to the Western Australian Planning Commission for final consideration by the Minister for Planning.

The application for a scheme amendment attracts a standard assessment fee of \$6,600.00 (as at July 2010), which includes all advertising and Council costs. There is no guarantee that the application will be approved and there is no set time period for the assessment process.

Option B: Moving to a more suitable property

Within the 12 month period you may notify the City of Swan that you are aware that the parking of commercial vehicles on your property is not compliant with the provisions of *Local Planning Scheme 17* and you are attempting to find a more suitable property. In this notification you may request the City to delay enforcement proceedings for a set period of time whilst you attempt to find more suitable premises in which to move to.

Option C: Reduction of the land use

You may reduce the number of commercial vehicles parked on your property to ensure that you do not exceed the maximum number of vehicles permitted. Again within the 12 month period you may notify the City of Swan that you are aware that the parking of commercial vehicles on your property is not compliant with the provisions of *Local Planning Scheme No. 17*, and request a delay in enforcement proceedings whilst you attempt to reduce the number of vehicles parked on your property.

3. Further Public Comment Period

The City of Swan is readvertising the proposed amendments to *Local Planning Scheme 17* and the revised Commercial Vehicle Parking policy for a further 42 day period from **6th October until 17th November 2010**. During this period the City will be accepting all written submissions from the public to be considered as part of the finalisation of the proposed amendments to *Local Planning Scheme 17* outlined within this discussion paper.

The City of Swan has provided a standard form for public comment as Appendix III of this discussion paper. This standard form is intended to assist members of the public in focusing their comments on the amendments proposed, with specific comments requested on the three key changes that are proposed. If any member of the public does not find the standard form to be useful they may make their comment in any written form convenient to them.

If you require any further information or have any questions with regard to the information outlined within this discussion paper, please contact the City of Swan administration centre on (08) 9267 9267 and request to speak with a planning officer.

4. The Next Steps

After the close of the further public advertising period the City of Swan will consider all public submissions and determine whether any further modifications to the scheme amendments are required. Once this review is complete City officers will present the final amendments to Council for consideration and final adoption.

Once the amendments have been adopted by Council they will be referred to the Western Australian Planning Commission with a request for the consideration and endorsement of the Minister for Planning. If endorsement is granted by the Minister for Planning, the amendments will be published in the Government Gazette and become operational immediately.

APPENDIX I: Revised amendments to *Local Planning Scheme 17*

The following amendments are proposed to *Local Planning Scheme No. 17* as part of this review:

1. Modification of definition of 'Commercial Vehicle'

The definition of 'Commercial Vehicle' listed under Schedule 1 is to be replaced by the following definition:

"Commercial Vehicle" means a vehicle, whether licensed or not, which is rated at a gross vehicle mass of greater than 4.5 tonnes and which is used or designed for use in association with a business or trade, and for the removal of doubt includes the following vehicles above that mass:

- i. Any rigid (non-articulated) vehicle, including any utility, van, truck, bus, tractor or earthmoving equipment; and
- ii. Any Prime Mover or Semi-Trailer Truck,

together with any trailer or similar article designed to be an attachment to either i) or ii), whether rated at a gross vehicle mass of greater than 4.5 tonnes or not.

2. Insert 'Parking of Commercial Vehicles' Provisions into Part 5

The following provisions are to be inserted into Section 5 of the Scheme:

5.10 Parking of Commercial Vehicles

- 5.10.1 Subject to this clause, the parking or garaging of a commercial vehicle(s) on any land within the Scheme area requires the prior approval of the Council.
- 5.10.2 An application for the approval of the Council under this clause may be made on the form prescribed in Schedule 6.
- 5.10.3 This clause does not apply where the proposed parking or garaging of a commercial vehicle(s):
- a) occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);
 - b) is solely for the delivery or receiving of goods and is for a duration of no longer than 2 hours in any 24 hour period;
 - c) is approved under this Scheme as a transport depot;
 - d) is part of the approved use of the land upon which the commercial vehicle(s) is parked or garaged; or
 - e) is exempted from the need to obtain approval pursuant to Schedule 5.
- 5.10.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone is set out in Schedule 14.

5.10 Parking of Commercial Vehicles

5.10.5 *An approval under this clause may only be granted where an occupier of the lot upon which the commercial vehicle(s) is to be parked is also:*

- a) *the owner of; or*
- b) *the driver of; or*
- c) *the proprietor of a business which owns or operates, every commercial vehicle which is to be parked or garaged there.*

5.10.6 *An approval granted under this clause may be subject to conditions, including conditions which:*

- a) *limit the time for which the approval operates;*
- b) *restrict the location in which the vehicle may be parked and/or require appropriate visual screening to be established to the satisfaction of Council;*
- c) *restrict the movements of the commercial vehicle(s) to times which reduce its affect on amenity, or to ensure compliance with the Environmental Protection (Noise) Regulations 1997;"*
- d) *make the approval personal to the occupier of the lot upon which the commercial vehicle(s) are parked or garaged.*

5.10.7 *The requirements of clause 5.10.4 and clause 5.10.5 are not capable of variation by clause 5.5 of the Scheme.*

Note: Approval will not be granted for the parking of restricted access vehicles (RAV's) unless the applicant can demonstrate approval has been granted from the relevant authority for the operation of these vehicles within the road network.

3. Modification to the definition and permissibility of 'Transport Depot'

The definition of 'Transport Depot' listed under Schedule 1 is to be replaced by the following definition:

"Transport Depot" *means premises, or a portion of premises, used for the parking or garaging of commercial vehicles, and:*

- i. *may include the maintenance and refuelling of those vehicles and the storage of goods brought to the premises by those vehicles, provided that those activities are ancillary to the parking or garaging of the commercial vehicles; and*
- ii. *may include the transfer of goods or persons from one motor vehicle to another.*

but does not include the parking or garaging of commercial vehicles approved pursuant to clause 5.10 of the Scheme.

In addition, the land use of 'Transport Depot' is to be modified from a 'D' class use to an 'X' class use in the zoning table under Clause 4.3 of *Local Planning Scheme 17*.

4. Insert 'Parking of Commercial Vehicle(s) Provisions' as Schedule 14

SCHEDULE 14 – PARKING OF COMMERCIAL VEHICLE(S) PROVISIONS

The following provisions stipulate the maximum number of commercial vehicles that Council may consider in any development application for planning approval under Clause 5.10 Parking of Commercial Vehicles. **The parking of any commercial vehicle on any Rural or Residential zoned lot is subject to planning approval.**

Zone	Lot Size	Maximum Number of Motorised Commercial Vehicles	Maximum Number of Trailers Designed to be Attached to a Motorised Commercial Vehicle
All Residential and Rural zones	Lot size of less than 750m ²	No commercial vehicles are permitted to be parked on any lot.	No trailers are permitted to be parked on any lot.
Residential Residential Development Residential Redevelopment Special Use	Lot size of greater than 750m ²	A maximum of one: a) Rigid (non-articulated) commercial vehicle; or b) One prime mover; or c) One semi-trailer truck; Will be permitted to be parked on any lot.	No trailers are permitted to be parked on any lot.
Rural Residential Special Rural Swan Valley Rural Rural Living Landscape General Rural Resource	Lot size of between 750m ² and 30,000m ² (3.0 hectares)	A maximum of one: d) Rigid (non-articulated) commercial vehicle; or e) One prime mover; or f) One semi-trailer truck; Will be permitted to be parked on any lot.	A maximum of one trailer will be permitted on any lot.
Rural Residential Special Rural Swan Valley Rural Rural Living Landscape General Rural Resource	Lot size of greater than 30,000m ² (3.0 hectares)	A maximum of two: a) Rigid (non-articulated) commercial vehicles; b) Prime Movers; or c) Semi-trailer trucks; Will be permitted to be parked on any lot.	A maximum of two trailers will be permitted on any lot.
General Rural Resource	Lot size of greater than 60,000m ² (6.0 hectares)	A maximum of five: a) Rigid (non-articulated) commercial vehicles; b) Prime Movers; or c) Semi-trailer trucks; Will be permitted to be parked on any lot.	A maximum of five trailers will be permitted on any lot.
Commercial-Industrial zones Strategic Regional Centre zones Other zones	Not Applicable	Commercial Vehicle Parking will only be permitted ancillary to an approved land use on the subject lots.	

5. Insert 'Commercial Vehicle Parking' exemption provisions into Schedule 5

EXEMPTED DEVELOPMENT	APPLICABLE ZONE/RESERVE	CONDITIONS APPLYING TO THE EXEMPTED DEVELOPMENT
<p>Parking of Commercial Vehicles</p>	<p>Rural Residential Special Rural Swan Valley Rural Rural Living Landscape General Rural Resource</p>	<p>A maximum of one:</p> <ul style="list-style-type: none"> a) Rigid (non-articulated) commercial vehicle; b) Prime Mover; or c) Semi-trailer truck, <p>and a maximum of one trailer or attachment to that vehicle will be permitted subject to the following criteria:</p> <ul style="list-style-type: none"> • The subject lot has a total area of equal to or greater than 30,000m² (3.0 hectares); • The subject vehicle is permitted to be operated within the local road network; and • No complaints regarding the parking of the commercial vehicle are received by the City of Swan. If a complaint is received the development will no longer be exempt from the requirement to obtain approval under clause 5.10, and an application for approval must be submitted to the City within 28 days following notice being given by the City under this provision.

APPENDIX II: Commercial Vehicle Parking Information Sheet

Information Sheet

Parking of Commercial Vehicles



1 Background

The parking of commercial vehicles on residential and rural properties is often a necessary occurrence as a result of land uses on the subject lot and/or the occupation of a resident on the subject lot. Whilst the parking of commercial vehicles on residential and rural properties can occur with little detrimental impact on the surrounding area, there is the potential for land use conflict unless adequate controls are put in place.

There are a range of factors that need to be taken into consideration in the determination of proposals for commercial vehicle parking, including the type of vehicle and property involved, the impact of the parking on the surrounding area and the means of access to and from where the vehicle is to be parked.

This information sheet is intended to provide guidance to proponents, officers and Councillors on the appropriate requirements for the parking of commercial vehicles within the commercial, industrial, residential and rural areas of the City of Swan.

2 Legislative Framework

A commercial vehicle is defined under Local Planning Scheme 17 (LPS17) as follows:

"Commercial Vehicle" means a vehicle, whether licensed or not, which is rated at a gross vehicle mass of greater than 4.5 tonnes and which is used or designed for use in association with a business or trade, and for the removal of doubt includes the following vehicles above that mass:

- i. Any rigid (non-articulated) vehicle, including any utility, van, truck, bus, tractor or earthmoving equipment; and
- ii. Any Prime Mover or Semi-Trailer Truck,

together with any trailer or similar article designed to be an attachment to either i) or ii), whether rated at a gross vehicle mass of greater than 4.5 tonnes or not.

The parking of a commercial vehicle by an owner/operator of the vehicle at their place of residence is permitted to occur subject to a resident being granted planning approval under Part 9 of LPS17. The relevant scheme provisions that restrict the parking of commercial vehicles on rural and residential properties are outlined within clause 5.10 of LPS17.

3 Application Requirements

Any development application for the parking of a commercial vehicle must include the following details:

- (a) A photograph and full description of the vehicle(s), including type, make, model and age;
- (b) The registration number(s) for the subject vehicle(s);
- (c) The height, length, width and tare/aggregate weights of the subject vehicle(s) and an indication of which vehicle type category is appropriate for the subject vehicle under Section 6 of this policy;
- (d) A site plan (to scale) showing lot boundaries and the location of any dwellings, outbuildings, driveways, proposed parking location and any intended vehicle screening measures;
- (e) A photograph showing the location where the commercial vehicle(s) is proposed to be parked;
- (f) An indication of the type of screening mechanism used to ensure that the vehicle is not visually intrusive from the street front and from neighbouring properties;
- (g) A statement from the applicant indicating the typical use and purpose of the commercial vehicle;
- (h) An indication of the typical frequency and times that the vehicle will be driven to and from the subject property and a description of the intended business use of the vehicle(s);
- (i) A plan indicating the local roads that will usually be traversed between where the vehicle(s) is proposed to be parked and the main road network, supported by an assessment of the capability of these local roads to provide access for the subject vehicle(s) and an acceptable level of safety for all other road users;
- (j) Description of any additional activities proposed to be undertaken as part of the parking of the commercial vehicle(s), including washing and/or servicing of vehicles; and
- (k) Any other details that may be required to assess the proposed parking of the commercial vehicle(s).

4 Assessment Process

Once an application is submitted to the City of Swan and is deemed to include all the relevant information it will be assessed via the following procedure:

- a) An invoice will be issued to the applicant indicating all assessment fees applicable
- b) The application is likely to require public advertising through one or more of the following mechanisms:
 - i. Notification of the proposed parking of commercial vehicle(s) to nearby owners and occupiers who, in the opinion of the City of Swan, are likely to

be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;

- ii. A sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected;
 - iii. Referral to any relevant State government agencies responsible for the management of any potential issues that the operation or parking of the commercial vehicle(s) may cause.
- c) Upon determining an application for planning approval the City of Swan will either:
- i. Grant approval for the parking of the commercial vehicle(s) with or without conditions; or
 - ii. Refuse to grant planning approval and stipulate the reasons for the refusal.

Information Sheet Administration

Information Sheet Owner			
Business Unit Name	Officer Title		Contact Number
Risk Complexity Classification		Review Frequency	

Version #	Decision Reference	Synopsis
1		
2		
3		
4		
5		

APPENDIX III: Public Submission Form

Amendment 40 to Local Planning Scheme 17

It is requested that the following comments are considered as part of the final consideration of Amendment No. 40 to *Local Planning Scheme 17*:

No.	Proposed Change	Discussion Paper Reference	Public Comment
1	Proposed amendment to the definition of 'Commercial Vehicle'	Section 1.1; Appendix I	
2	Proposed introduction of Commercial Vehicle Parking Provisions	Section 1.2; Section 1.3; Appendix I; Appendix II	

No.	Proposed Change	Discussion Paper Reference	Public Comment
3	Proposed amendment to the definition of permissibility of the 'Transport Depot' land use class	Section 1.4; Appendix I	

Please feel free to attach any further written comment to this standard form.

Name: _____

Organisation: _____

Address: _____

Date: _____

Please submit this form and any attachments to:

**Chief Executive Officer
City of Swan
PO Box 196
MIDLAND WA 6936**

All written submissions must be received by the City of Swan **no later than 5pm on 17th November 2010.**

