

## **1 INTRODUCTION**

The City of Rockingham Town Planning Scheme No.2 defines 'Commercial Vehicle' as 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 attached to any of them, and any bus or any earthmoving machine, whether self-propelled or not.

The term Commercial Vehicle shall not, however, include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes.

The purpose of this Planning Policy is to set out the objectives and policy provisions which the 'Council' shall have due regard to in the assessment and determination of applications for planning approval for the parking of Commercial Vehicles on residential zoned property.

In this regard, clause 4.17.1 of Town Planning Scheme No.2 states that a person shall not park or permit to be parked a licensed or unlicensed Commercial Vehicle in the Residential, Special Residential or Development (residential use class) zones, unless planning approval has been granted by the Council, pursuant to Part 6 of the Scheme.

## **2 POLICY APPLICATION**

Clause 4.17.2 of Town Planning Scheme No.2 requires that in assessing applications for planning approval, the Council shall take into account the objectives of the particular zone, and Planning Policy pertaining to that zone which the Council may from time to time adopt, as well as the following specific issues:-

- on-site parking location;
- potential impacts on neighbouring residents in terms of noise, emissions, visual appearance or any other nuisance;
- frequency and times of arrive/ departure;
- parking duration;
- the use of the vehicle; and
- whether such vehicle is to be used for business purposes operating out of the premises on a call-out basis.

This Planning Policy should be read in conjunction with the Council's Activities in Thoroughfares and Public Places Local Law 2001.

## **3 POLICY OBJECTIVE**

The objective of this Planning Policy is to promote the orderly and proper use of land by setting out the criteria against which applications for planning approval will be assessed and standard that shall be observed such that Commercial Vehicles can only be parked in residential zones where it has been demonstrated that there will be no adverse impact upon the residential amenity of the locality.

## **4 POLICY STATEMENT**

### **4.1 Amenity**

Town Planning Scheme No.2 defines 'amenity' as all those factors that continue to form the character of an area and include the present and likely future amenity. In this regard, the parking of a Commercial Vehicle should not adversely impact upon the amenity of the locality.

Amenity can be adversely affected by the undue generation of noise, fumes, odours and the like, Visual amenity is another component that relates to the manner in which the property is viewed from the street or adjacent properties.

Minor maintenance of a Commercial Vehicle whilst parked at a residential property will only be considered where it can be demonstrated to the Council's satisfaction that such maintenance will not adversely impact on the amenity of the locality, and can be suitably managed to ensure all wastes are disposed of appropriately.

Activities such as spray painting, panel beating or mechanical repairs that have the potential to adversely impact upon the amenity of the locality by the emission of noise, odours, by-products or otherwise, will not be permitted to be undertaken on a Commercial Vehicle parked in a residential zone.

### **4.2 On-site Parking**

The Commercial Vehicle must be parked entirely within the subject property, and should be contained behind the building setback line.

Where possible, the vehicle should be parked to the rear of the residence and screened from view of the street and from neighbouring properties.

Only one Commercial Vehicle will be permitted to be parked on a residential property, unless it can be demonstrated to the Council's satisfaction that an additional Commercial Vehicle/s can be parked on the property in compliance with all the requirements of this Planning Policy.

### **4.3 Access**

Access to the property on which the Commercial Vehicle is to be parked is to be via a crossover that has been constructed to the Council's specifications.

The parking of the Commercial Vehicle should not preclude domestic vehicles from parking at the property.

### **4.4 Commercial Vehicle Use**

The Council is unlikely to support the parking of a Commercial Vehicle that is, or has been, used for the transportation of animals, disposal of liquids wastes, or other dangerous hazardous or contaminated substances (which either requires a special permit for their transportation, or which if spilled or discharged from the vehicle would either cause pollution or pose a danger or threat to the health of inhabitants of the locality).

#### **4.5 Consultation**

All applications for planning approval for the parking of Commercial Vehicles on residential zoned property will be the subject of a process of community consultation in accordance with clause 6.3.3 of Town Planning Scheme No.2 and Planning Procedure No.1.3 – Community Consultation.

### **5 APPLICATION PROCEDURE**

In addition to the requirements of clause 6.2 of Town Planning Scheme No.2, an application for planning approval to park a Commercial Vehicle on a residential property should include the following information:-

- (a) The purpose of the vehicle;
- (b) The length, width, height and carrying capacity of the vehicle;
- (c) Arrival and departure times;
- (d) Demonstration that the proposal complies with the criteria set out in this Policy Statement;
- (e) A site plan clearly depicting the proposed location of where the Commercial Vehicle is to be parked;
- (f) A photograph of the Commercial Vehicle proposed to be parked at the property;
- (g) The payment of an Administration Fee as detailed in the Council's Planning Information Bulletin No.2.2 – Scale of Fees for Planning Services.

### **6 COMPLAINT PROCEDURE**

The Council is mindful that a significant proportion of applications for the parking of Commercial Vehicles on residential properties result from the receipt of complaints from adjacent landowners. As such, these matters are normally contentious and it is important that applications/complaints be dealt within a reasonable timeframe. In this regard, the Council has endorsed the following standard timeframes for the investigation of complaints:

- (a) Landowners will be required to lodge an application for the parking of a Commercial Vehicle within twenty eight (28) days of being notified by the Council where the requirements of the Policy are considered to be met, or alternatively, remove the vehicle within twenty eight (28) days.
- (b) If, beyond twenty eight (28) days of being notified by the Council, a landowner has failed to either remove the vehicle or submit an application, authority is delegated to the Chief Executive Officer to initiate legal action for breach of the Town Planning Scheme.

Complainants will be advised in writing of the manner in which the Council will investigate the matter, at which time a copy of this Planning Policy will be provided for their information.

### **7 POST APPROVAL CONSIDERATIONS**

- (a) Where a owner/driver who has been granted planning approval to park a Commercial Vehicle on a lot damages a road, kerb and/or footpath when entering or leaving the lot, the owner/driver shall be responsible for the cost of repair.

- (b) If a owner/driver, who has been granted planning approval to park a Commercial Vehicle on a lot, wishes to replace the vehicle with a different Commercial Vehicle, or park the vehicle in a different location to that approved by the Council, the prior written approval of the Council to the variation is required.
- (c) Should the Council received substantiated complaints from adjoining/nearby residents regarding the parking of the Commercial Vehicle, or if the Council observes that conditions of planning approval are not being complied with, the Council will either:-
  - (i) by written notice served on the owner and/or occupier of the land, require compliance with the conditions imposed on any approval granted; and/or
  - (ii) prosecute the owner or occupier of the land as the case may be pursuant to the Planning and Development Act 2005.

## **8 AUTHORITY**

This Planning Policy has been adopted by the Council under clause 8.9 of Town Planning Scheme No.2 and whilst it is not part of the Scheme and does not bind the Council in respect of any application for planning approval, the Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

## **9 AUTHORITY**

For the purposes of this Planning Policy, the following term shall have the same meaning as in Town Planning Scheme No.2:-

*Council – means the Council of the City of Rockingham.*

## **10 DELEGATION**

Where an application for planning approval has been the subject of a process of community consultation and substantiated objections are received or where an application has been received as a result of a complaint, the application for planning approval will be referred to the Council for determination.

All other applications for planning approval that comply in all respects with the objectives and provisions of this Planning Policy will be determined under delegated authority, pursuant to clause 8.10 of Town Planning Scheme No.2 and Planning Procedure 1.1 – Delegated Authority.

## **11 ADOPTION**

This Planning Policy was adopted by the Council at its ordinary Meeting held on the 27th May 2008.

## **12 REVOCATION**

This Planning Policy supersedes the Council's Statement of Planning Policy No.4.5 – Parking of Commercial Vehicles in Residential Zones.

**Amended by Council on 28th July 2009 (PS Committee on 20th July 2009)**