

	Matter Raised	Officer Clarification	
1	Main Roads Classification and the design of Valcan Road.	<p>The City’s independent peer review confirmed that Valcan Road is categorised as an ‘Access Road’.</p> <p>However, commercial vehicles (trucks) up to 12.5m in length are permitted to use a road of this classification. The vehicles proposed to access the subject site are 9 and 11 metres long, thus within the capacity of this road classification.</p> <p>Officer refer Council to the Peer Review report attachment.</p>	
2	Council has a legal obligation to protect rural property.	<p>All development applications subject to determination must be assessed against the applicable planning framework – with approvals only issued for application which are consistent with the intent of the planning framework, and refusals issued for applications which are considered inconsistent with the planning framework.</p> <p>These decisions are best made ‘on-balance’ weighing up the different planning considerations. For this application, Officers have considered the proposal to be of an appropriate scale to be consistent with the objectives of the Special Rural zone – which aims to retain amenity and the rural landscape.</p> <p>While the Officer Recommendation is to approve the application, ultimately the discretion to determine whether this development is or is not consistent with the planning framework lies with Council.</p>	
3	Misleading characterisation of Valcan Road as a straight Road.	The City clarifies that the Valcan Road reserve is straight, however the road pavement meanders within the road reserve which has facilitated the retention of trees within the road reserve.	

		The Peer Review notes that the Austroads Guide to Road Design Part 3: Geometric Design advises the minimum road width for roads carrying low traffic volumes, is 5.5 m. The sightlines from the driveways to No. 30 Valcan Road in both directions are sufficient and raise no safety concerns.	
4	Historical activity should be considered.	Planning decisions must relate to planning matters, and a guide to what constitutes a planning matter is listed in the Act. This is very important in the context of public submissions, where issues that aren't related to planning are given as reasons to refuse a proposal – for example submissions that object to proposals on the basis of property prices, views, perception of criminality or undesirability of future residents. These matters are not relevant in the consideration of planning proposals. <i>(Schedule 7 Planning and Development Act 2005)</i>	
5	Assessment oversights	<p>The policy oversight references the State Planning Policy: Rural Planning, and the Urban Growth and Settlement Policy.</p> <p>SPP2.5 – Rural Planning</p> <p>The purpose of this Policy is to protect and preserve Western Australia’s rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Ensuring broad compatibility between land uses is essential to delivering this outcome. Clause 3.3 of the Policy states when it applies – in the concluding paragraph of this section there is a reference to circumstances when there is no WAPC endorsed strategic or statutory planning instrument in place to guide WAPC decision-making, the intent and measures of this Policy shall apply.</p> <p>As the City has a WAPC adopted Local Planning Scheme, and a properly constituted Local Planning Policy for Commercial Vehicle Parking which have been prepared in the context of this Policy – at a greater level of detail, bespoke to the</p>	

		<p>City of Kalamunda, the intent of this Policy is being implemented through the City’s Planning Scheme and Local Planning Policy for Commercial Vehicle Parking. Given this guidance exists at the local level, the planning assessment does not default back to the State Level Policy. It is only in the circumstance that there is no guidance within a Scheme, or there is a clear conflict between the Scheme and this Policy, that this Policy prevails.</p> <p>It's important to note that this Policy does not prioritise amenity at all – it’s not mentioned in the objectives. Instead it seeks to ensure the preservation of land for primary production (agriculture), and for animal premises and the production of food.</p> <p>Of course these land uses would naturally come with an increase in non-residential traffic, noise, and buffers.</p> <p>On balance, the Officers consider the proposal to be consistent with SPP 2.5.</p> <p>SPP 3.0 – Urban Growth and Settlement This Policy applies broadly across the state, with likewise broad objectives relating to infrastructure provision, responding to social and economic needs, recognising climatic, environmental, heritage, and community values.</p> <p>Part 6 of this Policy notes that it will be implemented through various other documents within the planning framework, including planning policies and planning schemes.</p> <p>Similar to the earlier notes on SPP 2.5 – as the City has adopted a Local Planning Scheme, and has gone the additional step to adopt a Local Planning Policy to guide the application or planning discretion as it applies to Commercial Vehicle Parkin, the intent of this Policy has been addressed.</p>	
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6	Precedent	<p>While a decision-maker is not obliged to be guided by previous decisions, the general consistency of decision-making is a fundamental principle of a healthy planning system, so that all involved have clear expectations. The consistency of planning decisions is a key consideration for matters considered by the State Administrative Tribunal and a finding in the case of Riede and Town of Vincent SAT 209, 2007 is</p> <p><i>“In circumstances where the planning framework is the same the circumstances have not changed in any substantial way; it is in the interests of orderly and proper planning that planning decisions in relation to a site are made consistently.”</i></p> <p>In a practical sense, this means that a previously approved application may not always be approved again years later if there has been a legislative or policy change. Similarly, decision-makers need to be conscious that some decisions do not establish a precedent for other similar proposals.</p>	
7	Departure from the planning framework, incompatible with the rural zoning.	<p>Most planning proposals can be determined easily and quickly. However, planning is not always clear cut, and some proposals require decision-makers to balance a range of competing issues before arriving at a decision. Most planning instruments include scope to vary requirements or standards where certain conditions are met. Examples of this include:</p> <ul style="list-style-type: none"> • reducing the required number of car parking bays where a development is close to public transport or includes bicycle parking or 	

		<ul style="list-style-type: none"> • variations to height and setback requirements where the building has special design features like frosted windows or lattices that would prevent overlooking <p>Many planning policies, including the Residential Design Codes (known as the R-Codes, which apply to all dwellings) include ‘deemed to comply’ and ‘performance based’ standards.</p> <p>For example, the development intent is to achieve visual and acoustic privacy, and the deemed to comply standard might be a two-metre separation from a boundary. Taking into account the intent – privacy - it may be possible to design a building so that it achieves the same outcome, while being closer to a boundary. The ability to apply discretion means that there is greater flexibility for sites that may have design challenges due to their location, size or shape.</p> <p>Where discretion may be applied by a decision-maker, there needs to be a good planning reason to depart from the standard, and the planning instrument needs to give the decision-maker scope to apply discretion in the first place. Some planning frameworks do not have any scope for discretion for example, where a zone in a scheme says a land use is prohibited, such as a panel beater in a residential zone.</p> <p>However in this case - the City’s report and Officer recommendation have concluded that the application is consistent with the expected outcomes of the planning framework, that the proposal is not a significant departure – thus is capable of being approved subject to conditions.</p>	
8	Wildlife/Environmental Impact	<p>The City has assessed the proposal to have no impact on vegetation and wildlife.</p> <p>No clearing is proposed and the hardstand is existing.</p>	

		<p>The City not dismissing the importance of fauna and flora consideration in planning applications, the City has assessed the application based on what approval is being sought – and there are no obvious environmental impacts of parking two commercial vehicles on an area of a property which is already cleared, and already has an access path from the street to the hardstand area that does not require the removal of additional vegetation.</p>	
9	Ongoing Compliance	<p>While not an unlimited resource, the City does have Development Compliance Officers. These officers maintain a register of development approvals which require ongoing monitoring of conditions. Reasons for monitoring are usually because there is a condition for an applicant to do something by a certain date.</p> <p>The City is experienced in monitoring these types of conditions and it raises no implementation concerns.</p> <p>There is an element of awareness which does arise from neighbours reporting activity, however this is common across most development applications.</p>	