

13.6 LOCAL PLANNING POLICY REVIEW - PROPOSED RESTRUCTURING OF THE LOCAL PLANNING POLICY FRAMEWORK

SUBJECT INDEX:	Local Planning Policies
APPLICATION NUMBER:	N/A
STRATEGIC INITIATIVE:	2.4.5 Develop a New Town Planning Scheme to Provide for the Lifestyle We Cherish and Protect
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Land Use Planning
DATE OF COMPLETION:	18 November, 2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Restructuring of local planning policies adopted under Schedule 10 of District Town Planning Scheme No 20 (the Scheme) for community consultation. Adopting an amended/revised Busselton Heritage and Special Character Area Policy for community consultation. Rescinding various obsolete policies. Adopting a minor modification to the Residential Design Guidelines and Percent for Art policy to assist the implementation of these policies. Adopting a new policy initiative - Food and Wine Sales Policy for community consultation. Various minor amendments to assist the implementation of existing policies. Adopting the draft amended and new policies as policy provisions within a consolidated set of 9 local planning policies.
LOT SIZE:	N/A
ZONE:	Various Zones
POLICIES:	All Local Planning Policies
ATTACHMENT(S):	A. Chart of proposed Policy Framework. B. Draft integrated local planning policy manual. (due to its size this Attachment can be uploaded from the Councillor's portal.) Hard copies of specific revised policies are available on request.

PRÉCIS

This report recommends reformatting the local planning policy framework to improve the coherence, functionality and efficiency of the policies in anticipation of a revised Town Planning Scheme and the further progressive consolidation and review of the local planning policy framework.

As they are no longer necessary or have been superseded by the Scheme and/or other provisions the report recommends that six (6) policies be

rescinded; the Viticulture Subdivision Policy, the Dams Policy, Performance Standards - Abbey Green Housing and Development, Floodplain Development and Management Policy, Residential Design and Landscaping Guidelines on Controlled Access Highways, and the Town Centre Development Policy.

The reformatting proposes a number of minor amendments to a range of policies to improve implementation.

The revised policy format also includes a draft revised Busselton Heritage and Special Character Area Policy (now renamed the Adelaide Street Special Character Area Provisions) and a new policy initiative, the draft 'Food and Wine Sales Provisions' as part of a consolidated Rural Area Land Use and Development Policy. This draft provides for small ancillary restaurants and cafés, many of which currently exist, to operate in limited circumstances in the rural areas. If the draft attracts significant objections during the advertising period, then the matter may be reported to Council separately to avoid delaying the consideration of the other policy framework changes.

Due to the complexity and extent of the proposed changes, the revised Extractive Industry policy (which involved substantial modifications to the policy) were dealt with in a separate report to Council on the 10 June 2009.

All changes to the framework, including the rescission of certain policies, are to be advertised to the community for consultation purposes prior to final approval and adoption.

BACKGROUND

December 2005 (CO 512/387)

The Council adopted a framework for the comprehensive review of its local planning policies.

The objectives of the review as set out in the report to the Council were to update and prepare new policies to meet the following criteria.

- * Legible, clear, concise, equitable and logical
- * Easily understood by the public, professions and planning staff
- * Ease of use as a planning tool to reduce staff processing times on applications e.g. Headings, index, tables, charts, lists.
- * Outline the process of assessment as well as criteria.
- * Complement the Scheme, Rural Strategy and State Planning Policies.
- * Where relevant strengthen/establish/maintain local character and identity.

November 2007 (CO 711/275)

The Council endorsed *The Shire of Busselton Scheme Review Communication Strategy (2007)* which outlined how the continued review of the Shire's local planning policies would feed into the formulation of the Local Planning Strategy and new Town Planning Scheme.

The *Communications Strategy* recommendations for the ongoing review of the local planning policies review were to:

1. Reduce unnecessary advertising and submission/reporting processes. Focus resources on developing strategies, and resolving key issues through the strategy process.
2. Consolidate and streamline policies and reduce the number, particularly by issue. Issues requiring policy change to be explored through the Strategy process. Particularly issues that will gain direction through an overarching policy review at state level e.g. environment, tourism.
3. Only prepare or review critical policies, and policies already progressed to consultation now.
4. Use this process as a basis for identifying key issues to address through the Local Planning Strategies, and target the real implementation issues.
5. Identify the policies proposed for review which relate to difficulty in implementation of the policy rather than the policy intent. Decide if it needs a full review at this time, or if practice notes for the planners can be prepared to better understand and implement the policy.
6. Conduct a full review of Council policies in conjunction with the new scheme.

This report represents significant progress toward achieving the objectives outlined above, noting that the critical policies have been subject to separate reports to the Council.

PROPOSAL

This report recommends the restructuring and formatting of the Shire's current local planning policy framework to achieve previously identified objectives. It also generally updates the currency of all policies, proposes substantive changes to a limited number of policies, as well as introducing a new policy initiative.

Local planning policies guide the Council in the exercise of discretion in the determination of applications for development made pursuant to the Scheme.

The specific changes recommended by this report may be summarised as follows:

1. Policy Rescissions:

Rescinding the Viticulture Subdivision Policy, Dams Policy, Abbey Green Performance Standards, Floodplain Development and Management Policy Residential Design and Landscaping Guidelines on Controlled Access Highways and the Town Centre Development Policy.

2. Various (minor) amendments to policies:

Amending the Community Facilities Implementation Policy, the Percent for Art Policy, the Mosquito Contribution Policy and Car Parking Policy to index the contribution rates in these policies from Consumer Price Index (CPI) to General Construction Index (GCI) and to incorporate a review of these policies every 5 years.

Amending reference to Terms and Definitions in all policies to reference to the Scheme definitions or to reference to other relevant source documents.

Adopting planning policy provisions for the Dunsborough Lakes Service Industry Park (these provisions have been proposed by the proponent and are currently endorsed as design guidelines through the subdivision process).

Amending the Rural Tourist Accommodation Policy to align the rural strata provisions (preclusion of strata titling of chalet developments in the Agriculture zone) with the Local Rural Planning Strategy.

3. Review of Existing Policies:

Amending the Busselton Heritage and Special Character Area Policy and renaming it the Adelaide Street Special Character Area Provisions. If adopted for final approval, an amendment to the Scheme will be required to update Schedule 10 of the Scheme.

Amending the Residential Design Guidelines by relaxing the front setbacks requirements for covered decks for lots fronting Geographe Bay Rd.

Making various minor amendments to current policies to improve their implementation without changing the planning outcome.

4. Introducing a new Policy initiative:

* The Food and Wine Sales Provisions; and

5. Consolidation/formatting:

Restructuring the current policy framework by consolidating the existing 38 existing separate policies into a framework of 9 key land use policies as part of an integrated policy manual. This will improve

the coherence, functionality and efficiency of use of the policy framework.

A chart illustrating the proposed local planning policy framework is included at Attachment A.

The proposed integrated policy manual is included as part of the agenda on the Shire website and is downloadable from the Councillor's portal.

Copies of the existing policies can be found at <http://www.busselton.wa.gov.au/services/planning/policies>.

The rationale for these recommended changes is outlined at 'Officer Comment' below.

STATEMENT OF IMPACT

There are not considered to be any adverse impacts arising from the restructuring of the policy framework. The changes will align local planning policies in a logical and uniform format and will assist the Scheme Review process.

This will lead to gains in efficiency by removing inconsistencies from the policy framework and reducing the overall number of policies to be considered by staff and applicants when assessing development applications. This should lead to better applications and staff more efficiently dealing with applications for planning consent.

There are not considered to be any adverse impacts arising from the rescission of six (6) policies being the Residential Design and Landscaping Guidelines on Controlled Access Roads-Including Entry Statements Requirements Policy, Viticulture Subdivision Policy, the Dams Policy, Performance Standards - Abbey Green Housing and Development, Floodplain Development and Management Policy and the Town Centre Development Policy for the reasons outlined in the 'Officer Comment' section below.

The development outcome impacts of the various (minor) amendments to the other policies are minimal.

The changes to the Busselton Heritage and Special Character Area Policy will be advertised to the affected landowners to allow the opportunity to comment on the changes. Feedback during this period will assist the overall review process.

The development outcome impacts of the draft Food and Wine Sales provisions are expected to be positive.

CONSULTATION

Consultation has been conducted with the Margaret River Wine Association, Geographe Bay Tourism Association and Tourism WA in relation to the draft Food and Wine Sales provisions.

The Abbey Green Residents Association has been consulted extensively and has advised that it supports the rescission of the Abbey Green Performance Standards policy.

Further consultation will commence if the Council adopts the draft changes for community consultation. Consultation is expected to consist of advertising to the community for comments for a period of at least 28 days.

Additionally key stakeholders and affected landowners will be contacted and invited to comment on the substantive policy changes and proposed new policy.

FINANCIAL IMPLICATIONS

Advertising of the policies will be undertaken within the budgeted allocation for this purpose.

There are not considered to be any ongoing financial implications for the Shire, although the amended policy format should improve the efficiency of assessment of development applications.

STRATEGIC IMPLICATIONS

The proposal has been formulated with the following strategic priorities and objectives of the Shire's Strategic Plan 2006 – 2011 in mind, these are:

- * Assess development for its sustainability value.
- * Build organisational capacity through continuous service review and improvement.
- * Create innovative approaches to development and allow this to occur through a reviewed Town Planning Scheme.

STATUTORY ENVIRONMENT

Local planning policies guide the Council in the exercise of discretion in the determination of applications for development made pursuant to the Scheme.

The Council may prepare a local planning policy which makes provision for any matter related to the planning or development of the Scheme Area and may apply –

- (a) generally or in a particular class of matter e.g. Child Care Centres Policy, Extractive Industries Policy;

- (b) throughout the Scheme Area or in one or more parts of the Scheme Area e.g. Old Dunsborough Special Character Area Policy, Car parking Policy.

The rescinding, review and adoption of new policies must be carried out in accordance with the provisions of Clause 103 of the Scheme which requires draft policies (including modifications to draft policies) to be advertised for public comment prior to final adoption and inclusion within Schedule 10 of the Scheme.

The Council shall review the draft policy in the light of any submissions made and advice received and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft policy.

Consultation extends to the rescission of policies. Further to this the rescission of a policy must be published twice in a local newspaper circulating in the district, following final adoption of the decision to rescind the policy.

The Residential Design Codes of Western Australia (R Codes) are also relevant to the preparation of a local planning policy. The R Codes limits the extent to which a local planning policy can vary the R Codes. Policies which may exceed this limit require the approval of the WAPC.

The proposed policy review is within the limit of extent and does not require WAPC approval.

POLICY IMPLICATIONS

The changes to the policy framework will realign the framework of local planning policies into a more logical and coherent format and will assist the Scheme Review process by removing policies that are unnecessary or have been superseded.

There are not considered to be any adverse policy implications or impacts from the rescission of the Viticulture Subdivision Policy, Dams Policy, Abbey Green Performance Standards, Floodplain Development and Management Policy and the Town Centre Development Policy, as they are no longer necessary or have been superseded by the Scheme provisions or other mechanisms. The Viticulture Subdivision Policy has been superseded by the Local Rural Planning Strategy (LRPS).

The environmental flow provisions, water allocation considerations and other requirements of the Dams policy have been superseded by state government policy and approach (namely the Whicher Surface Water Proclamation Order).

OFFICER COMMENT

The rationale to the policy changes is set out below under appropriate sub-headings.

Rescinding the Viticulture Subdivision Policy (2003)

This Policy has served the important purpose of clarifying the Council's Position of a 30 ha (useable area) minimum lot size for subdivision in the Viticulture/Tourism zone. The Policy is now obsolete as the endorsed Local Rural Planning Strategy (LRPS) now provides the basis upon which subdivision decisions within the Viticulture/Tourism zone shall be made by the WAPC on advice from the Shire. Further reference to the Policy within the planning framework is therefore unnecessary and the Policy can be rescinded.

Rescinding the Town Centre Development Policy (1983)

This Policy was adopted by the Council under the previous Town Planning Scheme No. 5. Its purpose is to provide direction to redevelopment of the land fronting the northern edge of Bussell Highway between Gale and West Streets. (Mainly the takeaway food premises, Pizza, video and outdoor camping store precinct). The area has been redeveloped in accordance with the Scheme and policy, and as a result the policy is no longer necessary.

Rescinding the Dams Policy (2001)

This policy has served the purpose of providing a tool to assess various applications for dams in the Agriculture, Viticulture/Tourism and related zones. The policy clarifies the Shire's objectives for maintaining environmental flow, limiting scale of proposals and minimising the impact of proposals on watercourse health and function.

The Policy is now largely obsolete since Gazettal of the Whicher Surface Water Management Area - Proclamation Order, on 21 September 2007. Proclamation now means that the consideration of the matters contained in the Dams policy will now be undertaken by the Department of Water. As the Department of Water has assumed management and licensing responsibility for dam applications across the vast majority of the Shire the Shire's considerations now relate mainly to incidental issues.

The only areas exempted from the proclamation order are the sub catchments of the various river systems that drain the coastal plain to the Geographe Bay and Wonnerup Wetlands. These sub catchments were excluded from the department's licensing control due to the historically low demand for dam construction in these catchments and the preference to drain and convey, rather than impound water within these areas.

The Shire would still require planning consent for structures on water courses, but the assessment process would largely relate to matters such as setbacks from property boundaries, visual impact, and setbacks from effluent disposal apparatus.

A policy to deal with these issues is not necessary, as sufficient discretion and guidance on these matters is provided by the Scheme and applications can be assessed on their merits.

Further reference to the Policy within the planning framework is therefore unnecessary.

Rescinding the Floodplain Development and Management Policy (1994)

This policy was developed to guide decision making under the previous Town Planning Scheme No. 5. The policy was carried forward by reference to the current Scheme on 7 September 1999.

The policy deals with matters such as land use and development within flood-ways and the flood plains as determined by mapping prepared by the (then) WA Water Authority in 1987.

The substantive matters dealt with under the policy are now dealt with under clause 37 'Flood Prone Land' of the Scheme, which requires the Council to consider the likely impact of approving development within the floodway or flood prone land (including reference to mapping prepared by the Water Corporation indicating the 1:100 year flood extent), and to obtain advice from the relevant state authority prior to making a decision.

Furthermore the *Busselton Wetlands Conservation Strategy*, endorsed by the Council and published by the WAPC in October 2005, provides additional policy support for the consideration of applications for subdivision, development and rezoning within the Vasse - Wonnerup/Broadwater Wetlands area. As a state level strategy it overrides the Floodplain Policy in relation to some proposals and therefore has greater influence on detailed decision making by the Shire and WAPC. At a more detailed level the introduction of the updated *Stormwater Management Manual*, published by the Department of Water, has required a more detailed assessment of water resources management.

As a result the policy serves no useful purpose as the Scheme and other decision making frameworks, adequately deal with these issues.

Further reference to the policy within the planning framework is therefore unnecessary and the policy can be rescinded.

Rescinding the Residential Design and Landscaping Guidelines on Controlled Access Roads Provisions including Entry Statements Requirements

This policy deals with amenity, road safety, aesthetics and landscaping of the interface between controlled access roads and residential allotments. The policy also deals with the construction requirements for entry statements associated with the subdivision of residential estates.

The entry statement provisions of the policy have been superseded by Shire policy 185/3 'Verge and Public Open Space Improvement – Subdivision'

which was approved by Council in July 2007 and in some measure by the Shire's Technical Specifications 9(g).

The planning and design elements of the policy are largely unnecessary as detailed guide planning enables these matters to be addressed at a detailed stage in accordance with state level planning documents such as Liveable Neighbourhoods.

The landscape planting components of the policy are detailed within the Shire's Community Infrastructure Technical Specifications Section 9 and are covered in part within the provisions of the Busselton Bypass Access Policy.

The key elements of the policy that relate to setbacks and landscape planting along the Bussell Highway and Bypass have been retained and updated to reflect current policy. These provisions now appear in the Special Character Area and Visual Management Policy as provisions.

Amending the Rural Tourist Accommodation Policy (1994)

As the Rural Tourist Accommodation policy predates the Local Rural Planning Strategy (LRPS) it has become necessary to amend the Rural Tourist Accommodation Policy to align with the more recent provisions to preclude the strata titling of chalet developments in the Agriculture zone.

The Council's LRPS now effectively only permits the strata titling of rural chalets in the Viticulture Tourism zone. The Policy has been amended to reflect this position.

Amending the Community Facilities Implementation Policy, Commonage Implementation Policy, Car Parking Policy, Mosquito Control and Percent for Art Policy.

Minor changes to these policies are necessary to assist in the implementation of the policy provisions. These changes will have the effect of:

- * Ensuring that indexing of all contribution rates matches the General Construction Index (GCI) on an annual basis.
- * Providing a review of the Community Facilities Implementation policy Mosquito Control Policy and the Percent for Art policies every five years.
- * Defining the eligible uses and clarifying delegation provisions for Percent for Art Policy.

The recommended revised clauses are as follows:

- * Amend clause 8.2.1 and 8.2.2 of the Community Facilities Implementation Policy to read;

'8.2.1. Indexing and review of contribution rates

The calculated contribution rates will be indexed to the WA General Construction Index (GCI) from May 2008. In addition, the contribution rates will be reviewed periodically to ensure that the monetary contributions reflect the increases in the costs associated with the provision of the community facilities outlined in these provisions and to respond to modifications to 5 year financial planning outcomes.

8.2.2. Five Year Policy Review

A review of this Policy will be undertaken every five (5) years to determine whether projected population and identified facility needs are accurate and to determine if any Policy modifications are required.'

- * Amend Section 4.7 and 7.6 of the Mosquito Control Developer Contribution Policy to replace the Term "CPI" with "General Construction Index (GCI)" and to amend Section 7.6 to replace the words "reviewed annually" with the words "reviewed five yearly".

The amended wording provides for indexation of the contribution rate in accordance with the general construction index for Western Australia. This is the most suitable index given the type of works that are undertaken with the contribution funds.

The 5 year review period represents a more realistic and resource efficient review period at which time, contextual and circumstantial issues which affect the contribution rates will be examined and brought before the Council.

- * Amend Clause 2.2.1 of the Percent for Art Policy to add 'grouped dwellings' after 'multiple dwellings'.

'Multiple dwellings' are already specified in the list of uses. The main distinction between the definition of 'multiple' and 'grouped' dwellings under the Residential Design Codes is whether the units are placed above each other vertically or constructed at ground level. The inclusion of 'grouped dwellings' provides for greater clarity and ameliorates the potential for inconsistency in the application of the Policy.

- * Amend Section 4.0 of the Percent for Art Policy to renumber existing 4.7 as 4.6 and amend the wording to read;

i) The approval of the Shire shall be required prior to the creation and installation of the Public Art. For this purpose, the Council may delegate authority to grant approval to the Public Art to an appropriate Officer, or duly appointed panel.

ii) Details of works shall be submitted to and approved by the Shire of Busselton prior to issue of a building licence. The

detail submitted shall be assessed against the requirements of these provisions and associated Step by Step Guide for Developers. The public artwork must be completed and installed prior to occupation of the development and/or issue of a Permit to Use, and maintained thereafter by the owner(s). It is recommended that the artist be contracted early in the design process to avoid any delays to final clearance. Alternatively, the Shire may accept a suitable agreement, prepared at the applicant's expense, binding the proponent to complete the works within a specified time frame and indicating that the works will be maintained by the owner for the life of the artwork. Where agreement has been reached for the contribution to be met by way of a cash in lieu payment, this shall be satisfied prior to issue of a building licence.'

Clause 3.5 is amended to make reference to a five (5) yearly review of the policy.

Amending the Residential Design Guidelines Policy (2007)

Element B3.1.3 of this policy has created difficulties for the assessment of development applications and the achievement of the intent. The provisions relate to roofed balconies, decks and verandahs above 5.0 metres in height which are attached to residential developments that front Geographe Bay Road or the adjoining coastal reserve. The purpose of the provision is to satisfy Objective B 1.2 of the policy which is "To provide for development projects of a low rise residential character and reduce the dominance of the built form in the coastal setting outside key nodes which the Scheme zones or identifies for more intensive residential development." The corresponding provision clause B3.1.3 requires an additional 3.0 metre setback for roofed, as opposed to unroofed balconies, decks and verandahs above 5.0 metres in height to avoid the impact of their building bulk on the streetscape.

This issue has been discussed internally by planning staff and the consensus view is that the provision should be modified to allow roofed balconies, decks and verandahs to be setback the same distance as unroofed balconies if the roofed area is open on at least three sides.

If the provision is varied to require outdoor areas to be open on at least three sides the change will allow more flexibility, will allow substantial amenity improvements for weather protection and the change can be made without any perceptible impact on the streetscape.

It is therefore recommended to vary the policy provisions at clause B3.1.3 to read (changes in italics);

For all residential development above five (5) metres in height, including the exterior face of any roofed, or partially roofed verandas, decks and balconies the minimum setback from the primary street shall be calculated to be a value of the setback distance specified in Table 1 of the R Codes plus an additional three (3) metres. *Notwithstanding the aforementioned provision*, the exterior face of any roofed verandas, decks and balconies above five metres in height may be setback from the primary street in accordance with Table 1 of the R Codes *provided the outdoor area is "open" (non-enclosed) on at least three sides.*

Rescinding the Abbey Green Housing and Development Policy (Performance Standards)

The current policy provisions relevant to the Abbey Green Estate at Ray Village Broadwater, were established to control development and provide a high level of amenity for local residents. The current policy gives effect to performance standards (restrictive covenants) which were inadvertently only registered against a few lots within the estate. The covenants were intended to apply to all lots. To overcome this deficiency the Council adopted the policy to act as a regulatory surrogate in the absence of the restrictive covenants.

The draft proposal to rescind the policy was referred to the Abbey Green Landowners Association. The Association advised that it had concerns over the suggested removal of the policy unless second storey redevelopment proposals were precluded due to amenity concerns.

It was suggested therefore (with the Association's support) that the Shire retains the provisions of the Abbey Green Housing and Development policy in the Residential Development policy, which only seek to restrict:

1. Any proposals for redevelopment above a single storey (In effect building height will be restricted to 'Category A' buildings under the R Codes Table 3); and
2. The removal of habitat trees (specifically the mature *Agonis Flexuosa* - WA Peppermint).

The balance of the policy is now unnecessary for the following reasons:

- * The lots covered by the policy have all now been developed in accordance with the performance standards applicable under the policy and covenant.
- * The Shire would not normally seek to control these matters through its Scheme or policy controls other than building height and retention of vegetation.
- * The residents/landowners support these changes.

Amending the Terms and Definitions across all policies

The use of "Terms" and "definitions" within the Policies is useful where terms have uncommon or technical meanings which are specific to the nature of the development being guided by the policy e.g. entry statement, visual resource assessment, etc. However some policies contain definitions and terms which either conflict with or are superseded by the definitions and terms contained within the Scheme, the Planning and Development Act 2005 (the Act) or the Model Scheme Text (MST). This has resulted in some difficulties for implementation where obvious conflicting definitions appear. For instance the term 'development' outlined in the Caves Road Visual Management Policy is different to the definition of 'development' in the Scheme.

In response it is proposed to realign all terms and definitions within existing policies with the definitions within the Scheme, or other more relevant source documents.

The meanings of the terms used in the various policies either be deleted or will be amended to realign with the Scheme or other source document definitions.

Dunsborough Lakes Design Guidelines

Council adopted certain changes to the Dunsborough Lakes Detailed Area Plan (DAP) and Development Guide Plan (DGP) in September 2008 to improve the layout and design of the Service Industry precinct. These changes resulted in the need for policy changes to the Industrial Development Code to guide development where it occurs. As the WAPC has now endorsed the DAP and DGP changes, it is timely for the policy adjustments to be made. These provisions are currently endorsed as design guidelines through the subdivision process.

The adjustments will introduce guidelines for the approval of service industrial and composite industrial development applications within the Service Industry precinct consistent with the objectives of the DAP and DGP. To this extent they are "policy neutral" as they carry forward into the policy provisions which have applied to development since the first lots in the precinct were subdivided.

Other minor amendments to policies to improve their implementation.

Reference to the requirements for contributions to the Vasse diversion drain has been removed from the Industrial Development Code at 8.7 as this matter is referenced to the reformatted Contributions Policy.

A reference to skillion roofs has been added to the Yallingup Special Character Area as the current document effectively precludes the use of skillion design despite it being a common roof style for many early beach shacks. The inclusion of scope for skillion roof to be considered will provide greater scope for contemporary coastal architecture at Yallingup and will remove current difficulties for staff in dealing with these development applications. Provision 4.4.2 (C) now reads 'Skillion roof styles which may reflect an emerging coastal architecture will be considered on their merit in the context of the site, the streetscape, the building's elevation and position within the lot and the degree to which the design meets the intent and provisions of the policy.'

Some documents adopted as local planning policies, such as Structure Plans have been separated from the more general planning documents as outlined at Attachment A. These documents are adopted pursuant to clause 103 but some are not local planning policies in the proper sense. It makes sense to separate and label them as guidance documents. These non operational Policies include the:

- * The Busselton Urban Growth Strategy
- * Ambergate Structure Plan
- * Smiths Beach Methodologies
- * Biodiversity Incentive Strategy

- * Local Rural Planning Strategy
- * Other strategies and/or structure plans adopted as policies pursuant to clause 103 of the Scheme.

This issue will be better resolved through development of the 'policy neutral' model scheme text compliant Scheme and the Scheme review, but this is considered the best short term approach.

The Busselton Heritage and Special Character Area Policy – (Draft Adelaide Street Special Character Area Provisions)

In January 2008 a consultant urban designer/planner was appointed to review this policy. The policy was in need of modification to realign it with Scheme and policy review objectives.

The terms of reference of the review of the policy required that the revised policy should primarily focus on

- * Developing provisions that allowed the preservation of the streetscape, which includes a variety of elements which contribute to the rhythm and tempo of the streets/precinct.
- * Developing and clearly articulating what will "contribute to the enhancement of this precinct" i.e. the types of buildings, their construction, position within the lot, relationship to the street, materials and colours etc.
- * Providing a clearer nexus between the objectives of the policy and the policy provisions.

A draft reviewed policy has been prepared with the assistance of a consultant urban designer and has been further refined by reference to the WA Heritage Council and the Regional Heritage adviser for the South West.

The resulting revised policy includes a significant number of changes from the current policy which are summarised as follows.

Revised objectives of the Policy now include:

- (i) To identify, conserve and protect the urban and streetscape character of the Special Character Area;
- (ii) To encourage the retention of the key elements of the existing built form and landscape within the Area;
- (iii) To ensure that new buildings, changes of land use, redevelopment and alterations/additions of existing premises, can be accommodated without adversely affecting the identified character or the cultural heritage significance of Municipal Inventory Listed buildings; and
- (iv) To more clearly articulate the Shire's land use intent for the Area for the benefit of landowners and the general community.

The standards and requirements of this Policy are addressed in the following provisions (elements). The elements are to be considered through the development assessment process and include:

- A Improved front and side setbacks;
- B Controls on building form, proportions and style;
- C A palette of Materials and colours;
- D The preferred location of off street car parking;
- E Landscaping and other treatments in the front setback area;

The provisions now link directly to the policy objectives and therefore provide a clearer basis for the policy provisions.

Another important change from the current policy is a reduction in the extent of the policy area to exclude some parts of Adelaide Street east of Queen Street which has no recognisable special character.

This change will have the effect of focusing the provisions on the character areas between Queen Street and West Street.

The changes have the support of the WA Heritage Council's Regional Heritage adviser.

New Policy Initiative - Draft Food and Wine Sales Provisions.

The need for this policy has arisen because many local, rural based attractions such as wineries and cellar door sales operations, outside the 'Viticulture and Tourism' zone, often propose the ancillary sale of food to accompany the principal land use of wine sales or rural produce sales (rural enterprises).

This draft policy seeks to encourage this activity in the rural areas, (which may result in additional small restaurants and cafés) in recognition of the importance of the food and wine industry to tourism in the region and to avoid the need to continually amend the Scheme to allow restaurants outside the Viticulture/Tourism zone.

A 'Restaurant' is a prohibited use in the Agriculture zone and a use that can only be carried out with discretionary approval in the Viticulture/Tourism zone. The practice of the Shire to date has been to refuse applications for restaurants in the Agriculture zone but in limited circumstances initiate a Scheme amendment to provide an Additional Use right to allow a restaurant. This practice has discouraged the serving of light refreshment meals with wine tasting/sales due to the expensive and laborious process of amending the Scheme on a case by case basis.

The Scheme includes provisions for land uses to be permitted where they form an ancillary, incidental or subsidiary use to the principal land use.

The purpose of this draft policy is to acknowledge that while the Scheme may permit limited serving of food as an ancillary use to an approved winery

or rural enterprise that the ancillary use should be limited in scale to avoid small facilities evolving into independently operated and functioning restaurants.

CONCLUSION

This report seeks Council approval to advertise for community consultation a restructure of its current Policy Framework. At the same time the recommended changes will result in some important improvements to some existing policies.

TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The policy will be advertised in the local press for a period not less than 28 days with this commencing within six weeks of the Council resolution.

VOTING REQUIREMENT

Simple Majority.

STAFF RECOMMENDATION

1. That Council adopts the draft integrated Shire of Busselton Local Planning Policy Manual and Policy Framework at Attachments A and B to this report for community consultation pursuant to Clause 103 of District Town Planning Scheme No. 20 for the purpose of:
 - * Amending the Community Facilities Implementation Policy, the Percent for Art Policy, the Commonage Implementation Policy, the Mosquito Contribution Policy and Car parking Policy to index the contribution rates in these policies from Consumer Price Index (CPI) to General Construction Index (GCI);
 - * Defining the eligible uses; and removing delegation provisions for Percent for Art Policy; and incorporate a review of the Percent for Art and Community Facilities Implementation Policy every 5 years rather than annually;
 - * Deleting reference to Terms and Definitions from all policies where these conflicts with the Scheme, or these terms are replaced by reference to definitions in other more relevant source documents;
 - * Adopting local planning policy provisions for the Dunsborough Lakes Service Industry Park;
 - * Amending the Rural Tourist Accommodation Policy to align with the rural strata provisions of the Local Rural Planning Strategy (2006);
 - * Adopting draft reviewed existing Policies – Busselton Heritage and Special Character Area Policies (renamed Adelaide Street Special

Character Area Provisions), and the Residential Design Guidelines Policy (renamed Residential Development Policy.)

- * Introducing a new Policy - Food and Wine Sales provisions;
- * Rescinding the following policies – Residential Design and Landscaping Guidelines on Controlled Access Roads - Including Entry Statements Requirements Policy, Viticulture Subdivision Policy, Dams Policy, Abbey Green Performance Standards, Floodplain Development and Management Policy Residential Design and Landscaping Guidelines on Controlled Access Highways and the Town Centre Development Policy;
- * Making various minor amendments to current policies to improve their implementation;
- * Adopting the amended policies and draft new policy as policy provisions within a consolidated and reformatted framework of 9 policies;
- * Developing a more coherent and logical approach to the provision of a local planning policy framework.