



Shire of Denmark
Town Planning Scheme No. 3
Amendment No. 124

TOWN PLANNING AND DEVELOPMENT ACT 2005
RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME

Shire of Denmark
Town Planning Scheme No. 3
Amendment No. 124

RESOLVED that the Council, in pursuance of Section 75 of Planning and Development Act 2005 (as amended), amend the above Town Planning Scheme by:

1. Amending Table 1 – Zoning Table by inserting the use ‘Holiday Home’ and making it an SA use in all zones except for Tourist where it shall be an AA use and the Commercial, Professional Office and Industrial zones where it shall be an X use;
2. Inserting the definition of ‘Holiday Home’ in Appendix 1 – Interpretations.
3. Inserting a new scheme provision on permissibility of holiday homes in the Special Residential, Special Rural and Landscape Protection zones.
4. Amending the Table of Content accordingly.

Dated this day of 20

.....
Chief Executive Officer

MINISTER FOR PLANNING

PROPOSAL TO AMEND A SCHEME

1.	LOCAL AUTHORITY:	Shire of Denmark
2.	DESCRIPTION OF TOWN PLANNING SCHEME:	Town Planning Scheme No. 3
3.	TYPE OF SCHEME:	District Zoning Scheme
4.	SERIAL NUMBER OF AMENDMENT:	Amendment No. 124
5.	PROPOSAL	<ol style="list-style-type: none">1. Amending Table 1 – Zoning Table by inserting the use classes ‘holiday home (standard) and holiday home (large)’ and making it an SA use in all zones except for Commercial, Professional Office and Industrial zones where it shall be an X use the Residential, Rural, Special Rural, Rural Multiple Occupancy, Special Residential and Landscape Protection zones; an AA use in the Tourism zone; and an X use in the Commercial, Industrial and Professional Office zones.2. Inserting the definitions of ‘holiday home (standard) and holiday home (large)’ under Appendix 1 – Interpretations.3. Inserting a new scheme provision on permissibility of holiday home (standard) and holiday home (large) in the Special Residential, Special Rural and Landscape Protection zones. and altering the Table of Contents accordingly.4. Amending the Table of Content accordingly.

SCHEME AMENDMENT REPORT

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1. INTRODUCTION

Holiday homes are private residential dwellings that are leased out for short term accommodation for a period not exceeding 3 months and are an important aspect of the tourism industry in the Shire of Denmark and have long been an important part of local and Western Australian lifestyle and culture. Over time, there has been increased commercialisation of holiday homes which have lead to pressures for the regulation thereof which to date have been largely unregulated.

Over the last couple of years, there has been ongoing debate in the community regarding the impact of holiday homes on neighbourhoods, the suitability thereof in certain locations and the appropriate management and safety measures. In order to address these matters, Council has reviewed its Town Planning Scheme No. 3 (the Scheme) and policy basis for the use. Based on this assessment, the town planning scheme policy on holiday homes has been reviewed and the need to amend the Scheme identified.

The purpose of this amendment is to review the Scheme's permissibility of holiday homes in the all zones and correspondingly provide a clear definition of the use.

2. WESTERN AUSTRALIAN PLANNING COMMISSION GUIDELINES

The objectives of WAPC's Planning Bulletin 99 – Holiday Homes Guidelines (refer Attachment 1) is to establish clear guidelines for the short stay use of residential homes for tourism accommodation, to ensure that they occur in appropriate locations and to that all new holiday home rental accommodation is in accordance with relevant legislation, local planning schemes and policies, and management plans.

The bulletin recommends two definitions for holiday homes. Holiday home "standard" defines the use of a single house for short stay accommodation for no more than 6 people and "large" for no more than 12 people. It recognise that there are preferred areas where holiday homes are more suitable such as areas of high tourism amenity and close proximity to key tourism attractions such as a beach, town centre or rural area. The key concern is to ensure that the use does not adversely impact on residential amenity of nearby residents.

The guidelines furthermore set out recommendations for certain conditions in relation to planning approvals which include a management plan, fire and emergency response plan and approval period. It also encourages owners of holiday homes to seeks accreditation with Tourism Council of Western Australia.

This amendment, in conjunction with the review of Council's Town Planning Scheme Policy on holiday homes, has been prepared in accordance with this guideline.

3. TOWN PLANNING SCHEME NO. 3

Currently, under the Scheme holiday homes falls within the definition of holiday accommodation which is defined as follows:

“means one or more dwellings on one lot which by way of trade or business, are made available for occupation by persons other than the proprietor for holiday purposes and includes those premises known as bed and breakfast but does not include a dwelling that is used as a rental property for tenanting for residential accommodation.”

The zoning table sets out the following land use permissibility for holiday accommodation across the zones as follows:

Table 1: Zone permissibility	
Residential	SA
Tourist	AA
Commercial	AA
Industrial	X
Rural	SA
Special Rural	<i>AA use in all areas except for SR20 – Suttons Road where the use is not listed and therefore not permitted.</i>
Rural Multiple Occupancy	SA
Special Residential	<i>Holiday Home is a use not listed and therefore not permitted within the zone.</i>
Landscape Protection	<i>Not permitted in any of these areas with the exception of LP5 – Howe Road where it is an AA use.</i>
Professional Office	SA

Note: AA means that Council may, at its discretion, permit the use in the zone.

SA means that Council may, at its discretion, permit the use in the zone following public advertising thereof.

X means not permitted.

4. PROPOSED AMENDMENTS TO THE SCHEME

4.1 Introducing a definition on Holiday Homes

The definition of holiday accommodation in the Scheme allows Council to consider the short stay accommodation of holiday homes, chalets and bed and breakfast. The definition as it relates to holiday homes is however, insufficient in its description and it is recommended that new definitions be introduced in the Scheme as set out under WAPC Planning Bulletin 99 – Holiday Homes Guidelines as follows:

Holiday Home (standard) – means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for

no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

Holiday Home (large) – means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

The existing definition holiday accommodation shall be maintained in order to allow Council to exercise its discretionary powers to approve the use Bed and Breakfast as set out under Table 1 – Zoning Table.

4.2 Zoning Table and Land Use Permissibility

Correspondingly, the use classes holiday home (standard) and holiday home (large) will be introduced in the Table 1 – zoning table and permissibility established as follows:

Residential	SA
Tourist	AA
Commercial	X
Industrial	X
Rural	SA
Special Rural	SA
Rural Multiple Occupancy	SA
Special Residential	SA
Landscape Protection	SA
Professional Office	X

The zoning table establish the permissibility of uses within the Special Rural, Special Residential and Landscape Protection zones in accordance with the schedules of the Scheme for each zone.

SA uses for all zones are proposed in order to allow public consultation on the proposed holiday home use.

Tourist Zone: Land use permissibility for holiday homes in the tourist zone will remain an AA. Holiday home within the tourist zone shall be ancillary to a dominant tourist related industry and shall only be approved where a single house is not required for a caretakers/managers house of the tourist operation.

Commercial Zone: Land use permissibility for holiday homes will change from an AA use to an X use. Holiday homes are not a compatible use with the commercial zone and should therefore not be permitted.

Special Residential Zone: Land use permissibility for holiday homes will change from an X use to an AA SA use in this zone. Special Residential areas are considered suitable for holiday homes due to larger lots sizes therefore generating negligible effects on the amenity of adjoining neighbours. Many of the Special Residential areas within the Shire of Denmark also provide high aesthetics due to their location on Mount Shadforth, along Wilson Inlet and within rural settings. Furthermore, short stay holiday makers have proven to be upwardly mobile and seek higher amenity settings such as provided by special residential areas.

Landscape Protection Zone: Land use permissibility for holiday homes will change from an X use to a SA use in Areas 1 to 4 (being Lapko Road, Sunrise Road, Peace Street and Lights Road). Area 5 – Howe Road Landscape Protection zone will change from an AA use to an SA use. The use is considered suitable in this zone for the same reasons stated above under the Special Residential Zone where all landowners have had the opportunity to comment on the proposed use.

Professional Office Zone: Land use permissibility for holiday homes will change from an SA use to an X use in this zone. Holiday homes are not a compatible use with the professional office zone and should therefore not be permitted.

5. POLICY REVIEW

Council have undertaken a review of the Scheme Policy 19.2 – Holiday Accommodation. The policy is in draft form and the contents and directions set out may change following public consultation. Refer Attachment 2.

The policy considers matters as set out under WAPC Planning Bulletin 99 - Holiday Homes Guidelines.

It's objectives are as follows:

- To ensure that the predominant residential nature and character of neighbourhoods are retained.
- To minimising potential impacts of holiday homes on the amenity of adjoining residents.
- To encourage the provision of good quality, well managed holiday homes.
- To control the way in which holiday homes are marketed, managed and presented to enhance Denmark's image.
- To identify suitable areas where holiday homes are deemed to be most suitable and clarify the assessment process for each of these defined areas.

The policy address, amongst others, the following matters such as:

- Locations for holiday homes;
- Residential density and holiday homes;
- Consultation with adjoining neighbours;

- Protecting the residential character of neighbourhoods;
- Property Management Plan;
- Fire and Emergency Plan;
- Display of information in holiday homes;
- Annual registration of holiday homes;
- Holiday homes register;
- Voluntary accreditation;
- Illegal holiday homes;
- Application requirements; and
- Conditions of approval.

It is intended to update this policy in accordance with this amendment when it is finalised and gazetted.

6. CONCLUSION

Holiday homes in residential area have become a pertinent issue for the community of Denmark and a review of the Scheme provisions was therefore undertaken. The amendment will provide Council with the discretionary powers to regulate the locations and land use permissibility of holiday homes in each zone.

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK

TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 124

The Shire of Denmark Council under the virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above Local Planning Scheme by:

1. Amending Table 1 – Zoning Table by inserting the use classes ‘Holiday home (standard) and holiday home (large) and making it an SA use in ~~all zones except for Commercial, Professional Office and Industrial zones where it shall be an X use~~; the Residential, Rural, Special Rural, Rural Multiple Occupancy, Special Residential and Landscape Protection zones; an AA use in the Tourism zone; and an X use in the Commercial, Industrial and Professional Office zones.
2. Amending Appendix 1 – Interpretations by inserting the definitions for ‘Holiday home (standard) and holiday home (large)’ as follows:

Holiday Home (standard) – means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

Holiday Home (large) – means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

3. Inserting a new Scheme provision 5.38 – Permissibility of Holiday homes in the Special Residential, Special Rural and Landscape Protection zones as follows:
 - 5.38 Notwithstanding any other use class permissibility contained within Appendix VI – Special Rural Zone, Appendix XIV – Special Residential Zones and/or Appendix XVI – Landscape Protection Zone of the scheme, **holiday home (standard) and holiday home (large)** shall be classified as a SA use.
4. Amending the Table of Contents accordingly.

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK
TOWN PLANNING SCHEME NO. 3
AMENDMENT NO. 124

ADOPTION

Adopted by resolution of the Council of the Shire of Denmark at the ordinary meeting of the Council held on the day of 20

.....
Mayor/Shire President

.....
Chief Executive Officer

FINAL APPROVAL

Adopted for final approval by resolution of the Shire of Denmark at the ordinary meeting of the Council held on the..... day of 20..... and the Common Seal of the Shire of Denmark hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
Shire President

.....
Chief Executive Officer

Recommended/Submitted for Final Approval

.....
Delegated under S16 of
PD Act 2005

.....
Date

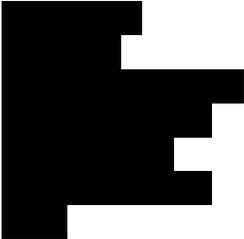
Final Approval Granted

.....
Minister for Planning

.....
Date

**Shire of Denmark Town Planning Scheme No.3
Amendment No. 124 - Holiday Homes
Schedule of Submissions**

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
1	Ratepayer 	<p>Amendment documentation is inconsistent in its description as to whether or not Holiday Home will be an AA or and SA use.</p> <p>As land owners in the Special Residential zone they would like to be assured that the holiday homes will be required to be advertised (SA use) in the Special Residential zone.</p>	<p>The amendment document should be consistent in its description of permissibility within the Special Residential zone. The intent is that it be a SA use in this zone.</p>	<p>Uphold</p> <p>Correct paragraph 4.2 – Special Residential Zone: replace AA use with SA use.</p>
2	Ratepayer 	<p>Support the submission by Chamber of Commerce and Industry on the Holiday Home Policy.</p> <p>Matters with regard to the policy should be addressed prior to the Amendment being finalised by Council. The Amendment should be deferred.</p>	<p>The amendment introduces holiday home as land use and sets permissibility thereof in each zone.</p> <p>The policy however, identifies preferred areas for the location of holiday homes and provides development standards.</p> <p>The amendment and the policy can proceed independently of each other as they exert no influence over each other.</p>	<p>No changes to the amendment required.</p>
3	Holiday accommodation provider 	<p>Support the submission by Chamber of Commerce and Industry on the Holiday Home Policy.</p> <p>Matters with regard to the policy should be addressed prior to the Amendment being finalised by Council. The Amendment should be deferred.</p>	<p>Refer to officer comment under submission no. 2</p>	<p>No changes to the amendment required.</p>

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
4	Holiday accommodation provider 	<p>Support the submission by Chamber of Commerce and Industry on the Holiday Home Policy.</p> <p>Matters with regard to the policy should be addressed prior to the Amendment being finalised by Council. The Amendment should be deferred.</p>	Refer to officer comment under submission no. 2	No changes to the amendment required.
5	Holiday Booking Agent 	<p>The WAPC's <i>Planning Bulletin 99 – Holiday Homes Guidelines</i> establishes two categories of holiday homes – holiday home standard (up to 6 people) and holiday home large (6-12 people). The amendment will introduce holiday home standard but not holiday home large. It is requested that holiday home large be introduced as a definition in the Scheme for the following reasons:</p> <ul style="list-style-type: none"> • There is a market demand for these properties; • These home types of limited in number due to the size of house required to operate a large holiday home. 	<p>Large holiday home provides a good economic incentive in that it is likely to yield a higher income to the landowner. It will also expand the range of accommodation types available in the Shire and partly address the shortage of accommodation during the peak holiday periods.</p>	<p>Uphold</p> <ul style="list-style-type: none"> • Replacing paragraph 1, resolution with the following: 'Amending Table 1 – Zoning Table by inserting the use classes 'holiday home (standard)' and 'holiday home (large)' and making it an SA use in the Residential, Rural, Special Rural, Rural Multiple Occupancy, Special Residential and Landscape Protection zones; an AA use in the Tourism zone; and an X use in the Commercial, Industrial and Professional Office zones.' • Replace paragraph 2, resolution with the following: Amending Appendix 1 – Interpretations by inserting the definitions for holiday home (standard) and holiday home (large) as follows: Holiday Home (standard) –

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
				<p>means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).</p> <p>Holiday Home (large) – means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.</p> <ul style="list-style-type: none"> • Replace provision 5.38 under paragraph 3 of the resolution with the following: 5.38 Notwithstanding any other use class permissibility contained within Appendix VI – Special Rural Zone, Appendix XIV – Special Residential Zones and/or Appendix XVI – Landscape Protection Zone of the scheme, holiday home (standard) and holiday home (large) shall be classified as a SA use.

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
6	Ratepayer 	<p>People living in Special Rural areas do so because of the beauty of the natural environment. Many are members of scheme such as Land for Wildlife which encourage preservation of local flora and fauna. He raises concern that holiday makers will bring their pets i.e. dogs and cats which will have an impact on the local wildlife.</p> <p>He suggests that in Special Rural areas, the Scheme contains a clause prohibiting holiday makers from bringing their pets with them.</p>	<p>Currently there are two Special Rural areas where provisions relating to pets apply.</p> <p>SP13 – McNabb Road, provision (xii) <i>“The subdivider shall distribute to lot purchasers an information sheet which outlines measures owners can take to ensure that impacts of pets (particularly cats) on the adjacent Conservation of Flora and Fauna Reserve are minimised.”</i></p> <p>SP21 – Myers Road, provision (xii) <i>“Where circumstances warrant such action, Council may impose a control on the keeping of domestic pets to minimise any impacts which may be occurring on adjoining farming activities and areas of remnant vegetation.”</i></p> <p>The matter of pets is therefore dealt with inconsistently across the Special Rural provisions in the Scheme. It is however, acknowledged that pets (especially cats) have an impact on native fauna and flora and should be controlled in an appropriate manner.</p> <p>It is not considered that a scheme provision is the appropriate vehicle to deal with the matter of pets but that a local law is. Council staff is proposing that Council prepare a draft Local Law on Holiday Homes and this matters can be addressed there under.</p>	No changes to the Amendment required.

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
7	Ratepayer [REDACTED]	Supports the amendment.	Noted	No changes to the Amendment required.
8	Ratepayer [REDACTED]	<p>Object to the Amendment for the following reasons:</p> <ul style="list-style-type: none"> • It will have an effect on property values in Denmark • It proposed 6 people limit where 8 seems more reasonable as this will allow two families of four. • There should be no restriction in the rural zone on how many people can stay. Why is the Rural zone included at all? • How is neighbours objection to holiday homes considered? 	<p>There is no evidence that holiday homes affect property values.</p> <p>See officer comment under submission 4.</p> <p>Holiday Homes are currently a SA use within the Rural zone and there is no changes proposed under this amendment to this land use permissibility.</p> <p>This a matter set out under the TPS policy for Holiday Homes</p>	No changes to the Amendment required.
9	Ratepayers [REDACTED]	Support the scheme amendment.	Noted	No changes to the amendment required.
10	Ratepayers [REDACTED]	The proposal will have detrimental social and financial impact and amenity impact on my property.	There is no evidence that holiday homes affect property values. The social implications is however, well	No changes to the amendment required.

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
		<p>Supports low impact development such as bed & breakfast accommodation where tenant behaviour are managed by a resident landlord.</p>	<p>understood and Council has prepared a TPS policy to manage this impact.</p> <p>The draft TPS policy on holiday homes requires that all applications for holiday homes be supported with information of the management agency. The measure is proposed to ensure that anti-social behaviour is managed properly.</p>	
		<p>WAPC Planning Bulletin 99 ‘Holiday Home Guidelines’ states that the key concern is to ensure that the use does not adversely impact on the residential amenity of nearby residents. The amendment does not achieve this.</p> <p>Holiday homes are not suitable within Special Residential Area (SR 4 – Walnut Grove) as houses are likely to be located in close proximity due to layout of blocks and setback requirements.</p>	<p>One of the objectives of the draft TPS policy on holiday homes is to minimise negative impacts of holiday homes on the amenity of adjoining residents. This is achieved through policy provisions on suitable locations and residential densities of holiday homes, consultation with adjoining neighbours and application requirements such as a property management plan, fire and emergency plan and annual registration thereof.</p> <p>The draft TPS policy on holiday homes aims to reduce the impact thereof through the identification of suitable locations and residential densities. The large extent of areas identified within the policy (Area 1 and 2) suitable for holiday homes aims to achieve a spread of holiday homes across the Shire. This measure achieve the objective of the policy ‘to ensure that the predominant residential nature and character of neighbourhoods are</p>	

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
		Suggests that holiday homes be provided in future land releases. A retrospective provision should provide that a holiday home be located 100metres from the building envelope of any adjoining property and agreement for all of the adjoining neighbours.	retained.’ The amendment must consider the suitability of holiday homes within each zone and apply the relevant permissibility’s. The statutory requirements which apply to each zone cannot be differentiated between existing areas and future land releases.	
		Suggest further that the licence be reviewed annually. This will make the holiday home owner attentive to whom they rent their property too.	The draft TPS policy on holiday homes provides for annual fee coupled with an inspection and under Section 7.6.	
11	Ratepayers 	Support the amendment.	Noted.	No changes to the amendment required.
12	Ratepayers 	Object to holiday home as a land use in the Special Rural zone. It offers a quiet rural lifestyle and any use other than how it is at present would be a retrograde step from our point of view.	Under the Scheme, holiday homes is a use currently permitted in the Special Rural zone, with the exception of SR20 – Suttons Road. The Amendment will result in consistency across all Special Rural zones.	No changes to the amendment required.
13	Ratepayers 	No objection.	Noted.	No changes to the amendment required.

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
14	Ratepayers [REDACTED]	Support the amendment.	Noted.	No changes to the amendment required.
15	[REDACTED] Peter Fare	Support the amendment.	Noted.	No changes to the amendment required.

Peta Leiper

From: Monday, 30 August 2010 3:02 PM
 Sent: Denmark Shire Enquiries
 To: Submission - Town Planning Scheme No 3 Amemdment No 124 - Holiday Home SoD
 Subject: FILE REF: TPS3/SA124

Follow Up Flag: Follow up
 Flag Status: Flagged

Categories: FORWARDED TO DIR OF FINANCE

The Holiday Home Amendment looks to be a statewide initiative and pretty much a done deal.

The draft of the proposed amendment (page 10 of the pdf) for approval by Council resolution states: *Amending Table 1 - Zoning Table by inserting the use 'Holiday Home' and making it an SA use in all zones except for Commercial, Industrial and Professional Office zones where it shall be an X use.*

s would indicate that all applications for holiday homes will be subject to Council discretion after direct consultation with neighbors and advertising.

However, the Council resolution (page 2 of the pdf) says: *Amending Table 1 - Zoning Table by inserting the use 'Holiday Home' and making it an SA use in all zones except for Tourist where it shall be an AA use and the Commercial, Professional Office and Industrial zones where it shall be an X use.*

This indicates advertising etc is not required for the Tourist zone.

Furthermore, on page eight of the pdf, your patter on the Special Residential zone states *Special Residential Zone: Land use permissibility for holiday homes will change from an X use to an AA use in this zone. Special Residential areas are considered suitable for holiday homes due to larger lots sizes therefore generating negligible effects on the amenity of adjoining neighbours. Many of the Special Residential areas within the Shire of Denmark also provide high aesthetics due to their location on Mount Shadforth, along Wilson Inlet and within rural settings. Furthermore, short stay holiday makers have proven to be upwardly mobile and seek higher amenity settings such as provided by special residential areas.*

Shire of Denmark	
ICR1082748	
31 AUG 2010	
TPS3/SA124	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

This indicates that advertising and consultation is not required in the Special Residential Zone also.

As land owners in the Special Residential Zone we would like to be assured that when this amendment inevitably passes that this zone will be included with others where consultation and advertising does take place before holiday home approval.

It would also be reassuring to know that individuals can still own a home and allow their friends and family to use it from time to time without it being registered as a 'holiday home' with all the attendant bureaucratic procedures and fees that will now go with it.

Shire of Denmark	
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29 SEP 2010	
TPS3/SA124	
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FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
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DIR of COMMUNITY	
OTHER	

September 28, 2010

Shire of Denmark
South Coast Highway
Denmark WA 6333

A/Director Planning & Sustainability

Your Ref: TPS3 A124 CS/RH Cindy Simpson

Re: TPS3 Amendment No 124 - Holiday Homes

Thank you for writing to seek our comments on the above.

We note the proposed Amendment:

- acknowledges the draft Holiday Home Policy has been subject to public comment which has yet to be considered by Council;
- does not support Holiday Homes having more than 6 persons; and proposes to also permit Holiday Homes in Rural, Rural Multiple
- Occupancy, Special Rural and Landscape Protection zones in addition to the existing Residential Zones.

We are aware that the Chamber of Commerce has recently submitted a comprehensive report of the views of its members on the draft Policy. As a member of the Chamber we fully endorse the Chamber's submission.

That submission made numerous recommendations to support its central theme of there being a need for regulation to achieve a level-playing-field of the entire short-stay accommodation industry since regulation of just the holiday home sector, as the Shire has proposed, would further exacerbate the problems currently being experienced by the short-stay accommodation industry.

We oppose the draft Policy's proposal to create two categories of Holiday Homes where one category will be for new holiday homes, that must be fully compliant to the new approval criteria, whilst the second category will be all the existing holiday homes that will be exempt from compliance to the new approval criteria. Not only does this proposal not make any sense but, if adopted, it will further fragment the industry and make the industry's goals – of making Denmark a great holiday destination – that much more difficult to achieve. In this regard, it is untenable that the existing holiday homes will not be required to at least have a local 24/7 property manager, and that the over-crowding that currently occurs in some existing holiday homes and which contributes to disturbances in certain neighbourhoods will not be fully controlled, are but two examples where that fragmentation will, in essence, become permanent in perpetuity.

As a commercial short-stay operator, we are also very concerned that our efforts – both financially and materially – to promote our industry and Denmark as a holiday destination are not matched by the absentee-owners of holiday homes. Indeed, very few make any contribution to the development of the industry but take all the rewards from the commercial owner/operators' ongoing investments in the marketing and promotion of Denmark.

Until all the significant issues raised by the Chamber are determined by Council, we think it is inappropriate for the Shire to be now canvassing comments on the proposed Scheme Amendment. A favourable determination by Council of the numerous issues raised by the Chamber to the draft Policy will inevitably change not only the proposed Policy but potentially also the proposed Scheme Amendment. In this regard, we seek Council to agree to advertise a re-draft of the proposed Policy for a second round of public comment before any advancement of the proposed Scheme Amendment

Warm regards,

Shire of Denmark
ICR10108267

Peta Leiper

From: Dale Stewart
Sent: Monday, 4 October 2010 11:09 AM
To: Peta Leiper
Cc: Sam Williams
Subject: FW: Holiday Homes TPS SoD FILE REFI TPS3/SA124
Attachments: Letter re Holiday Homes TPS Amendment.doc

5 OCT 2010	
TPS3/SA124	
DATE	LP#
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Ic pls..

-----Original Message-----

From:
Sent: Monday, 4 October 2010 9:02 AM
To: Dale Stewart
Subject: Holiday Homes TPS

Please find attached a letter opposing the premature production of this TPS amendment.

--
Kind Regards,

Shire of Denmark
South Coast Highway
Denmark
4th October, 2010

Director Planning & Sustainability
Your Ref: TPS3 A 124 CS/RH Cindy Simpson

Re: TPS3 Amendment No 124 – Holiday Homes

Thank you for writing to seek our comments on the above.

We note the proposed Amendment:

- acknowledges the draft Holiday Home Policy has been subject to public comment which has yet to be considered by Council;
- does not support Holiday Homes having more than 6 persons; and
- proposes to also permit Holiday Homes in Rural, Rural Multiple Occupancy, Special Rural and Landscape Protection zones in addition to the existing Residential Zones.

We are aware that the Chamber of Commerce has recently submitted a comprehensive report of the views of its members on the draft Policy. As a member of the Chamber we fully endorse the Chamber's submission.

That submission made numerous recommendations to support its central theme of there being a need for regulation to achieve a level-playing-field of the entire short-stay accommodation industry since regulation of just the holiday home sector, would further exacerbate the problems currently being experienced by the short-stay accommodation industry. One of these recommendations was to include a Large Holiday Home category up to 12 people, but only in Rural and Special Rural zones, where there is room for larger dwellings.

Until such time as Local Laws can be enacted the proposed policy effectively establishes two categories of holiday home, those that have to comply in the future and those that are already existing and therefore don't have to comply to the policy, thereby not solving the current problems in any way.

As a commercial short-stay owner/operator, we are also very concerned that our efforts – both financially and materially - to promote our industry and Denmark as a holiday destination are not matched by the absentee-owners of holiday homes. Indeed, very few make any contribution to the development of the industry but take all the rewards from the commercial owner/operators' ongoing investments in the marketing and promotion of Denmark.

Until all the significant issues raised by the Chamber are determined by Council, we think it is inappropriate for the Shire to be now canvassing comments on the proposed Scheme Amendment. A favourable determination by Council of the numerous issues raised by the Chamber to the draft Policy will inevitably change not only the proposed Policy but potentially also the proposed Scheme Amendment. Therefore it is premature to be advertising the TPS amendment, when there is a potential for the Holiday Homes policy to have to go back to the public for further comment due to substantial changes.

We therefore request that these TPS amendments be deferred until consultation, and changes, to the Policy have been completed and the policy approved by council.

Yours faithfully,

Peta Leiper

From: Thursday, 7 October 2010 4:24 PM
Sent: Denmark Shire Enquiries
To: SUBMISSION RE AMENDMENT RE SCHEME 3 AMENDMENT 124 SoD FILE REF:
Subject: TPS3/SA124
Attachments: Denmark holidays Submission LARGE HOMESin relation to.doc
Categories: FORWARDED TO DIR OF PLANNING

To Whom IT May Concern.

Please find attached a submission for Denmark holidays in relation to Scheme 3 amendment 124.

Thank you

Regards

Shire of Denmark	
ISA1017	
11 OCT 2010	
TPS3/SA124	
FILE REF	LPN
COUNCELLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Shire of Denmark
Planning Department
Attention Sam Williams

Thursday, 7 October 2010

Re Denmark Holiday Submission re Policy Amendment to Town planning Scheme no 3 Amendment 124.

Denmark holidays Submission in relation to amending the Town planning scheme NO 3 amendment 124 to include Large Holiday home category

WA Planning commission Guidelines recommends the establishment of a home holiday category known as large holiday home that will be able to sleep between 6 to 12 persons.

We make the following points:

- We understand that the large homes currently come under a different category called boarding houses in the shire of Denmark.
- We suggest boarding house is an outdated classification for home holiday use. It applies to different residential, short stay use for a property.
- We encourage the shire to embrace the WA planning commission guidelines in relation to the establishment of a Home holiday category known as **Large Holiday Home** that sleep between 6 to 12 persons.
- We support the zoning position of these homes being located in areas that are near key tourism features within the shire of Denmark.
- We acknowledge that this category may not be appropriate for ~ZONE 3 in the town precinct.
- With the implementation of the new policy items including 7.5.1, requiring 24/7 management, agreed code of conduct, a booking register, fire plan and appropriate parking, we suggest sufficient structures are in place to minimise the impact of this category of holiday home.
- There is a market demand for these properties.
Currently Denmark provides family accommodation and there are properties that sleep more than 6 people. Families on a budget look for

economies of scale and find large homes are ideal for budget conscious family holidays.

- Council should be aware that this unofficial category home already exists in the Denmark holiday home market.
- The cost of running a large home means that these home types are limited in number. Operators of these properties, being aware of such costs tend to establish these homes with a long term business plan in mind.
- Good shire planners would allow for a limited number of these homes to exist only in R10-R20 density areas and ensure that infrastructure requirements are enforced to suite the home size.

We thank you for this opportunity to provide comment.

Yours Sincerely

Peta Leiper

From: Denmark Shire Enquiries
 Sent: Wednesday, 8 September 2010 4:34 PM
 To: Denmark Shire Enquiries
 Subject: Town Planning Scheme No 3 Amendment 124 Printed at Central Computer
 Shire of Denmark File Ref:

Attention: Cindy Simpson

Re the proposed amendment to allow Holiday Homes in Special Rural areas around Denmark such as Suttons Rd.

Most people who live in these areas do so because of the beauty of the natural environment. Many are members of schemes such as Land for Wildlife which encourage preservation of local flora and fauna.

My concern with the proposed amendment is that holiday makers will descend upon us with their household pets, namely cats and dogs. These animals in a new environment have the potential to wreak havoc on the local wildlife.

I suggest that in Special Rural areas the scheme contain a clause prohibiting holiday makers from bringing their domestic pets with them.

Thanking you for your consideration.

Cindy
Please note etc
SW.

Shire of Denmark	
TPS3/A124	
9 - SEP 2010	
ICR1002888	
DATE	
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Peta Leiper

From: Thursday, 7 October 2010 8:43 AM
Sent: Denmark Shire Enquiries
To: Re: Town Planning Scheme No. 3 Amendment No. 124
Subject: Holiday Homes amend 124 response 061010.odt; Holiday Homes amend 124 response 061010.doc; "Certification"
Attachments:
Categories: FORWARDED TO DIR OF PLANNING

Dear Sir or Madam
 Please find attached our submission regarding the above mentioned amendment.
 Could you please just give a short reply to acknowledge you have received the submission in case this email goes astray.
 I have included the same document in two formats for compatibility purposes.
 Regards

Andy → add to 124.
 OR

Shire of Denmark	
DATE	08 OCT 2010
FILE REF	100001010101
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Shire of Denmark
953 South Coast Hwy.
Denmark W.A.

Attn: Ms. Cindy Simpson

Re: Town Planning Scheme No. 3 Amendment No. 124 – Holiday Homes.

Dear Madam,

firstly, thank you for contacting us to let us know that this amendment was being considered. Without your letter we would have had no notice that this change was possible.

We would both like to say that we support and encourage the adoption of this amendment to the Town Planning Scheme regarding Holiday Homes and welcome the opportunity to be able to use our own residence for this purpose. We believe that Denmark is the most beautiful area in Western Australia and we think that an occasional use of a private home for short term accommodation can only enhance the area's appeal and appreciation by more people.

We both feel that we have been disadvantaged by the current Scheme rules regarding this issue and could not understand the justification for stopping a responsible owner from using their own premises to provide short term accommodation on an occasional basis.

We feel that with the new guidelines you have included with the limitation of 6 people per property should give no cause for concern to other residents in the area. It is only a one family size group which could be the same as having family or friends use the same premises.

In our own case, and I'm sure in most other private dwelling situations, we would probably only make our own home available during peak times and at an appropriate price to guarantee that it would be used by only those in a position to enjoy some quality accommodation and hopefully with respect to the area and facilities that are being made available to them.

We also note that our location is a 2600sqm block with currently no immediate neighbours on either side or behind, so an ideal location for all concerned.

Speaking for ourselves and probably on the behalf of others in a similar position. We are proud owners of our property and the last thing we would want is for our prized possession to be abused or be the site of any disruption for other residents. I am sure that when used in a responsible manner, governed by your requirements and managed well by a local agent, this Amendment can only enhance the area's enchantment.

Please adopt this amendment.

Yours sincerely

Peta Leiper

From: Wednesday, 6 October 2010 9:17 AM
Sent: Denmark Shire Enquiries;
To: Town Planning Scheme No. 3 Amendment No. 124 – Holiday Homes
Subject: FORWARDED TO DIR OF PLANNING

Dear Town Planners / Councillors,

We are somewhat concerned at the proposed amendment (Town Planning Scheme No. 3 Amendment No. 124 – Holiday Homes) as it may apply to our situation. Here are our concerns / questions / ideas...

Effect on property values, would think with the current market that applying this at this time would devalue properties in Denmark as would deter investors.

How does this affect holiday homes not rented?

The amendment proposes a limit of 6 persons for a single house. 8 seems more reasonable as this would enable two families of four.

With our property being rural don't feel a lot of the concerns pertain to us eg parking .Why are we included in the same restrictions as the town area. Shouldn't there be different limits on how many people stay etc...? for our location. Why are we included at all?

How many holiday rental are there in Denmark in comparison to permanent residents?

Are the rented holiday homes at this time required to register anywhere in Denmark?

What happens if you have a neighbour who just doesn't want a holiday rental next to them? Can this stop the owner of the property renting it out?

To us the amendment appears unnecessary.
Please reconsider / adjust / quash this amendment.

Regards,

*Cindy → A124.
OR*

Shire of Denmark	
ICR10103312	
6 OCT 2010	
DATE	TPS3/SA124
FILE REF	LFH
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

4th October 2010

Shire of Denmark,
953 South Coast Highway,
Denmark WA 6333

Attn: Director Planning & Sustainability
Your Ref: TPS3 A124 CS/RH Cindy Simpson

Re: TPS3 Amendment No 124 – Holiday Homes

Dear Sir,

Thank you for writing to seek our comments on the above.

The Chamber of Commerce has recently submitted a comprehensive report of the views of its members on the draft Policy. As a member of the Chamber we endorse the Chamber's submission.

That submission made numerous recommendations to support its central theme of there being a need for regulation to achieve a level-playing-field of the entire short-stay accommodation industry since regulation of just the holiday home sector, as the Shire has proposed, would further exacerbate the problems currently being experienced by the short-stay accommodation industry.

While we oppose the draft Policy's effect, which will be to create two categories of Holiday Homes, one being the new compliant Holiday Homes, and two, the currently existing Holiday Homes, which will not be compliant to the new approval criteria, we do appreciate that this is a difficult issue that perhaps only time and the market will eventually solve. We would encourage the Shire to consider the use of all reasonable regulatory tools to encourage existing Holiday Homes to become compliant.

What we believe the Shire must avoid is becoming involved in the commercial decisions of running a short stay accommodation business. In the "Draft Town Planning Scheme, Policy 19.3 – Holiday Homes", under item 7.8, the Shire is proposing to introduce financial encouragement for operators to become "accredited". Unless the Shire is going to run a short stay accommodation business itself, it has no business in promoting other organisations such as "Tourism WA" and "AAA Tourism".

It is only reasonable that any inspections/monitoring of short stay accommodation by the Shire should be cost neutral to the Shire, and that should be the sole basis upon which fee's are applied.

Shire of Denmark	
ICR1003264	
5 OCT 2010	
TPS3/A124	
DATE	LPH:
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Cindy
pk
note
and
consider
S.

In closing we believe that until all the significant issues raised by the Chamber are determined by Council, we think it is inappropriate for the Shire to be now canvassing comments on the proposed Scheme Amendment. Consideration and determination by Council of the numerous issues raised by the Chamber to the draft Policy may change not only the proposed Policy but potentially also the proposed Scheme Amendment. Hence, any advancement of the proposed Scheme Amendment should be put on hold pending additional deliberation by Council, and then possibly a requirement for further public comment.

Kind regards,

A

Peta Leiper

From: Sunday, 3 October 2010 12:45 PM
Sent: Denmark Shire Enquiries
To: Town Planning Scheme No. 3 Amendment No. 124
Subject: Support of Amendment No. 124 - Holiday Home.docx
Attachments:

SoD FILE REF: TPS3/SA124

Categories: FORWARDED TO DIR OF PLANNING

Dear Cindy

Please pass on the attachment to Mr. Sam Williams, Director Planning & Sustainability.

A hardcopy is in the mail.

Kind regards

Shire of Denmark	
ICR10103216	
4 OCT 2010	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

*Cindy
FYI +
action if
necessary.
S.*

3 October 2010

Mr. Sam Williams
Director Planning & Sustainability
Shire of Denmark
PO Box 183
Denmark WA 6333

Dear Sir

Re: Town Planning Scheme No.3 Amendment No. 124 – Holiday Home

We have reviewed the above amendment and congratulate Council on this initiative. We fully support this amendment to the Town Planning Scheme.

As you may be aware we purchased land in Harrington break with the intention to run an up-market, 4-5 star bed and breakfast facility.

We are aware of the special residential zoning on Harington Break under Town Planning Scheme No. 3 with the wording "Permitted at Council's Discretion (AA): Home Occupation", therefore requiring an application for approval. The proposed amendment will hopefully pave the way to remove some of the current restrictions and allow controlled and sensible "holiday home" developments that will be advantageous to the Town and provide additional opportunities for tourism development.

Denmark is a great tourist destination but lacks sufficient good quality accommodation. The closure of the Denmark Observatory Resort has significantly impacted on the choice and availability of accommodation.

This amendment is a positive step towards encouraging additional accommodation options for Demark.

Yours sincerely

Shire of Denmark 1CR1093166	
28 SEP 2014	
TPS3/SA124	
DATE	LPH
FILE REF	
COUNCILORS	
CEO	
DIR OF FINANCE	
DIR OF PLANNING	<input checked="" type="checkbox"/>
DIR OF INFRASTRUCTURE	
DIR OF COMMUNITY	
OTHER	

Cindy,
Pls note and
consider re
Amendment 124.
SW.

Chief Executive Officer
Shire of Denmark
PO Box 183
Denmark WA 6333

Dear Sir or Madam

Re: Town Planning Scheme No.3 Amendment No.124 – Holiday Home

I would like to strongly object to the propose amendment.

I believe the proposal will have a detrimental financial and social impact on my property. I have only recently purchased land in an area that will be impacted by this amendment. The land was purchased on the basis of current zoning. It is outrageous that the council should even consider altering the zoning conditions in this way. I consider it ridiculous to suggest such an amendment could have anything but a negative impact on the value or amenity of my property. The fact that some, necessarily, absentee land owners can see a quick dollar from short term rental of their properties should be of secondary importance to those land owners who bought under the provisions of the existing scheme.

We purchased this land because it was in a quiet residential area. We considered properties everywhere between Margaret River and Albany. We settled on Denmark. The zoning and intended land use was indeed a consideration in our decision. If the zoning is changed as proposed we are most likely not to proceed to building on our site. Furthermore, I believe there Shire of Denmark should be liable for any financial loss on the subsequent sale of the property.

We have no objection to low impact commercial development in our subdivision. For example, Bed and Breakfast style accommodation. This style of accommodation does not attract the potentially unruly element and can be well controlled by a resident landlord.

The Western Australian Planning Commission Guidelines state *“The key concern is to ensure that the use does not adversely impact on the residential amenity of nearby residents”* There is nothing in the proposed scheme that does *“ensure”* this. In section 4.2 of the Scheme Amendment Report it states *“Special Residential areas are considered suitable for holiday homes due to larger lots sizes therefor generating negligible effects on the amenity of adjoining neighbours.”* The fact is, in my Special Residential subdivision, I and my neighbour can and most likely will build to within 6M of the side boundary. This is because of the layout of the blocks and the front and rear setback requirements. I am shocked at the Shire’s naivety to suggest a “holiday home” will have

negligible effect on neighbours. One only need to look to Dunsborough at the end of school year to see what can and is likely to happen eg. all night parties, large groups of drunken youths wandering the streets causing mayhem for Police and suffering residents. To think that a 12M gap between houses is going to ensure negligible impact is patently absurd.

If you need evidence closer to home, the Shire might like to examine what happens in Peaceful Bay every school holidays. Residents in that location report drunken yobbos roaming the streets at all times of the night throwing stones on residents roofs and generally behaving in a totally anti-social manner. These are exactly the types of tenants these properties will attract during the major holiday times of the year.

I take issue with the Shire's assertion that "short stay holiday makers have *proven* to be upwardly mobile....." The implication that I believe is being made is that these are highly respectable people who wouldn't cause any trouble. How the Shire has come to this conclusion is anyone's guess but it is difficult to see how the Shire is going to restrict the occupation to "upwardly mobile" people. The fact is permanent residents are there 24 hour a day and should not have to put up with antisocial itinerants for any length of time. The WAPC guidelines imply the same. The Shire has not in any meaningful way addressed this issue.

The quaint idea that putting a code of conduct on the wall is in anyway going to stop antisocial behaviour may be of comfort to the Shire but it is of none to us. Without a resident manager for all intents and purposes it is meaningless.

If the Shire of Denmark is intent in allowing Holiday Homes, may I suggest it makes provision for such in future land releases. To retrospectively provision for them in existing land releases as proposed, is totally unacceptable to us. If the Shire is intent on retrospectively amending existing zoning in current land releases the provisions should be such that the building is positioned at least 100M from the building envelope of any adjoining property and there must be 100% agreement from all adjoining land owners at the time of approval. License for the activity must be reviewed annually. Antisocial behaviour by tenants will automatically result in non-renewal of the license. This may make the landlord a little bit more attentive to be behaviour of their guests and indeed who they let their property to. If this provision can't be met then it is not approved.

I also note the Shire's Scheme Amendment Report is inconsistent. In the table in section 4.2 it states Special Residential is an "SA". Further on in section 4 for Special Residential it states the zone will change from an "X" to "AA". Which is correct?

Yours sincerely,

Peta Leiper

From: Friday, 27 August 2010 2:16 PM
 Sent: Denmark Shire Enquiries
 To: Submission Amendment No.124-Holiday Home SoD FILE REF
 Subject: FORWARDED TO DIR OF PLANNING

Shire of Denmark	
ICR1082719	
TPS3/SA124	
30 AUG 2010	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Shire of Denmark
 Planning and Development Officer
 Re: Holiday Home Amendment No. 124

*Noted.
 Still doesn't
 get permit it.
 Cindy. PLS
 respond accordingly
 etc.
 S.*

Dear Sir/Madam

We would like to make our submission to the upcoming changes in the Town Planning Scheme and wish for our property to be included as a "Holiday Home".
 Our property is currently zoned "Special Residential" and is not permitted to be used for short term holiday accommodation, although it fulfils all the requirements for attracting good quality tourists and therefore assisting with bringing those "desirable" tourists to Denmark, who will also spend money at shops and restaurants in town.

The house will be our future residence in retirement but at present it could be an excellent Holiday Home due to the following factors:

- excellent quality of the building
- secluded location with no permanent residents to either side of the property
- fantastic views of Wilson Inlet, giving guest that "want to come back experience"
- three large bedrooms and two bathrooms to accommodate not more than to 6 people
- plenty of parking on 4261sqm lot

You are more than welcome to visit the premises for an assessment. A key can also be organised if access to the house is required.

Kind regards

Shire of Denmark	
TOR1082721	
30 AUG 2010	
TPS3/8A124	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

*Cindy,
FYI.
Please note
and respond
accordingly.
S.*

27/8/2010

Sam Williams
 Director of Planning
 Shire of Denmark
 Denmark WA.

Dear Sir,

Re: Town Planning Scheme No. 3 Amendment No. 124 – Holiday Home

As a landholder in the Special Rural subdivision of Eaglemont Estate, I oppose "holiday home" as a land use in this Special Rural zone.

This use of property tends to have all of the potential hindrances that accompany groups of people holidaying.

We treasure our quiet rural lifestyle and any use other than how it is at present would be a retrograde step from our point of view.

Yours faithfully,

Shire of Denmark
ICR1092781**Peta Leiper**

From: Tuesday, 31 August 2010 1:23 PM
Sent: Denmark Shire Enquiries
To: amendment No. 124-holiday home SoD FILE REF. TPS3/SA124
Subject:

Categories: FORWARDED TO DIR OF PLANNING

SCANNED

Hello

Thank you for your letter 25th August 2010 re. Town Planning Scheme No. 3 Amendment no. 124 - Holiday Home.

2 SEP 2010	
TPS3/SA124	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY SERVICES	
OTHER	

The introduction 'holiday home' as a land use and set permissibility thereof in each zone as landowners we may be impacted by this amendment. We are unaware of any holiday homes in the vicinity of the following properties:

20 Price Street, Denmark- which we understand was a registered 'holiday home' has been a private residence for the last five years.

13 Welsh Street, Denmark- this property is next to 15 Welsh Street, which was a 'holiday home' but is now a private residence.

1213 Scotsdale Road- the neighbouring property [?RRN 1400] has some holiday chalets/ cottages for holiday rental. This does not impact on 1213 Scotsdale Road.

Yours faithfully

SCANNED

Peta Leiper

From: Thursday, 2 September 2010 2:34 AM
 Sent: Denmark Shire Enquiries
 To: Attn: Duncan Ross or Cindy Simpson Re: Holiday Home
 Subject:
 Categories: FORWARDED TO PLANNER 3

SoD FILE REF: A3617

Shire of Denmark	
ICR1092813	
AB617	
DATE	LPH
FILE REF	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of COMMUNITY	
DIR of ENVIRONMENT	
DIR of HEALTH	
DIR of INFRASTRUCTURE	
DIR of LAND USE	
DIR of TRANSPORT	
DIR of WATER	
DIR of WORKS	

We own a home at _____ in Millstream Estates. We have been visiting Denmark for many years and were able to finally build our home in Denmark in 2000. We have always rented out our home to help pay the mortgage. Our property has been managed for years by Carters Real Estate.

I am 65 years old and am getting ready to retire. We are very close to paying off the mortgage, and were planning to come over next year to furnish the house as a "Holiday Home". We have heard feedback that our location might not allow this type of rental. It would be devistating if we are unable to stay in our place and rent it out when we are not in town. Our house is tucked away in the woods and vacation renters would not impact the neighbors. We have never had any complaints about our renters from the neighbors.

Please consider our request to make of home into a holiday home.

Please let us know what the Shire Counsel is considering.

Sincerely



Shire of Denmark
Draft Town Planning Scheme
Policy 19.3 - Holiday Homes

1. INTRODUCTION

Holiday homes are private residential dwellings that are leased out for short term accommodation for a period not exceeding 3 months and are an important aspect of the tourism industry in the Shire of Denmark and have long been an important part of local and Western Australian lifestyle and culture. Over time, there has been increased commercialisation of holiday homes which have lead to changes in character and amenity of neighbourhoods. Community concerns about holiday homes often relate to the behaviour of some tenants, rather than being associated with the use *per se*. In addition to this, there has been concern that selected holiday homes being leased are not maintained to a satisfactory standard, which in turn reflects negatively on Denmark’s tourism industry. This has led to pressures for the regulation of holiday homes which to date have been largely unregulated.

2. POLICY BASIS

Clause 8.2 of the Shire of Denmark’s Town Planning Scheme No. 3 (‘the Scheme’) provides for the preparation of Local Planning Policies. This Policy has been prepared in accordance with the Scheme.

This Policy does not bind the Local Government in respect of any application for development approval but the Local Government will have due regard to the provision of the Policy and the objectives which the Policy is designed to achieve before making its determination.

3. SCHEME REQUIREMENTS

Under the Scheme holiday homes are classified as holiday accommodation with the definition being as follows:

“means one or more dwellings on one lot which by way of trade or business, are made available for occupation by persons other than the proprietor for holiday purposes and includes those premises known as bed and breakfast but does not include a dwelling that is used as a rental property for tenanting for residential accommodation.”

The Scheme defines the following land use permissibility for holiday accommodation across the zones as follows:

Table 1: Zone permissibility	
Residential	SA
Tourist	AA
Commercial	AA

Industrial	X
Rural	SA
Special Rural	<i>AA use in all areas except for SR20 – Suttons Road where the use is not listed and therefore not permitted.</i>
Rural Multiple Occupancy	SA
Special Residential	<i>Holiday Home is a use not listed and therefore not permitted within the zone.</i>
Landscape Protection	<i>Not permitted in any of these areas with the exception of LP5 – Howe Road where it is an AA use.</i>
Professional Office	SA

Note: AA means that Council may, at its discretion, permit the use in the zone.
SA means that Council may, at its discretion, permit the use in the zone following public advertising thereof.
X means not permitted.

4. OBJECTIVES

The objectives of the policy are:

- To ensure that the predominant residential nature and character of neighbourhoods are retained.
- To minimise negative impacts of holiday homes on the amenity of adjoining residents.
- To encourage the provision of good quality, well managed holiday homes.
- ~~To control the way in which holiday homes are marketed, managed and presented to enhance Denmark's image.~~
- To encourage the marketing, management and presentation of holiday homes to enhance Denmark's image.
- To identify suitable areas where holiday homes are deemed to be most suitable and clarify the assessment process for each of these defined areas.

5. DEFINITIONS

For the purpose of this policy holiday home is defined in accordance with the WAPC's Planning Bulletin 99 – Holiday Homes Guidelines.

Holiday home (standard) - means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

Holiday home (large) – means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

6. APPLICATION OF THE POLICY

The policy applies to all zones under the Scheme within which holiday accommodation (referred to in this policy as holiday home) is an AA or SA use.

7. POLICY STATEMENT

7.1 Locations for Holiday Homes

Area's in which Council prefer the locations of holiday homes are shown on Map 1 as Areas 1 and 2. The area in which Council do not support holiday homes is shown as Area 3. An explanation of each of the identified areas is provided in the table below.

Table 1: Preferred Areas for Holiday Homes		
Area 1 – Wilson Inlet Environ	Area Boundary	<i>Area 1 is defined by residential areas located to the south of South Coast Highway and to the east of Ocean Beach Road along the Wilson Inlet foreshore. Note: Excludes Special Residential Area 7 as holiday homes are not permitted in this zone.</i>
	Area Description	<i>High visual aesthetics along the Wilson Inlet have historically proved popular to establish holiday homes, particularly in both the Weedon Hill and Ocean Beach areas. It is likely this trend will continue and as these areas combine high amenity settings, inlet locations and provide relatively close proximity to natural attractions and the Denmark town site.</i>
Area 2 – Rural	Area Boundary	<i>Area 2 is defined as areas outside of Area 1 and 3 and consists of Residential zoned land with a low density (being R2), and areas zoned Special Rural and Rural. Note: Excludes all Special Residential areas as holiday homes are not permitted in this zone.</i>
	Area Description	<i>Rural and lifestyle areas provide the opportunity for holiday homes to established in an environ with larger lots sizes therefore generating negligible effects on the amenity of adjoining neighbours. The ability to construct additional dwellings within the Rural zone (pending certain criteria) offers opportunity for landowners to easily diversify business interests by establishing holiday homes.</i>

Area 3 – Town Site	Area Boundary	<i>Area 3 is defined by areas in close proximity to services and facilities within the town centre and of higher density i.e. R5 to R40 including areas of dual coding.</i>
	Area Description	<p><i>Council acknowledges the importance of maintaining a high level of owner occupier and/or long term rentals within the Denmark town site. Applications for holiday homes will generally not be supported in this area as these houses have been identified as being within the walkable catchment to local shops, schools, businesses, recreational facilities and public open spaces and should be retained wherever possible for permanent residents. Consideration has been given to this area, in that some people may wish to consider renting holiday homes within the Denmark town site for those reasons stated above, however there is sufficient short stay accommodation within the town centre (hotels, motels, units etc) which can satisfy current demand. Furthermore, short stay holiday makers have proven to be upwardly mobile and seek higher amenity settings found generally in the two areas identified above.</i></p> <p><i>In accordance with Clause 4.1 of the Scheme legal holiday homes (i.e. have planning approval) currently operating in this area at the time at which the policy comes into force will be able to continue to operate, however, should the use cease for six months or more, no further approvals will be issued (refer Clause 4.4.1 of the Scheme)</i></p>

The cumulative impact of holiday homes on the retention of the predominant residential nature and character of neighbourhoods are negated through the identification of preferred areas and residential densities which achieves a large coverage within the Shire. This allow for distribution of holiday homes via market forces.

7.2 Residential Density and Holiday Homes

Council will consider the residential density within Area 1 (zoned Residential) as a criterion to assess holiday home applications. Generally, areas of lower density are considered more suitable for holiday homes than areas of higher density due to the impact of holiday homes on residential amenity and character of neighbourhoods in areas of denser settlement as follows:

Table 2: Residential Density and Holiday Homes

R2-R5	<i>Preferred</i>
R10	<i>Most preferred</i>
R20-R40	<i>Least preferred (holiday home large not permitted)</i>

The use of grouped dwellings (as defined under the Residential Design Codes of WA) shall not be supported for holiday home accommodation given the potential impacts on adjoining residents.

In areas of higher density (i.e R20 – R40) Council shall have due regard for any adverse submissions received and take this into consideration in reaching its decision.

7.3 Holiday Home (Large)

The following development standards shall apply to holiday home (large):

- Shall have a site area of no less than 1000m²;
- Shall have no less than 4 bedrooms and 2 bathrooms;
- Shall be limited in the number of people (between 7 – 12) in accordance with the capacity of the septic system on site.

7.4 Temporary Approval of Holiday Homes

Initial approval shall only be granted for a limited period of one year, and renewed on a three year to five year period subject to compliance as determined by the Shire.

This provision shall ensure that there is minimal impact on the amenity of neighbouring properties. This is designed to provide a degree of certainty to operators, while also enabling Council flexibility to terminate approval of non compliant operators.

7.5 Consultation with Adjoining Neighbours

Under the Scheme holiday homes are a discretionary “SA” use under the Residential, Rural, Rural Multiple Occupancy and Professional Office zones and all applications for holiday homes are therefore advertised for comment for a period of 21 days, whereby owners of adjoining/nearby properties will be consulted, a sign erected on site and an advertisement placed in a local newspaper.

~~7.4 — Protecting the Residential Character of Neighbourhoods~~

~~In order to protect and retain the predominant residential nature and character of neighbourhoods, Council shall consider the cumulative impact thereof on a~~

~~location's residential character, functioning and amenity as a criterion in the assessment of planning applications. Holiday homes should not become the predominant use within neighbourhoods.~~

7.6 Car Parking Requirements

Holiday homes (standard) shall provide two on site car parking bays which may be provided in tandem. Holiday homes (large) shall provide three on site car parking bays of which two may be provided in tandem.

In order to reduce the impact of holiday homes, on street car parking shall not be permitted.

7.7 Approval Requirements

7.7.1 Property Management Plan

A Property Management Plan shall be submitted as part of the planning application and shall detail the following:

- Details of an agreement with a manager/caretaker or management company which lists their responsibility and shall include but not be limited to, matter such as maintenance and cleaning. The manager of management company shall be accessible 24/7 and within 30 minutes of the property. Where properties are remote, alternative arrangements for a manager may be considered for up to 1 hour away.
- Code of conduct for guests.
- Details of how nuisance issues such as noise will be addressed by the manager.
- **Refuse collection arrangement in areas outside of Council's refuse collection.**
- Lease rental arrangements to allow for early eviction of tenants where their behaviour is unacceptable.

Note: Short term accommodation is not covered by the *Residential Tenancy Act 1987* as advised by Department of Consumer and Employment Protection.

In the case of an established permitted holiday home use, it is encouraged that the property management plans be submitted within 6 months from the adoption of this policy by Council.

7.7.2 Fire and Emergency Plan

A Fire and Emergency Plan shall be prepared to the satisfaction of the Shire Community Fire Manager and shall be required to be submitted as part of the planning application. The Fire and Emergency Plan shall include the provision of the following fire safety measures:

- Compliance with Annual Fire Regulation Notices.
- Provision of fire extinguishers, fire blankets and internal hardwired smoke alarms (as per the Building Code of Australia).
- Outside barbeques to be gas or electric.
- Maintenance of a 20m building protection zone around the dwelling.
- Preparation/display of building/locality evacuation plan.
- Emergency Evacuation Plan.
- Water tanks (minimum 92,000 litres where not on scheme water, with 10,000 litres to be used exclusively for fire fighting).

In the case of an established permitted holiday home use, it is encouraged that a fire and emergency plan be submitted within 6 months from the adoption of this policy by Council.

7.7.3 ~~Display of information in Holiday Homes~~ Information to Tenants

As part of any approval for a holiday home, Council shall condition that the following information be ~~displayed in the~~ made available to tenants of holiday home:

- Annual Registration Certificate
- Caretaker/manager or management company and its contact details
- Emergency contact details
- Code of Conduct
- Fire and Emergency Response Plan

In the case of an established permitted holiday home use, it is encouraged that the display of the information occurs within 6 months from the adoption of this policy by Council.

7.7 Annual Registration of Holiday Homes

Holiday homes shall be approved for a period of 12 months or until 30 June of the financial year within which the application is made. Council will issue an annual renewal licence to operate under the existing planning approval.

Holiday homes shall be required to renew their registration annually (financial year). The annual registration fee will be in accordance with Council's fee and charges as outlined on Council's website www.denmark.wa.gov.au. The registration shall be issued following an inspection of the site and dwelling by

Council. Where in the opinion of Council, complaints, poor management, outstanding annual fee's or failure to adhere to conditions of approval, Council may withdraw or amend the approval.

7.8 Holiday Homes Register

Council shall maintain a holiday homes register. The register shall provide information on the owner and/or manager, property address, configuration (bedroom numbers, number of beds, bathrooms, car parking spaces).

At the time of annual registration, those houses that no longer are available for holiday homes purposes shall be removed from the holiday homes register, and hence approval is withdrawn.

7.9 Voluntary Accreditation

Council shall encourage holiday home owners to become a member of a suitable holiday home accreditation agency. Where a holiday home is accredited (i.e star rating), then a reduced annual registration fee is available as determined under Council's fees and charges.

7.10 Length of Stay Provisions

The holiday home may only be rented for a maximum period of 3 months to any one person in any one calendar year.

7.11 Illegal Holiday Homes

Where a holiday home is found to operate illegally, Council will order that the operation of the holiday home cease immediately and if necessary issue an infringement under the relevant Act.

8. APPLICATION REQUIREMENTS

An application for planning approval is required for all holiday homes where it is an AA or SA use in the zoning table of the Scheme. Applicants shall submit a planning application in accordance with the Planning Consent Application form. The planning application shall contain the following information:

- A covering letter outlining the applicant's reasons for applying. This shall include photo's of the dwelling.
- Details of the caretaker/property manager or management company.
- A property management plan.
- A fire and emergency plan.
- A car parking plan.

9. CONDITIONS OF APPROVAL

Any approval by Council for a Holiday Home may include, but not be limited to, the following conditions **and/or advice notes**:

- This approval is valid for a temporary period of 1 year only and shall be subject to the application for it to be renewed for a three year to five year period subject to compliance as determined by the Shire.
- The holiday home is to be rented for maximum period of 3 months to any one person in any one calendar year.
- ~~• The maximum number of persons to be accommodated is restricted to 6. If more than 6 are proposed then the proposal must be treated as a boarding house in accordance with the Scheme.~~
- The following information shall be provided to tenants:
 - Annual Registration Certificate
 - Caretaker/manager or management company and its contact details
 - Emergency contact details
 - Code of Conduct
 - Fire and Emergency Response Plan
- The dwelling must comply with relevant Health and Building requirements and standards as required by Council.
- Any proposed signage must be submitted to Council for consideration in relation to compliance with Signs Local Laws and relevant Town Planning Scheme Policies on signs.
- The dwelling must be connected to the reticulated water supply or have a source of potable water to a capacity of 92,000 litres and a source of water supply disinfection such as chlorine dosing unit, ultra violet light sterilizing unit or an ozone unit.
- Operators must provide and maintain a register of all people who utilise the holiday home during the year to Council's satisfaction. A receipt book must be kept. The use must be registered with Council as a holiday home premises and the fee payable will be utilised to undertake the yearly inspection of facilities by Council.

To
The Shire President, and Councillors

19th July, 2010

Shire of Denmark	
ICR1072049	
19 JUL 2010	
PLN. 64	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Re Holiday Home Owners...Town Planning Scheme.....no 3 Draft...

On the 8th. July edition of the Denmark Bulletin, Dale Stewart states that a reward system for holiday home owners would be a good idea....

The people who benefit from holiday homes are, the owners, the Real Estate agency, and the people who rent them, whilst the people who have bought their own homes, and the long term renters have to put up with rowdy behaviour both on the roads and in the homes, and with no regard for our severe water restrictions. Permanent locals also support the various business's all year round not for a week here and there.

By all means have Holiday homes, but, the amount of homes approved must be regulated to so many per area, we have 2 caravan parks and other well established holiday units in this town , so please just give the locals a bit of thought when deciding on approvals.....

Yours sincerely,

Cindy,
Please note
and respond
accordingly,
Sam.

Your Ref: .
Enquiries – Duncan Ross

*Cindy,
Pls note and
consider.
Tia.
S.*

The Director, Planning & Sustainability
Shire of Denmark
PO Box 183
DENMARK
WA 6333.

25th July 2010.

Shire of Denmark	
ICR1072165	
27 JUL 2010	
A3695	
DATE	IPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Attention: Sam Williams

Dear Sam

REF: Shire of Denmark Town Planning Scheme No. 3
Use of Existing Dwelling for Holiday Accommodation Purposes

Thank you for your letter of 21 July 2010.

I strongly object to the use of residences as holiday accommodation where it is clearly not covered by an appropriate zoning and where there are numerous professional accommodation services catering to holiday makers in the Denmark Townsite.

In my experience, it is usually the intermittent visitors and holiday makers who blow into a residential area that seem to cause most of the unsocial conduct that disturbs the local population.

As I had carried out the design of the subdivision of the area surrounding Russell Rise, I recall the owners and developers were keen not to see the residences being used as holiday accommodation, as they felt this tended to have a detrimental effect on the surrounding property values.

Yours sincerely

*Cindy,
Please note
and respond
accordingly.
T.A.S.*

Chief Executive Officer
Shire of Denmark
PO Box 183
Denmark 6333.

Shire of Denmark	
ICR1082233	
2 AUG 2010	
FLN.64	
DATE	LP#
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Dear Mr Stewart

Re Draft Town Planning Scheme Policy 19.3 – Holiday Homes

I have received notification of the above and I hereby submit requested comments.

As a foreword, we would like the Council to take in to consideration our history and experience in this industry, and our continued efforts towards maintaining high professional standards.

Private Properties commenced in 1994 with a view to developing an upmarket tourism service and product, based on holiday home accommodation throughout Western Australia. Our business was the first in WA, possibly Australia, to address the growing demand for such accommodation, and our reputation both locally and overseas has developed a sophisticated tourism market that includes high end independent travellers, the majority of which are families.

We were instrumental in setting up the Holiday Home Association, which was subsequently included in the Holiday Homes Working Group set up by Alannah MacTiernan in 2006. The objective of this group was “to investigate and make recommendations on a suitable planning and regulatory framework for the holiday homes rental sector for application state wide, ..”. The Association has been involved in ongoing subsequent discussions and proposals involving the Busselton Shire and their Holiday Home policies.

Our dialogue with Tourism WA and the Tourism Council has been extremely positive, and we were closely consulted in the development of the appropriate Accreditation Programme for Holiday Home Managers. We were the first holiday home agency to be awarded this Accreditation in 2007.

We value our position in the tourism industry and totally support any regulatory structure that will enhance the image of WA and the product tourists can expect.

We believe that the objectives of any regulation should be:

1. To increase and maintain tourist satisfaction – i.e. ensure correct office procedures , insurances , appropriate booking contracts etc (refer Australian Tourism Accreditation Programme)
2. To ensure the promotion of safe and well managed properties with local caretakers available for guest issues, whether to do with guest comfort and satisfaction, or neighbours' complaints.
3. To ensure transparent and honest marketing of holiday houses.
4. To ensure tourism appropriate locations of holiday houses.
5. To set up a local shire register of holiday houses including initial approval providing houses meet the above criteria.

While we are totally aware of the necessity for holiday homes to be in appropriate locations, we fear that the current proposal seems to be driven by the idea that most guests in holiday homes are likely to be disruptive and cause issues for neighbours.

Statistics from police and Tourist Bureaux in the Busselton Shire indicate this is absolutely NOT the case. I fear that in Denmark, anecdotal evidence has been used by alternative tourism operators to drive a negative case against holiday home operators. Unfortunately, it is unlikely that neighbours who happily live next door to well run holiday homes will comment on this issue, as they see no need. The results of comments are therefore likely to be distorted towards the negative.

The punitive tone adopted in the current proposal does not reflect the generally positive flow-on that holiday home guests bring to the area – families with children who come to enjoy the natural environs and the country town atmosphere.

My specific comments follow, but in summary, I would ask the council to be measured in their regulations, so that this style of accommodation can be guided in a positive way that benefits the whole community.

Please do not hesitate to call if you feel I could be of assistance.

Kind regards

COMMENTS

Draft Town Planning Scheme Policy 19.3 Holiday Homes

1. P2. (4) **The Objective** “*to control the way in which holiday homes are marketed...*” is outside the normal jurisdiction of the shire and is not workable. The shire may be able to “encourage and help promote” but it will not be able to “control” marketing.
2. **The Definition** provided for Holiday Home is too narrowly defined, “short stay accommodation for no more than six people...”.
The Planning Bulletin 99 provided by the Government was not so restrictive. It defined two categories:
 - 1) Holiday Home Small (up to 6 guests)
 - 2) Holiday Home Large (7-12 guests)The Shire of Denmark define any property which accommodates more than 6 as a *Boarding House* . Clearly a holiday home which accommodates more than 6 is not a Boarding House and this definition should be reviewed.
The standard holiday home in Denmark today would be similar to houses in other areas, ie. commonly accommodating 8 guests or more. Limiting holiday houses to 6 will limit tourists, particularly families. If this restrictive definition applies than Denmark will be out of step with other areas. A good example of this limit not working would be Christmas – when families gather together in a holiday house. It would be rare for a group to be only 6.
3. **Registration.** I believe that Registration is important and should be renewed annually to ensure that details are up to date. This information provides excellent data for the shire. The process should be triggered by the Shire (notices) and should not be difficult (possibly on line?), and there could be an annual fee to cover costs.
It should not be necessary for the shire to do annual inspections to renew registration. After an initial inspection (if this is absolutely necessary), and if the house or agent promoting the house has Accreditation , then a simple tick list and checking of details such as caretakers, owners contact details etc would suffice.
If complaints about the house and how it is managed are received then it would be up to the discretion of the shire as to whether an inspection is necessary.
Registration should not be linked to Withdrawal of Planning Approval – surely that is a separate process involving separate issues?

4. **Inspections by the Shire** should not be necessary if the house is Accredited or promoted by an Accredited agent. Inspection of all holiday houses puts unnecessary pressure on the shire. A document covering all the requirements could be completed by the Owner and submitted. If there are any issues then the shire may decide to inspect the property, but in most cases I would believe it to be unnecessary.
5. **Guest Code of Conduct to be displayed in the House.** This goes totally against our tourism objectives and I would be embarrassed if I had to comply. In my research I have stayed in numerous holiday homes overseas and I have **never** been presented with a Code of Conduct. It is a very negative approach to what I believe is *mostly* an imagined issue.

We totally appreciate that guests (ie. families from Perth, interstate and overseas; average age of adults is between 35 and 60 years) should conduct themselves properly, however a notice in the house is an overkill and insulting.

We take (and recommend) a number of measures to ensure that guests act appropriately :

Our guests sign a contract which asks their approximate age , and details
“ Conditions of Stay” (including the max number of people allowed to stay at the house).
Our web site clearly enforces a “No functions or Parties” policy.
Guests are met at the houses on arrival as a further security measure (and service to guests).
Each year we block out all houses over the “Schoolies” period to avoid taking ANY school leavers bookings.

6. Houses that are listed with an Accredited agent should not require private accreditation.
7. Fees should be for recovery purposes only.

SCANNED

Peta Leiper

From:
Sent: Wednesday, 28 July 2010 3:01 PM
To: Denmark Shire Enquiries
Subject: Submission Re Draft Town Planning Scheme Policy 19.3 - Holiday Homes. SoD FILER EF: PLN.64
Attachments: Denmark Shire - letter and comments 2010.doc
Categories: FORWARDED TO DIR OF PLANNING

Please find attached Comments on the above Draft.
Hard copy to follow.

Kind regards

<i>Shire of Denmark</i>	
<i>ICR1072197</i>	
<i>29 JUL 2010</i>	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Chief Executive Officer
Shire of Denmark
PO Box 183
Denmark 6333.

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7. Fees should be for recovery purposes only.

Peta Leiper

From:
Sent: Monday, 2 August 2010 5:02 PM
To: Denmark Shire Enquiries
Cc:
Subject: Draft Town Planning Scheme Policy 19.3 - Holiday Homes Shire of Denmark File Ref:
 PLN 64
Attachments: Denmark_mr_01jul10.pdf

Could you please pass on the attached to Sam Williams, Director of Planning and Sustainability.

Regards

Shire of Denmark	
ICR 1082259	
3 AUG 2010	
PLN 64	
DATE	
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Cindy,
 Pls note
 and respond
 accordingly.

Ta,
 S.

S Williams
Director of Planning and Sustainability
Shire of Denmark

1st August 2010

Dear Sam,

Re: Draft Town Planning Scheme Policy 19.3 – Holiday Homes

Further to your recent letter I would like to make comment on the above. However, before doing so I should state my position.

“I am the owner of a holiday home in Denmark. The property is located in the “preferred area” close to Wilson Inlet. The house has had a significant amount of money spend on it since purchase aimed at providing a high quality experience for the visitor. It is professionally managed by Adrian Baer of South Coast Properties. We, as owners, are specifically concerned about possible disturbance or inconvenience of our neighbours and in conversation have received positive feedback from them. Any problems with the property (and there have been a few “teething troubles”) have been dealt with promptly and fully aimed at ensuring the visitor has the best possible experience.”

The above being stated there are several specific areas that I would like to comment on.

- Whilst I support the general aim of the Policy I do not support the fourth stated Objective.

“To control the way in which holiday homes are marketed, managed and presented to enhance Denmark’s image”.

I consider the use of the term “control” inappropriate. Council should be setting expectations for management outcomes but it should be up to individuals to decide how this is met. Control of marketing is not, in my view, a Council function.

- As an owner that is “doing the right thing” I object to further cost and bureaucratic impost being applied. Registration and auditing is not going to improve the standard of our property or the visitors’ experience. Our property is intended to be comfortable and friendly and a “home away from home”. There are already Health and Building requirements which set minimum requirements / standards for properties in general. Inspection should be limited to cases where these standards are potentially not being met.
- For this class of accommodation, where you are dealing with a “normal house”, the requirement to display certain certificates and other

information (presumably, framed on the wall) will detract from the amenity of the house. At most this information should be accessible in a document / folder form.

- Fire and Emergency Plans. Whilst it is appropriate to provide modern safety features eg smoke detectors and RCD's I don't consider that a Fire and Emergency Plans is necessary. You are not dealing with large commercial properties rather you are dealing with small buildings only. The importance is in the provision before an emergency eg smoke detectors, RCD's, outside fire preparations, etc rather than the provision of an emergency plan for the visitor.
- Where there is the need to define a technical requirement it should be done via a reference to an appropriate and recognised standard or code and not just included in the text. An example of this is the reference to a "hard wired smoke alarm". The appropriate standard covers this in far more detail including such important details as location, types, etc.
- In Section 7.5.2 (Fire and Emergency Plan) there is reference to a 20m wide building protection zone. Isn't this adequately covered in the Annual Fire Regulation Notice?
- In Section 9 (Condition of Approval) there is the requirement to provide and maintain a register of all people who utilise the holiday home during the year to the Council's Approval. I consider this clause intrusive.

I hope that the above comments are of assistance.

Yours sincerely,

Peta Leiper

From: Tuesday, 3 August 2010 8:52 AM
Sent: Denmark Shire Enquiries
To: FW: Draft Town Planning Scheme Policy 19.3 - Holiday Homes:~ Attention Sam Williams
Subject: Shire of Denmark File Ref: PLN 64 Printed at Central Computer
Attachments: Denmark_mr_01jul10.pdf

ICR1082258

Shire of Denmark

3 AUG 2010
PLN-64

DATE	LP.
FILE REF	
COUNCILLORS	
CEO	
MR of FINANCE	
MR of PLANNING	✓
MR of INFRASTRUCTURE	
MR of COMMUNITY	
MR of	

*Cindy,
Pls note
and
respond
accordingly
Tia
S.*

From:
Sent: Monday, 2 August 2010 5:02 PM
To: enquiries@denmark.wa.gov.au
C:
Subject: Draft Town Planning Scheme Policy 19.3 - Holiday Homes

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Regards

S Williams
Director of Planning and Sustainability
Shire of Denmark

1st August 2010

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information (presumably, framed on the wall) will detract from the amenity of the house. At most this information should be accessible in a document / folder form.

- Fire and Emergency Plans. Whilst it is appropriate to provide modern safety features eg smoke detectors and RCD's I don't consider that a Fire and Emergency Plans is necessary. You are not dealing with large commercial properties rather you are dealing with small buildings only. The importance is in the provision before an emergency eg smoke detectors, RCD's, outside fire preparations, etc rather than the provision of an emergency plan for the visitor.
- Where there is the need to define a technical requirement it should be done via a reference to an appropriate and recognised standard or code and not just included in the text. An example of this is the reference to a "hard wired smoke alarm". The appropriate standard covers this in far more detail including such important details as location, types, etc.
- In Section 7.5.2 (Fire and Emergency Plan) there is reference to a 20m wide building protection zone. Isn't this adequately covered in the Annual Fire Regulation Notice?
- In Section 9 (Condition of Approval) there is the requirement to provide and maintain a register of all people who utilise the holiday home during the year to the Council's Approval. I consider this clause intrusive.

I hope that the above comments are of assistance.

Yours sincerely,

Shire of Denmark	
ICR1082257	
3 AUG 2010	
PLN:64	
DATE	LRN
FILE REF	
COUNCILLORS	
CEO	
DIR OF FINANCE	
DIR OF PLANNING	✓
DIR OF INFRASTRUCTURE	
DIR OF COMMUNITY	
OTHER	

30th July 2010

Sam Williams - Director Planning and Sustainability
 Shire of Denmark
 PO Box 183
 Denmark WA 6333

Dear Sam

Re: Draft Town Planning Scheme Policy 19.3 – Holiday Homes

Thankyou for your letter of 12th July regarding Council's review of the holiday home policy.

We have listed our concerns below:

- Under what Act does Council have the authority to create this policy?
- Whether one rents out a home for short term rental or long term, we don't see how Council can interject, apart from the same Acts that are imposed on all of us for example, the Health Act.
- I would suggest that if one contested this policy through legal channels or the State Administrative Tribunal, this policy would not be upheld.
- We would like to see Council's legal opinion on this policy. It seems on all accounts to be ultra vires.
- We disagree with no holiday homes in zone 3. Our holiday home is in zone 3 and it provides a different level of accommodation over other forms of accommodation mentioned in the policy. Pushing visitors into hotels etc is not what visitors want when holidaying in Denmark. If they can't get what they want they will not holiday in Denmark.
 Our family has been holidaying in Denmark for over 20 years in holiday homes in town, why stop this for others? Young families like to holiday close to town.
- We have invested considerable money in Denmark and cannot afford to have our holiday home not rented. Why is Council victimising people like us that are prepared to take a risk and invest in Denmark?
- The policy is paternalistic and outdated, something you would expect from a Council some decades ago. The policy borders on being draconian.
- This policy seems to be in response to a few Denmark residents unwilling to embrace change and expects Council to stop time. Although I can understand Council listening to such residents, I believe it needs to consider the big picture. Requesting views of those affected by this policy is a good move by Council's administration.
- This policy has no right of appeal. Contemporary Government policy has a referral system independent to the organisation, for example the State Administrative Tribunal.

We would like to recommend to Council that:

1. This policy is not adopted.
2. A legal opinion is sort by Council as to its authority in drafting such a policy.
3. If Council does have authority to constitute such a policy, then the policy should include a right of appeal process independent to Council for example the State Administrative Tribunal.
4. Instead of a policy that Council creates guidelines for owners of holiday homes to ensure best practice in providing accommodation in Denmark.
5. Holiday home operators are encouraged to join an organisation that can accredit holiday home accommodation for example the Denmark Visitors Centre, to give a star rating to accommodation. This to include an environmental sustainability rating as well.

Yours sincerely

Peta Leiper

From: Thursday, 5 August 2010 8:46 AM
 Sent: Denmark Shire Enquiries
 To: Denmark Shire Enquiries
 Subject: Comment on draf holiday homes draft policy
 Attachments: Comment-holiday homes.pdf

Categories: FORWARDED TO DIR OF PLANNING

Hello,

Please find attached some comments on the holiday homes draft policy. Can you please forward this e-mail to the relevant contact.

Thanks

Shire of Denmark

~~ICR1082298~~

5 AUG 2010

SoD FILE REF: PLN.64

DATE	
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Cindy
 pls note
 and respond
 accordingly.
 Tn.
 S.

Shire of Denmark
953 South Coast Highway
Denmark WA 6333

Re: Draft Town Planning Scheme, Policy 19.3 - Holiday Homes

Dear Sir/Madam

We write to comment on the draft town planning scheme policy 19.3 (holiday homes).

Context:

We are residential owners of a property approved as a holiday home. Adjacent to our residence are two holiday homes with a third one block removed. We currently own a vacant block in Denmark which is adjacent to a property that was recently advertised and leased as a holiday home through a Denmark managing agent even though the agent and owner were aware that the home was not approved for this purpose.

Comments:

1. The intent of the draft policy is a welcome step in the right direction. Holiday accommodation is an important and growing industry in Denmark and without adequate control will destroy the very qualities that both residents and tourists seek from the region.
2. The policy is sadly lacking in detail particularly around how problems will actually be tackled. How will holiday homes which are currently non-compliant be dealt with either under the new policy or the existing arrangement? How will existing customs and practices be impacted by this policy? It is a sad fact of life these days that a growing number of people will openly ignore such policies or laws unless the sanction is sufficiently sound. The fact that existing policies limiting holiday homes to a maximum of 6 'guests' is ignored and local agents are content to promote illegal holiday homes tells us all that without sound sanctions any policy is a waste of time and effort and like most of these things will only end up negatively impacting those who will do the 'right thing' anyway.
3. The policy needs to spell more clearly the roles and responsibilities of all parties who are potentially impacted by the policy. Stakeholders include; council, council staff, police, owners, agents, managers and holiday makers.
4. With noise a significant and increasing issue it is disappointing that Denmark Council, unlike most other WA councils, does not have an advertised noise policy. The WA Government website has provided the basic advice framework for such a policy for a number of years with most other councils long ago accepting their responsibility to support residents deal with this issue. Unfortunately, a Denmark noise policy is not to be found and behaviour of council staff clearly suggests a total disinterest in undertaking the role mandated on council by the Environmental Protection Act. Providing clear local policy is one way to help diffuse and resolve existing and new

issues. As the police may play a key role when issues initially arise it would be useful for any local policy to include information about when, how and where the policy will assist residents dealing with noise issues.

5. We have read that Busselton Shire provides for "larger holiday homes" catering for more than 6 guests. Our experience suggests that larger numbers would exponentially increase the potential for adverse residential issues and so we do not support any move in that direction. Larger numbers should be catered for by commercial tourist operators not holiday homes. This is one issue where the implementation of this policy should over-rule existing custom and practice. Larger numbers of guests directly impacts both noise and vehicle movements (which is also a contributor to noise issues).
6. We have read with dismay comments attributed to council staff suggesting that holiday homes would not be an issue in areas zoned special rural or rural. These sorts of ill-informed views have no place where policy is being developed. Any arrangement that sees a constant and diverse stream of non-residents using an area has the ability to impact the lives of those that permanently live in an area irrespective of the distance between homes.
7. We have no specific views on the dispersal of holiday homes across the shire. There are pros and cons of creating "holiday home free zones" and aggregating holiday homes into specific areas. Provided assessment is made of the total local impact when approvals are given, including the impacts of existing holiday homes, this is an issue that should be dealt with using current approval processes.
8. Of the three properties near to our current residence, two advertise as being suitable for more than 6 occupants. I have previously raised this issue with the Visitors Centre as the advertising breaches the approval given to these holiday homes. In our minds, should this be one part of the existing &/or future policy that could readily be policed. Any advertising or letting of a holiday home for more than the approved number of occupants should be sufficient reason for council to revoke holiday home approval.
9. Illegal holiday homes will always be an issue. It is disappointing that local agents do willingly and knowingly contribute to this situation. Specific attention should be focused on how quite deliberate acts by third parties for financial gains could be addressed.

Other Issues;

10. There are two environmental issues that we consider this policy should address. We have noticed in all the adjacent holiday homes that the use of wood heaters and the continuous use of outdoor lights seem to be an issue;
 - In one of the holiday homes the external lights seem to burn continuously when someone is using the premises irrespective of whether anyone is at home or outside. Just as Denmark residents are encouraged to use power in a sustainable way, visitors should equally be asked to consider this issue. The behaviour of leaving multiple outdoor lights burning throughout the day &/or night should be addressed. As power consumption costs are inherent in rental cost there is currently incentive to use power appropriately.
 - Lighting a fire is possible part of the tourist experience of Denmark in both summer and winter. The unfortunately element is that these fires are often accompanied by an excess of smoke suggesting appropriate instructions for

the use of the equipment either don't exist or aren't clearly visible. This sort of information should be provided in a highly visible location near to the heater.

11. The creation and use of a growing number of residential estates, tourist facilities and consequentially holiday homes in and around Denmark has for many years impacted the local infrastructure. How roads are used seems to receive inadequate attention. Simple items like adjusting speed limits (downwards) where developments are likely to result in conflicts between through and local traffic do not seem to be considered. An example of this is the current placement of speed limits on South Coast Hwy driving west from town. The building of the Visitors Centre and shortly a new shopping centre near Hardy/Ocean Beach Roads should have prompted someone to consider moving the 50km speed limit west of Hardy Rd towards the Tavern. With approvals in place for additional residential areas along South Coast Hwy west of the tavern and a lodge at the corner of Cussons Rd discussions with Main Roads to reduce traffic speed (and thus also noise) should have happened. Similar issues exist along a number of the key access ways in and around Denmark. Such issues need to be addressed as the town grows to accommodate residents, tourists and commercial vehicles. If you turn from South Coast Hwy into Cussons Rd what is the speed limit?. If you then turn into Mt Shadforth Rd what is the speed limit – if you head out of town you'd expect it to be 70km per hour. It would seem to make sense to look at the whole picture for the town and implement a driving speed that makes it easier for residents and tourists alike to know what speed they should be going.

Please contact us if you need further information or clarification on any of the issues noted above.

Yours sincerely

23rd July 2010

SCANNED

7

Peta Leiper

From: Sunday, 8 August 2010 2:21 PM
Sent: Denmark Shire Enquiries
To: Denmark Holiday Homes Draft Policy Comments
Subject: SoD FILE REF: PLN.64
Attachments: Hol House policy.pdf

Categories: FORWARDED TO DIR OF PLANNING

Shire of Denmark	
ICR1082333	
9 AUG 2010	
NAME	LP
POST REF	
COUN. CLORS	
FIN	
DIR OF FINANCE	
PLANNING	<input checked="" type="checkbox"/>
GENERAL MGMT	
PROPERTY MGMT	
OTHER	

Would you kindly forward my comments to the Chief Executive and provide an acknowledgement of receipt

Many Thanks

This communication contains information which is confidential and may also be privileged. It is for the exclusive use of the intended recipient(s). If you are not the intended recipient(s) please note that any form of distribution, copying or use of this communication or the information in it is strictly prohibited and may be unlawful. If you have received this communication in error please return it to the sender then delete the email and destroy any copies of it.

Cully,
As per my
email.
S.

8 August 2010

Mr Dale Stewart
The Chief Executive
Shire of Denmark
PO BOX 183
Denmark 633

RE: INVITATION TO COMMENT - PROPOSED HOLIDAY HOME POLICY

Dear Sir

Following please find my comments in relation to the invitation extended by the Shire for public comment in relation to the Shire's Draft Holiday Home policy.

I am a proprietor in a Tourism business in Denmark known as "Pelicans at Denmark". I am also a member of the Board of Denmark tourism Inc (DTI) however I wish to expressly point out that the views in this correspondence are mine alone and not that of the DTI.

The Basic Premise of a Holiday Home

Many visitors to Denmark find the area appealing and decide to purchase a dwelling so that they and family members can enjoy holidays in the Great Southern comfortable in the knowledge they will have somewhere to stay. These homes may stay in families for generations. They may not be the primary dwelling of these families and are usually funded from personal exertion income and negatively geared to assist with the cost of purchase.

The right to rent one's property and claim a deduction for outgoings (including interest) is deeply entrenched in the Australian way of life and recognised not only by successive Labour and Liberal Governments but also embodied within the Australian Federal Income Tax code.

The decision to go down the Holiday Home pathway in the Denmark area arises because owners wish to retain the right to stay in these properties themselves whilst at the same time avail themselves of the income tax deductions available to offset against income. If no income is derived then deductions are denied under the tax code.

During the 2006 census 32.2 percent of dwellings in Denmark were classified as "unoccupied". In all probability these dwellings comprised Holiday Homes. South Coast Properties carries a large inventory of Holiday Homes claiming over 200 rental properties. Many of these are also listed with the DVC and the DTB.

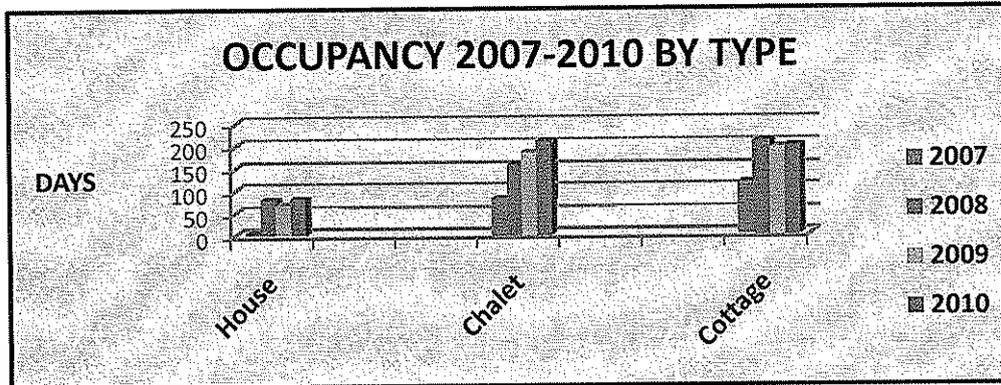
Broad Economic Impact of Holiday Homes in Denmark

Very few (if indeed any) Holiday Homes are profitable; the reason being that these homes appeal to family groups and therefore tend to achieve full occupancy during school holidays, Easter and Christmas. At other times of the year occupancy levels are typically very low.

Claims by Chalet, Motel and other accommodation providers that Holiday Homes are damaging their businesses are erroneous yet this lobby group have been one of the most vocal in seeking restraints on Holiday Homes. The only valid protest coming from this group might pertain to ensuring that Denmark as a Tourist destination is not harmed by those few (not all) Holiday Home operators that do not maintain a good standard of accommodation.

Our business "Pelicans at Denmark" is one of the few offering multiple forms of accommodation (chalets and holiday home) and we have gathered statistics now over several

years to substantiate the viewpoint that Holiday Homes do not pose a threat to Chalet operators. (See table below)



During Easter, Christmas and other peak periods the Denmark population swells to capacity with all accommodation currently listed being fully occupied. Not only does this demonstrate the need for Holiday Homes to accommodate the market demand but in addition the broader Denmark community benefits from expenditures of staying Tourists.

Holiday Home owners spend considerable sums within the Denmark business community in upgrading and maintaining their properties thereby proving work for local trades. Fees are paid to cleaning contractors and property management agents and the DVC itself derives commission income from bookings thereby reducing the dependency for annual funding support from the Shire.

There are no fewer than 6 Real Estate Agencies located in the main business section of Denmark. A substantial portion of the business conducted by these firms is the on-selling of Denmark properties to investors seeking to let properties out as holiday rentals.

Accordingly Holiday Homes are an important part of the economic fabric of the broad Denmark community. Rather than being seen as some form of scourge on the community they need to be seen as vital to Tourism and the greater good of Denmark. The Shire needs to exercise prudence in adopting new policies and ensure that the economic balance is not destabilised.

The Policy Push

Council Records demonstrate that the push for a "Holiday Home Policy" has been driven by genuine grievances concerning loss of amenity of residents (particularly in the Weedon Hill area) and the Chalet, Motel style operators group championing the old chestnut of seeking to protect and enhance Denmark's image as a holiday destination.

It is noteworthy that the Homeowner group has been largely unrepresented in drawing up "draft policy" and the Shire is to be commended for putting the policy draft out for public comment. Given the large number of absentee owners (>32 percent of dwellings) in order for natural justice to be achieved it would seem appropriate that the Shire circulate all owners prior to final policy implementation. This would ensure that all stake holders are treated fairly and that the final outcome is capable of practical application.

Intention of Submission

My intention is not to comment on all provisions but to provide some commentary in areas where proposed policy may be impractical or unfair and to suggest outcomes that are believed to be in the broader community interest. Details are set out in the following table:

Policy Area	Comments	Recommendation
<p>Section 5 Holiday Home definition</p> <p>“Policy as drafted to apply broadly to single houses for short stay accommodation for <u>no more than six people</u>”</p>	<p>There are a number of practical issues that may not be contemplated in this area of policy:</p> <p>a) By way of example most owners desire to spend some vacation time with their families over the Christmas or Easter periods. Let’s presume my mother and father are alive, I am married and have three children and wish to spend one week at Christmas with my family in my own holiday home.</p> <p>In all I will have seven people staying in my home that would breach the policy as drafted. At the same time my next door neighbour spends his Christmas with family in a similar size residential dwelling with say 8 family members yet he has not breached any bylaw. This application of policy would seem very inequitable and “un-Australian”</p> <p>b) Denmark is currently fully occupied at Christmas and there is simply not enough accommodation to satisfy demand. By way of example Rottnest Island policy enables 6 people to stay in a 4 person dwelling at Christmas and large family groups can be accommodated in 6 person units.</p> <p>c) On some occasions staying tourists deliberately understate the number of people booked. Despite the best efforts of accommodation providers this is not always capable of being policed with absolute certainty.</p>	<p>a) That the policy limiting occupancy to six people shall not apply where the property is occupied by members of the owners family and moreover that a holiday home owner should enjoy no lesser rights to occupation than those enjoyed by a neighbour</p> <p>b) Six person policy be relaxed during Christmas and Easter</p> <p>c) Provided Holiday Home operators specify the six person limit in terms and conditions on bookings and take reasonable measures to enforce limits they shall not be unduly penalised where staying guests breach this condition.</p>

<p>Clause 7.5 Eviction policy</p>	<p>Eviction of guests who breach the terms and conditions of their holiday home booking is a very complex matter with the practical reality of enforcement an entirely different issue. Police are often not available at the time of infringement and may also be unwilling to act due to legal process limitations. A more effective means of enforcing compliance with booking conditions is via the process of taking bonds. This is the norm for long term rentals where bonds are withheld to compensate for damages.</p>	<p>a) Do not burden holiday home operators with eviction procedures that are either impractical or unenforceable. b) If a policy of this nature were to be introduced that it apply equally to Hotel, Motel, Caravan Park and Chalet operators to ensure fairness of policy. c) Encourage owners to achieve good conduct via a process of taking bonds.</p>
<p>Clause 7.5 Noise Issues</p>	<p>The loss of amenity caused by noise is not confined to “holiday homes” and is a broader community issue extending to barking dogs, use of machinery, the playing of music, loud radios to name but a few. The standard imposed upon holiday home owners should be no greater than that imposed on the general community.</p>	<p>a) The standard imposed upon holiday home owners should be no greater than that imposed on hotel motel caravan park and chalet operators to ensure fairness of policy.</p>

<p>General Implementation</p>	<p>There should be no retrospective application of policy where properties have been acquired under contract from Denmark realtors without provisions to the contrary that state in writing that the property being acquired may not be used for "holiday home" purposes. A retrospective policy would undoubtedly result in litigation.</p> <p>The policy once determined should be introduced over a period of time that encourages and enables Holiday Home owners to transition to the new standard. A sudden death application of policy may not be practical and prove difficult to enforce</p>	<p>a) No retrospective application</p> <p>b) A period of transition to encourage home owners to become licenced.</p>
<p>Economic and Compliance Burden</p>	<p>In general holiday homes are not profitable and the resources available to meet licencing requirement are not as great as Hotel, motel, caravan park, chalet, B&B and other accommodation providers who are able to spread costs across multiple rooms or dwellings.</p> <p>Many providers are already accredited with TCWA which comes at an annual cost in the order of \$250. It would be unfair to impose a doubling up of compliance related fees.</p> <p>The draft Chamber of Commerce submission suggests weighting be given to independent star rating systems. As many of you will be aware these star ratings relate more to facilities provided and provide no assurance of quality or good governance. They also come at a cost.</p> <p>The draft Chamber of Commerce submission suggests the DVC become an instrument of policy enforcement. The</p>	<p>a) As a general principle the cost and compliance burden imposed upon Holiday Home owners be no greater than those applicable to the providers of other forms of accommodation in Denmark.</p> <p>b) Holiday Home owners should not be required to incur additional Shire Fees where they are already meeting high standards of independent accreditation such as the national standard accreditation offered by TCWA or alternatively a rebate system apply to avoid what would constitute double taxation</p> <p>c) Should licence fees be introduced they should apply equally to all accommodation providers in the Shire</p> <p>d) Shire policies should not be used as a defacto means of revenue generation for star rating systems.</p> <p>e) The DVC should not be seen as the instrument to police the policy.</p> <p>f) A wider study be undertaken of the economic significance of Holiday homes in the Denmark</p>

	DVC does not have the resources to undertake such a function and indeed the policy will need to be relatively simple in its form for the Shire to police effectively.	community and the results of the study be taken into account prior to adopting new policies affecting this sector.
Application at Law	A number of the proposed provisions may not withstand challenge under the provisions of the Trade Practices legislation within Australia	a) An independent legal opinion be sought by the Shire by a qualified member of the legal fraternity prior to the adoption of any policy

I would be happy to discuss any aspect of this submission if that would be helpful.

Yours faithfully

SCANNED

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E

Peta Leiper

From: Friday, 13 August 2010 4:57 PM
 Sent: Denmark Shire Enquiries
 To: Attention Sam Williams Re submission home holiday 19.3
 Subject: Short stay accommodation policy~ draft.doc
 Attachments:
 Categories: FORWARDED TO DIR OF PLANNING

SoD FILE REF: PLN.64

Dear Sam,

Please find attached Denmark holiday's Submission for policy 19.3

Regards

*Cully,
 Pls find
 attached
 etc.
 S.*

Shire of Denmark	
16 AUG 2010	
ICR1082481	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Denmark Council
Planning Department
Attention Sam Williams

Re Denmark Holiday Submission re Policy 19.3 Home Holiday Policy

Dear Mr. Williams

South Coast Properties real estate established a marketing vehicle in 2006 called Denmark Holidays.

For the last four years Denmark Holidays has provided a range of management short stay and holiday accommodation services to prospective and current clients.

The staff employed to manage this service have undergone training in property management, have attained accreditation in the form of the green tick provided by WA Tourism Council and established an online booking management system for short stay holiday accommodation.

This service has been utilized by Denmark residents and real estate clients who have expressed an interest in investing in this town either for business or personal interests.

Denmark Holidays is a primary contact for these people. They seek clear information on what is required to establish and run a holiday home.

The establishment of a home holiday accommodation industry in Denmark has helped this town evolve. Investors and new residents have established holiday properties that have contributed in meeting tourist accommodation demands. This industry has a high degree of fluidity in which we have experienced a two to three year turn around in property use. This flexibility has helped Denmark meet most tourism market needs.

The number of viable, successful holiday home business in Denmark are few. To be able to achieve 20% net profit requires a property to have between 60 to 70% occupancy or 215 to 255 bed nights.

Many of the Holiday properties are negatively geared. They are occupied between 110 to 150 bed nights and run at a loss.

As part of our business we guide prospective clients in developing their short stay accommodation business. For the client to remain in business, we need to ensure the property is safe, is compliant with by laws and is appealing to market requirements.

We appreciate that Denmark council is aware of the importance of tourism and the marketing of this town to external markets.

We acknowledge the council's investment in tourism and related marketing activities.

We believe that this Home holiday policy is an integral element of marketing Denmark to ATTRACT PEOPLE WHO WE WANT TO BE PART OF OUR COMMUNITY.

We acknowledge the need for some local intervention in the local short stay holiday market

RE the draft policy 19.3 Holiday Homes.

It appears that council has decided to impose a tighter local control of Holiday homes. The proposed policy cannot be applied retrospectively and encourages existing owners to comply with the updated policy.

There is uncertainty as to the policing of the proposed policy as staffing levels have yet to be determined. (See Council minutes answers to Mr Baer's questions July 27 2010.)

The proposed annual fee (yet to be determined) will be an additional cost for new home holiday business. It too will discriminate against new business.

Items 7.3 to 7.7. It appears that the council is asking the home owner to undergo its own form of accreditation, as well as the cost external accreditation bodies.

Clarification is required of this current proposed policy regarding:

7.5.1 Council requirements for removal of persons from property.

The current draft is not applicable as the 1987 Residential Tenancy act does not apply to short term accommodation.

A client has to sign a form prior to arrival agreeing to the terms and conditions which allows a manager to ask clients to vacate the premises.

7.5.2 re emergency evacuation plan

Currently if Denmark is to be evacuated people are being advised to go to Albany. Are there any alternative locations that h the council could suggest for these evacuation plans.

7.6~ Annual Registration of Holiday Homes:

In establishing this fee council needs to be aware that this will be an additional cost for new home holiday business. It discriminates against new business, as established holiday homes are not required to pay this fee or be subject to annual inspection.

In adopting a new policy requiring annual inspection, if the council **does not** allocate human resources to implement and follow up this policy, then the whole process is an empty gesture and will create distrust and uncertainty by tourists and Holiday home business which will in effect harm tourism in this town.

The annual registration certificate could take the form of a Blue Wren Motiff to badge all holiday homes that comply with council annual registration~ a good marketing tool for clients coming to Denmark, They can look for the Blue Wren of registration/accreditation.

In addition to this policy we seek consideration, for the provision of two categories of holiday home.

Holiday Home Standard – up to 6 people in a current dwelling allowable in residential density area R2-R10
and Holiday Home Large – between 7 to 12 people allowable in residential areas R10-R-20.

- We understand that the large homes currently come under a different category and with the implementation of new policy item 7.5.1, requiring 24/7 management, this would help to meet compliance
- There is a market demand for these properties. Currently Denmark provides family accommodation and there are properties that sleep more than 6 people. Families on a budget look for economies of scale and find large homes are ideal for budget conscious holidays.
- The cost of running a large home means that these are limited in number and they are sort after.
- Good shire planners would allow for a limited number of these homes to exist only in R10-R20 density areas and ensure that infrastructure requirements are enforced to suite the home size.

In conclusion the proposed policy 19.3 ~Holiday homes indicates council is undertaking to police and regulate holiday homes in Denmark.

Denmark holidays supports the clarification this policy provides to people who want to invest in the tourism future of Denmark.

To effectively implement such a policy requires financial and human resources. When this policy is approved, the allocated resources need to be clearly stated.

As Denmark Holiday's educates every prospective Home holiday owner to the effect they are undertaking the running of a small business, we ask, council to be mindful that this proposed planning policy will influence future small business owners and investors who run holiday homes.

We thank you for this opportunity to provide comment.

Yours sincerely

SCANNED

9



Peta Leiper

From: Claire Thompson
Sent: Wednesday, 18 August 2010 1:57 PM
To: Denmark Shire Enquiries
Subject: FW: Draft Planning Policy Holiday Homes
Attachments: Holiday Homes Submission to Shire of Denmark.pdf

Shire of Denmark	
ICR1082558	
19 AUG 2010	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	<i>[Handwritten mark]</i>
DIR of PLANNING	
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Please print for inward correspondence. Thanks.

From:
Sent: Wednesday, 18 August 2010 1:23 PM
To:
Subject: Draft Planning Policy Holiday Homes

Dear Dale/Garry

Please find attached Denmark Tourism Inc.'s submission to Shire regarding Policy 19.3 – Draft Planning Policy 'Holiday Homes'.

Please do not hesitate to get in contact with me or Kim Barrow to discuss any aspect of this submission.

Kind Regards,

Cindy
Pls note.
Ta-S

Peta Leiper

From: Claire Thompson
Sent: Wednesday, 18 August 2010 1:57 PM
To: Denmark Shire Enquiries
Subject: FW: Draft Planning Policy Holiday Homes SoD FILE REF: PLN.64
Attachments: Holiday Homes Submission to Shire of Denmark.pdf
Categories: FORWARDED TO DIR OF PLANNING

Please print for inward correspondence. Thanks.

From:
Sent: Wednesday, 18 August 2010 1:23 PM
To:
Subject: Draft Planning Policy Holiday Homes

Dear Dale/Garry

Please find attached Denmark Tourism Inc.'s submission to Shire regarding Policy 19.3 – Draft Planning Policy 'Holiday Homes'.

Please do not hesitate to get in contact with me or Kim Barrow to discuss any aspect of this submission.

Kind Regards,



DENMARK TOURISM INCORPORATED

73 South Coast Highway Denmark Western Australia 6333

Tel: 08 9848 2055

Fax: 08 9848 2271

Email: ceo@denmark.com.au

Web: www.denmark.com.au

ABN: 87 260 403 659 Lic 9TA 1373

18 August 2010

Mr Dale Stewart
Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

Dear Mr Stewart

RE: INVITATION TO COMMENT - PROPOSED HOLIDAY HOME POLICY

Following please find Denmark Tourism Incorporated's (DTI) comments in relation to the invitation extended by the Shire for public comment regarding the Shire of Denmark's Draft Holiday Home Policy.

The basic premise of a Holiday Home

The definition of what constitutes a second home or holiday home has been a perennial problem. For the purpose of this submission and to provide a context, a Holiday Home is defined as a private dwelling rented out on a series of short-term lets.

The Australian Taxation Office has for many years supported property investment with the use of the negative gearing principle. Holiday Homes are usually funded from personal exertion income and negatively geared to assist with the cost of purchase.

DTI, and its trading arm, the Denmark Visitor Centre (DVC) appreciate and understand that Holiday Homes make a useful contribution to local economies as part of the tourist industry. Useful contributions include but are not limited to:

1. Spending on renovation and modernisation of Holiday Homes brings new income into local economies. This includes employment related to renovation.
2. Through payment of local taxes, Holiday Home owners support public services within the host community without creating additional demands.
3. Spending of Holiday Home owners on local services (such as retail).
4. Positive impact on the built environment particularly with regard to conservation and renovation of previously derelict properties.

Holiday Homes are now, and should always be part of the stock of tourist accommodation available in Denmark and on its periphery. Holiday Homes have a role to play in the Denmark tourist accommodation mix, offering options both price-wise and geographically.

During the 2006 census 32.2 per cent of dwellings in Denmark were classified as "unoccupied". It is likely that these dwellings comprised Holiday Homes. South Coast Properties carries a large inventory of Holiday Homes claiming over 200 rental properties. The DVC has an inventory of approximately 58 Holiday Homes. As these figures suggest Holiday Homes are a sizeable component of Denmark's tourist accommodation stock.

Tourism and recreation is a dominant industry in Denmark. It is undoubtedly a major contributor to the regional economy. Holiday Homes are part of this contribution and therefore community needs to exercise a greater level of understanding, this can be achieved through education (consultation).

In addition, Holiday Homes accommodate the surplus of visitors in peak tourism seasons. During Easter, Christmas and other peak periods the Denmark population swells to capacity with accommodation (those other than Holiday Homes) running at almost 100 per cent occupancy. This demonstrates a need for Holiday Homes to accommodate demand.

The basic premise of the DVC

The core responsibility of the DVC is Visitor Servicing. Visitor Servicing is defined as the provision, to visitors to Denmark, of:

1. Information on attractions, events, retail and local service
2. Information and/or booking services for accommodation and tours
3. Maps and directional information
4. Information on road conditions and transport options
5. General advice on meeting visitor needs
6. Accurate, unbiased objective information.

To enable the DVC to effectively and efficiently fulfil its core responsibility the Denmark tourism industry needs to develop and deliver quality visitor experiences to ensure a sustainable Denmark. In this highly competitive industry, the quality of the visitor experience is the key to success. The DVC ultimately sells the product while the owner/operator maintains the standard of the product.

Property management is outside of the DVC's core responsibility. Property management refers to the overall management of property, specifically responding to and addressing what amounts to maintenance issues. The DVC spends unnecessary time attending to property management related issues which impede staff from effectively and efficiently fulfilling the DVC's core responsibility of visitor servicing.

DTI understand that other organisation/s have suggested that the DVC become an instrument of policy enforcement. DTI strongly believe that the DVC should not become an instrument of policy enforcement. This is outside of the DVC's core responsibility of visitor servicing, and the DVC does not have the resources necessary to undertake such a function.

Draft Policy

The regulation of Holiday Homes has been the focus of considerable and often emotive debate throughout Western Australia over the years.

Holiday Homes are essentially self-regulating not having to legally meet the same stringent planning and/or licencing requirements imposed on other types of tourism operations.

For the Shire of Denmark to elicit greater power over Holiday Homes two things in particular should be considered:

1. The opinion of community: development of policy needs to undergo extensive consultation and scrutiny from community, specifically the home owner group in question. This ensures that community has a sense of ownership of policy formulation.
2. A sustainable tourism industry: policy formulation should be linked with sustaining and developing rural communities, particularly in relation to tourism, alongside the maintenance of quality.

The maintenance of quality is not a complex task. There are existing bodies in place (e.g. Tourism Council Western Australia) that ensure the maintenance of quality through accreditation. The undertone of the draft Holiday Home Policy is to achieve quality through stringent regulation and the imposition of fees. DTI believe that the accreditation process can alleviate most issues concerning Holiday Homes.

The premise of a quality tourism industry – accreditation

DTI believe that the quality of tourism-based businesses can be achieved through accreditation.

DTI strongly encourage all members of the DVC to be accredited to Australian Tourism Accreditation Standards (or higher) thereby improving the quality of visitor experiences. Only a small handful of Holiday Homes are accredited. The Shire of Denmark should encourage and endorse accreditation, which incurs an approximate annual cost of \$250. The compliance related fees proposed by the Shire of Denmark should then be waived.

Tourism Western Australia (Tourism WA), the State Tourism Organisation, encourages accreditation. Tourism WA announced in 2007 a new Accreditation Policy with the purpose to encourage a greater number of tourism businesses to become accredited. The Policy went into full effect on 1 July 2010. From this date, all tourism businesses have to be accredited to participate in many Tourism WA marketing activities.

The Australian Tourism Accreditation Standard is the national quality assurance program established by Tourism Accreditation Australia Limited (TAAL) to encourage excellence in the tourism industry. Tourism Council Western Australia (TCWA), the peak tourism industry body in Western Australia, delivers the Australian Tourism Accreditation Program (ATAP) in this State. ATAP is recognised nationally. DTI as of next financial year (2011/12) will

acknowledge both TAAL approved programs and the ATAP program by offering membership discounts to those tourism businesses that are accredited. This encouragement on behalf of DTI is done in an effort to enhance all tourism businesses, improving industry standards, and to provide consumers with the confidence to make informed choices about the legitimacy and quality of a tourism product.

DTI strongly recommend that the Shire of Denmark endorse and encourage accreditation along with the DVC to achieve higher standards of consistent quality. Achieving accreditation ensures a regulated sustainable tourism industry. (Table 1 provides an indication of the requirements of accreditation – this is by no means an exhaustive list).

It is important to note that the 'Star Rating System' (i.e. AAA tourism) is not a form of accreditation. It only relates to visual standards not business operation.

Locations for Holiday Homes

DTI object to the zoning of Area 3 as an area where Council will not support Holiday Homes.

Denmark has for many years been a country town holiday destination for city and farming families coming to the cool South Coast for a "Country Town" experience. This is the experience of being able to walk to the town centre for a coffee and pick up the morning paper, walk to the restaurant or hotel for drinks and a meal without worrying about being over the .05 limit. Council is in the process of developing iconic parkland along the Denmark River foreshore which DTI are sure will make this area more attractive as a holiday home destination.

DTI don't see it as a constructive move for Council to be taking choice away from these families.

Category	Requirement	Requirement Detail	Requirement Detail
Management	A 24 hour local manager/caretaker is required for all Holiday Homes.	A 24 hour local manager/caretaker is required to be within 30 minutes of the property. The caretaker should be contactable at all times. In the absence of the caretaker a temporary caretaker will need to be made available twenty-four hours a day. Emergency numbers (Police, Ambulance, Hospital, Fire, SES, etc) should be provided.	
	A Management Statement is required.	A management statement should include: <ol style="list-style-type: none"> 1. A Code of Conduct for guests to be clearly displayed inside the Holiday Home. 2. A Fire and Emergency Response Plan. 3. An explanation of how the property will be managed. 4. Who the local emergency contact will be. 	A Code of Conduct should include such matters as: <ol style="list-style-type: none"> 1. No noise or other behaviour that impacts on neighbouring properties. The standard imposed upon holiday home owners regarding noise should be no greater than that imposed on other types of tourist accommodation. 2. A responsible adult (over 18 years of age) to be on the premises at all times. 3. Maximum group size as per planning approval. 4. Emergency contact details. 5. No lighting of fires except in fireplace (where applicable).
Fire and Emergency Response Plan	In all cases, an emergency response	The Fire and Emergency Response Plan should involve:	

	<p>plan (i.e. fire escape route maps, etc) should be required and clearly displayed in a conspicuous location within the dwelling.</p>	<ol style="list-style-type: none"> 1. In accordance with the Building Code of Australia, each bedroom should be fitted with a hard wired smoke detector. 2. A fire extinguisher and fire blanket, in a clearly visible location, should be maintained in proper working order. 3. Outside barbecues should be gas. 4. International symbols should be utilised. 5. Local contact numbers should be displayed. 	
Car Parking	Adequate car bays available	Provision of one off street car space for each bedroom should be provided on the site, two of which may be in tandem formation. The position of the bays and their likely impact on the street and neighbouring properties should be considered.	
Signage	Adequate signage erected	A single sign should be required that shows the local contact phone number for emergencies. The sign should not exceed 1m x 0.2m and be located on or near the property frontage. The height of the sign from ground level should not exceed 1.5m.	
Instructions	A full instruction list/manual for all equipment provided.	A full instruction list/manual for all equipment (i.e. changing gas bottles, lighting stove, hot water system, dishwasher, washing machine, dryer, etc) should be well displayed.	

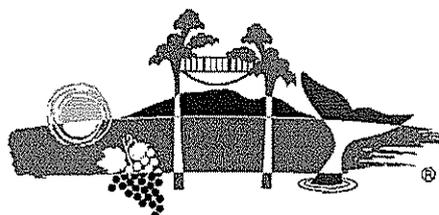
Adherence to accreditation standards will work towards ensuring a sustainable Denmark tourism industry moving forward. The ultimate outcome being that all tourism businesses in Denmark become accredited to Australian accreditation standards (or higher). The Shire of Denmark should consider broadening the Policy in question to encompass all short stay accommodation.

Any policy implemented by the Shire of Denmark regarding Holiday Homes should be introduced over a period of time that encourages and enables Holiday Home owners to transition to the new standard.

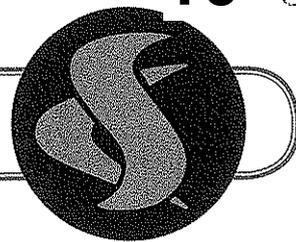
Please do not hesitate to get in contact with me or DTI's Chief Executive Officer Justine Nagorski to discuss any aspect of this submission. Justine can be contacted on 9848 2055 or at ceo@denmark.com.au

Yours faithfully

Kim Barrow
Chair
Denmark Tourism Incorporated



DENMARK VISITOR CENTRE



Energy West Social Club Incorporated

GPO Box L921 Perth 6842
 1st Floor 132 Murray Street Perth 6000
 Telephones: 9326 4076 or 9326 4954
 Facsimile: 9326 6442
 Email: energywestsocialclub@westernpower.com.au
 Web: www.energywest.com.au

Shire of Denmark	
ICR1092544	
19 AUG 2010	
PLN.64	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

President: A. Papadopoff
 Treasurer: D. Bower
 Manager: S. Purcell

16 August 2010

Mr Sam Williams
Director of Planning & Sustainability
Shire of Denmark

Dear Mr Williams

RE: Draft Town Planning Scheme Policy 19.3 – Holiday Homes. (Ref: TPS3/PLN.64)
Energy West Social Club 9 Escort Close Denmark.

Thank you for your recent letter and draft policy document.

We understand your concerns and appreciate the reason that the Shire of Denmark has forwarded for advertising and comment on the above draft policy.

The Energy West Social Club (EWSC) purchased this property in May 1998 for the purpose of short term holiday accommodation for its members. Denmark has, since this date, been a special and popular holiday destination for its members.

The EWSC aim has always been to sustain and comply within the requirements of the Shire of Denmark and the local neighbourhood environment.

In fact, the EWSC complies with all the "objectives" in your draft policy including its tourism support and marketing of the Denmark township. This holiday home is only available to members who are employees of the State's major power and energy companies; Western Power, Synergy, Verve, Horizon and Alinta.

The EWSC is a non profit Incorporated Body and managed by a Board of Management which employs three office staff and a caretaker at each of its holiday homes.

We would be happy to provide any additional information you may require.

Yours sincerely

Alex Papadopoff
President

ll E

Cindy Simpson

From: Duncan Ross
Sent: Monday, 23 August 2010 8:35 AM
To: Cindy Simpson
Cc: Sam Williams
Subject: FW: Draft Polcy 19.3

Follow Up Flag: Follow up
Flag Status: Flagged

FYI

From:
Sent: Friday, 20 August 2010 4:54 PM
To: Duncan Ross
Subject: Draft Polcy 19.3

Attention Duncan Ross,
Dear Sir,

Following a discussion with you regarding the Draft Town Planning Scheme Policy 19.3, I wish to make a submission regarding the use of the definition of a Holiday Home (5) which detirmines that accommodation should not exceed 6 people.

I submit that this is too rigid a requirement, and does not take into account the size of the house, facilities provided, location with respect to neighbours, former history of an existing Holiday Home, and the demand for properties suitable for (say) eight people eg.2 couples with combined 4 children.....I therefore submit that each house be judged on its merits (perhaps by Council inspector or DVC employee). In the case of existing Holiday Homes managed by the DVC, they would have considerable records of (1) the number of beds in each home, and (2) the demand for homes suitable for more than 6 people, and their knowledge should be utilised on this point before a blanket maximum policy is adopted.

Yours Sincerely,

12

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Pls note etc.
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Shire of Denmark	
TCR1082575	
20 AUG 2010	
PLN. 61	
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CEO	
DIR of FINANCE	
DIR of PLANNING	
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DIR of COMMUNITY	
OTHER	

Shire of Denmark
South Coast Highway
Denmark WA
6333

19th August 2010

To Whom It May Concern,

I wish to make a number of comments with regard to the proposed draft Town Planning Scheme Policy 19.3 Holiday Homes.

We own a holiday rental property on Weedon Hill.
This has been a long standing Holiday Rental business that has run very successfully over more than 15 years.
was registered through the Shire of Denmark to be able to use the Denmark Visitors centre as a booking agent.

In that time we have had only one complaint of noise which was addressed.

There are a number of issues that come to mind regarding the Draft Planning Scheme Policy 19.3.

Application of 7.5.1

The manager shall be accessible 24/7, this is a very onerous task, the cost to the owner will be prohibitive and the personal cost to the manager intolerable.
Immediate eviction notice to be applied by manager, this is totally impractical and unlikely to be carried out. Disturbances should be a police matter and not to be judged by someone remote from the situation.

Voluntary Accreditation 7.8

The star rating in many instances does not reflect the suitability of the residence. For eg the difference between a 4 star rating and a 5 star rating is supplying a bedside clock.

The section Conditions of Approval 9

The maximum number of persons accommodated to be restricted to 6. This is impractical as many families looking to have a holiday in a holiday home are often looking to accommodate more than 6, and Denmark benefits greatly from these family groups.

The yearly inspection by the shire and consequent cost to the owner I feel is unnecessary. The success of our business and therefore other similar businesses is dependent on our premises being of a sufficient standard to make for an enjoyable stay. Standards and success go hand in hand and I do not feel that the Shire will have more of an impact than customers.

I am concerned that, although at the moment the proposals do not apply to existing holiday homes, this situation may change due to lobbying by various "interest groups"

In closing I would like to mention that my immediate neighbours on Weedon Hill are very supportive of our holiday rental. They have stated on many occasions that they have never had a problem with living next door to a holiday rental. They in fact bought the block next door to ours , built a home and moved to Denmark from the city because they had spent many holidays renting our property. So were quite aware of the rental nature of the area and chose to live amongst it.

I believe that the success of Denmark as a holiday location is greatly enhanced by the availability of private holiday rentals and I hope that the proposals of the Shire are not too cumbersome and restrictive.

Thank you for your time in reading these comments.
Yours Sincerely

Shire of Denmark
ICR1082585

Peta Leiper

From: Thursday, 19 August 2010 3:26 PM
Sent: Denmark Shire Enquiries
To: SoD FILE REF: PLN.64
Subject:

Categories: FORWARDED TO DIR OF PLANNING

*Creds
Pls note
Sw.*

23 AUG 2010	
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Attention Sam Williams

Dear Sam

On returning from holiday I just read through Policy 19.3-Holiday Homes.

It all looks pretty OK especially emergency plans etc that I cover verbally but having this in print and displayed is a very good idea.. I do have some reservations on some of the additional administrative and record keeping requirements, as well as fees to cover inspection costs.

I do realise that there are some very "ordinary" properties available, based on guest inputs and I experienced this myself some years ago when we declined to stay at one property we had booked through the Visitor's Centre as it was a shocker

We already comply with 90% of the recommendations especially safety with fire alarms, fire extinguishers, fire blankets and a fire fighting system.

However an important point I would like to raise is that of water treatment.

In section 9 you require that tank water be treated with chlorine, ozone or ultra violet.

I investigated all these options and each had it's own advantages and disadvantages. I could detail all of the disadvantages but in brief none of these could guarantee reliable outcomes on taste or sterility, with constant changing of water flows and volumes and deterioration in the efficacy of Ozone and Ultra Violet as well as the cost.

There is also the issue of whether the system is designed to address drinking water from one source (eg kitchen) or every source bathroom, laundry and hose outlets each of which could be used to drink from. E.g. There are people who clean their teeth and rinse out while in the shower! Children will often drink from hoses etc.

Based on my research the most effective solution I found was to install double filtration whole of house systems. These comprise two large filters in line close to the tank outlet. The first from the tank is a 10 micron carbon filter and the second a 1 micron paper filter. The first removes larger particles and improves taste. The second removes microscopic organisms or parasites including *Guardia* and *Cryptosporidium*. Two major potential problems

The two different systems installed cost around \$1500 with replacement filters about \$50-60 each so the annual maintenance cost is about \$200 for both systems. A single system would be half this cost.

This does cover every water outlet and also many guests have commented on how good the water tastes. So not only is their health protected but the taste is excellent.

I previously had filtration systems for the kitchen only but recognised the deficiency of this and so went to whole of house.

Perhaps you could include such a system is those allowed with the proviso that one filter is 1 micron or better if you require the system to take out the Guardia and Cryptosporidium.

Regards



Shire of Denmark
ICR10825916
23 AUG 2010
PLN.64

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FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Peta Leiper

From: Tuesday, 17 August 2010 2:48 PM
Sent: Denmark Shire Enquiries
To: Comment on TPS Policy 19.3 SoD FILER EF: PLN.64
Subject:
Categories: FORWARDED TO DIR OF PLANNING

I submit the following comments on TPS Policy 19.3 - Holiday Homes.

There appears to be a contradiction between the correct statement in Section 6 that Council cannot apply the policy to operators with planning approval already, and Section 7.6 regarding an annual fee and registration. Do existing operators have to re-register annually? In section 6 you sensibly suggest that existing operators should be encouraged to voluntarily comply with Section 7.5. "In the case of an established permitted holiday home, the owner is encouraged to prepare a property management plan Will registration and payment of the fee as referred to in 7.5 be voluntary? Will Holiday Homes with existing approval be subject to an annual inspection and fee? Section 6 would indicate that they would not.

I would advise Council to delete or amend Section 7.7. "At the time of annual registration, those houses that no longer are available for holiday homes purposes shall be removed from the holiday homes register, and hence approval is withdrawn." The reality for many one-dwelling operators is that due to the great vagaries in tourism peaks, some operators move between offering their homes as Holiday Homes and putting them on the normal residential rental market.

In the interests of good planning policy, sustainability and community harmony, this flexibility is important. As the needs of growing or waning employment in Denmark changes, it is beneficial to have approved "Holiday Homes" available for the rental market.

To automatically have approved Holiday Homes lose their approvals, owners may be persuaded to leave their homes empty rather than offering them for a three-month or six-month rental.

If you have a legal opinion already that "no longer are available" does not apply to a home temporarily on the rental market then that should be included in the policy.

Yours sincerely,

Cindy,
pls note
S.

Cindy Simpson

From: Sam Williams
Sent: Monday, 23 August 2010 11:16 AM
To: Cindy Simpson
Subject: FW: Comment on TPS Policy 19.3 SoD FILER EF: PLN.64

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: Peta Leiper On Behalf Of Denmark Shire Enquiries
Sent: Monday, 23 August 2010 10:47 AM
To: Sam Williams
Subject: FW: Comment on TPS Policy 19.3 SoD FILER EF: PLN.64

PRINTED & SAVED @ CENTRAL COMPUTER

-----Original Message-----

From:
Sent: Tuesday, 17 August 2010 2:48 PM
To: Denmark Shire Enquiries
Subject: Comment on TPS Policy 19.3 SoD FILER EF: PLN.64

I submit the following comments on TPS Policy 19.3 - Holiday Homes.

There appears to be a contradiction between the correct statement in Section 6 that Council cannot apply the policy to operators with planning approval already, and Section 7.6 regarding an annual fee and registration. Do existing operators have to re-register annually? In section 6 you sensibly suggest that existing operators should be encouraged to voluntarily comply with Section 7.5. "In the case of an established permitted holiday home, the owner is encouraged to prepare a property management plan Will registration and payment of the fee as referred to in 7.5 be voluntary? Will Holiday Homes with existing approval be subject to an annual inspection and fee? Section 6 would indicate that they would not.

I would advise Council to delete or amend Section 7.7. "At the time of annual registration, those houses that no longer are available for holiday homes purposes shall be removed from the holiday homes register, and hence approval is withdrawn." The reality for many one-dwelling operators is that due to the great vagaries in tourism peaks, some operators move between offering their homes as Holiday Homes and putting them on the normal residential rental market.

In the interests of good planning policy, sustainability and community harmony, this flexibility is important. As the needs of growing or waning employment in Denmark changes, it is beneficial to have approved "Holiday Homes" available for the rental market.

To automatically have approved Holiday Homes lose their approvals, owners may be persuaded to leave their homes empty rather than offering them for a three-month or six-month rental.

If you have a legal opinion already that "no longer are available" does not apply to a home temporarily on the rental market then that should be included in the policy.

Yours sincerely,

Draft Policy Holiday Homes

We disagree with an annual fee & registration of holiday homes. This is an unnecessary bureaucratic fee on a yearly basis. If it's to pay for the annual inspection, which, for some unknown reason is considered important, why aren't permanent rentals inspected?

We disagree with a holiday homes register and homes being removed from the register if no longer available. There may be times when owners don't want to rent the home but don't want to lose the approval.

If absentee owners have houses in town, they will be empty anyway so there is little point restricting who they can rent to. It is better to have someone there from time to time than no-one at all. Short term rental will help them pay their rates so they shouldn't be discriminated against by not being allowed to rent their homes.

Unsatisfactory permanent rentals, and there's plenty of them, can conceivably cause more disruption than occasional short term holiday makers but there are no restrictions on permanent rentals.

High rates are now putting pressure on absentee owners who may need to make their asset pay its way. The Shire should remember that absentee landlords, paying maintenance & services, contribute significantly to the local economy.

Why does the council need to know who utilises the holiday home? Surely that's the business of ATO.

Why do holiday homes have to meet such stringent conditions? If clients don't like what they get they won't come back again. Most people can view what they are going to rent over the internet.

Shire of Denmark	
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23 AUG 2010	
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SCANNED

Cindy
As mte.
S.

Shire of Denmark
ICR1082602
23 AUG 2010
PLN64

16

Peta Leiper

From: Claire Thompson
Sent: Wednesday, 18 August 2010 11:43 AM
To: Denmark Shire Enquiries
Subject: FW: Holiday Homes SoD FILE REF PLN:64 P
Attachments: Holiday Homes Covering Letter.doc; 100805 Holiday Homes - Final Report to Shire.pdf
Categories: FORWARDED TO DIR OF PLANNING

DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

For inward correspondence. Thanks.

-----Original Message-----

From: Denmark Chamber of Commerce [mailto:denmarkchamber@westnet.com.au]
Sent: Wednesday, 18 August 2010 11:38 AM
To: Claire Thompson
Subject: Holiday Homes

SCANNED

Hi Claire,
Please find attached a covering letter from Gail Guthrie and a copy of the Chamber's Report for consideration by the Shire.

Denise Legge
Projects Manager
Denmark Chamber of Commerce
Office Hours: 10.00am - 4pm, TUES, WED & THURS
Tel: (08) 9848 2065
Fax: (08) 9848 2063
denmarkchamber@westnet.com.au

*Copy,
Pls note and
take on board
any comments.
S.*

Denmark Chamber of Commerce

P.O. Box 148

Denmark

WA 6333

5th August, 2010



The CEO

Shire of Denmark

South Coast Hwy

Denmark WA 6333

Dear Dale

Re Holiday Home Policy

The Tourism Sub-Committee of the Chamber has reviewed the draft Holiday Home Policy and has compiled a comprehensive report (see attached).

The key conclusion from that report is that, whilst the Sub-Committee welcomes the Shire's initiative to regulate the Holiday Home sector, it believes the goal of firmly establishing Denmark as a wonderful place for quality and diverse accommodation may not be attainable unless all sectors of the Short-Stay Accommodation industry operate on a level playing field. In other words, the Sub-Committee believe the Shire ought to first adopt a whole-of-industry view and then develop a regulatory framework that best serves the entire industry.

In order to validate these conclusions, the Chamber distributed a copy of the Sub-Committee's report to all Chamber members – being those who have a direct involvement in providing diverse short-stay accommodation as well as those who are general business proprietors with either indirect connection with tourism or no involvement in the accommodation industry. The response was supportive of the Sub-Committee's conclusions and recommendations – not only does it make good sense to adopt a whole-of-industry view and regulate accordingly, but that it makes no sense to only regulate a part of the industry, as the Shire's draft Holiday Home policy is suggesting. The policy must cover all operators so that a level playing field is established – once established, normal competitive market pressures will gradually weed out any poor performers and reward those who provide a product that the market wants. The Shire's proposals will exacerbate the current problems by creating two classes of Holiday Homes – the "fully compliant" and the "fully non-compliant" – which, in essence, will allow the poor performers to continue to operate. As the attached report explains, the tax benefits of a negatively geared investment in a Holiday Home will encourage those operators to maintain their "fully non-compliant" status-quo unless forced to improve their facility or opt to vacate the industry. Proceeding along these lines, as the Shire is proposing, is not supported. The policy must be such to cover all operators, not just those being registered in the future.

Whilst this recommendation seeks more governance, it does so only to the extent of normal good business practice as is already carried out by the mainstream of operators in the shire. To support the costs involved to regulate such a policy, an annual inspection fee could be charged, with substantial discounts for those who voluntarily achieve accreditation or star ratings, thereby guaranteeing the levels of compliance needed to meet the policy, yet not penalising those already meeting such requirements.

Accordingly, the Chamber seeks dialogue with the Shire to assist in the preparation of a road-map to achieve the regulation of the whole-of-industry.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'G.P. Guthrie'.

Gail P. Guthrie

President

Denmark Chamber of Commerce

DENMARK CHAMBER OF COMMERCE
Tourism Sub-Committee

FINAL REPORT

Comments on the Shire's Draft Holiday Home Policy

1. Overview

1.1 The Chamber of Commerce endorses the Shire's endeavour to regulate the Holiday Home sector of the Short-Stay Accommodation industry in Denmark. However, that endorsement is limited and tempered by concern that only the Holiday Home sector of the industry is now proposed to be regulated. The Chamber presents argument that the endeavour ought to be – more so, that it must be - directed at regulation of the entire Short-Stay Accommodation industry with a goal of creating a "level playing field" for all accommodation providers (see *footnote 1*).

1.2 If this outcome can not be achieved then the desired benefits of the proposed Holiday Home Policy, of what ought to be the first step towards "levelling the playing field", will not only be lost but will "permanentise" the problems of the Short-Stay Accommodation industry. At a higher and over-arching level, the benefits that the Chamber envisages to be attainable through industry-wide regulation, namely, to improve and firmly establish the reputation of Denmark as a great holiday destination, may be unattainable.

2. Characteristics of the Industry: Justifications for a "Level Playing Field"

Overview

2.1 There are a number of different profiles that illustrate the conflicting and disparate characteristics of the industry that give testimony to the problems being experienced now in the promotion and development of the industry. An understanding of these problems, and the factors that contribute, is an essential pre-requisite to establish the framework within which any new Policy is to operate and against which the outcomes can be measured for their success or failure. Whilst the foregoing may appear to be a glib catch-all statement, it is at the heart of the Chamber's concerns.

For the purposes of this document, the Short-Stay Accommodation industry can be segregated into two groups -

- (a) On-site owner / manager (as is typical of chalets). Some meals, such as breakfast (as is typical of B&Bs) or provisions for breakfast (as is typical in some chalets and villas) are (or may be) provided. Main meals may also be provided on-site by prior arrangement more particularly in locations remote from restaurants and shops.*
- (b) Off-site owner / manager (as is typical of all Holiday Homes). No provisions for any meals are provided.*

2.2 The Shire's perspective, understandably, approaches the current Holiday Home situation with a planning focus as that is the only statutory instrument the Shire has. Conversely, as important and essential as the planning focus is, those who are involved in the industry start with a focus on economic considerations, of which the tax benefits from negative gearing of an investment is a very important contributing factor, as to whether an investment is likely to succeed or fail. Inevitably, these two perspectives will clash. The challenge is to find an equitable balance -- a level playing field.

2.3 The Shire's proposed regulatory regime creates the foundations, the essential platform or the "rules of the game" if you will, upon which those economic determinations will then be added. It is the bottom-line net annualised and the after-tax return to an investor that will indicate if the regulatory policy platform is acceptable or not. If the planning-based regulatory policy does not create a level playing field then all the subsequent economic assessments will be skewed and unfairly distorted. In these circumstances, investors will walk away - every accommodation provider, big or small, is an investor -- and will not be inclined to upgrade or re-invest to improve their facility if the base platform is unfairly distorted. The existing base platform, created by the Shire's lack of past regulation of the Holiday Home sector, upon which the Shire is now trying to build its new policy is already grossly distorted. It is a problem that the Shire has created.

2.4 It is these matters that the Shire does not understand, but regrettably has not even tried to understand, prior to releasing its proposed policy that otherwise prior consultation with the industry would have contributed.

Outcomes of the Planning Approval Process.

2.5 The commercial Short-Stay Accommodation providers -- those who have invested significantly to develop or adapt purpose-built accommodation facilities - have had diverse restrictive conditions imposed on them by virtue of the Town Planning Scheme's Development Application approval process that has allowed them to operate within designated zones, predominantly Tourist, Commercial and Rural. By stark contrast, those who operate a Holiday Home are doing so in ordinary dwellings in a Residential zone. They have been allowed by a nominal DA approval process to convert that ordinary residential dwelling into a "commercial-Holiday-Home-in-a-Residential-zone" without any restrictive conditions from the Shire for any physical enhancement(s) to the subject dwelling to make it more suitable (eg disability access) as a tourist accommodation facility.

Motivation to Invest.

2.6 Those who own a Holiday Home have not necessarily been motivated by any desire to own and operate a tourist accommodation facility per se. Whilst there are some notable exceptions, they have had a more compelling desire to gain the tax benefits of an investment - any investment - that can be negatively geared. It has not been the role of a local real estate agent to caution the prospective investor of the pitfalls, nor to emphasise the commitment required -- ongoing financial as well as personal -- to be an active participant in the promotion, marketing and development of the local tourism and tourist accommodation industry, albeit all for the agent's fear of losing a sale. The investment decision has also not been reliant on any prior experience of owning and operating a tourist accommodation facility - all tasks involved in managing the property can be delegated to a local caretaker whilst the investor maintains their lifestyle as a distant

absentee-owner many of whom may rarely visit Denmark. The extreme shortages of accommodation in Denmark during the peak summer period would also seem to validate an agent's enthusiastic assurances of the potential for good annualised returns of an investment in holiday accommodation.

2.7 Conversely, those who have invested in a commercial facility have done so, first and foremost, because they have had prior experience and awareness of the tourism industry and its fickle demands and/or have wanted to own and operate a tourist accommodation facility. Not only has it been an investment decision that negative gearing has helped make feasible, it has also been a lifestyle choice to be an owner-operator requiring an active participation in the promotion of the local tourism and tourist accommodation industry.

Contribution to the Industry.

2.8 Notwithstanding how the acquisition of the property may have been justified or facilitated, there has been little further motivation, aided and abetted by no regulatory demand from the Shire, for the investor to improve a Holiday Home to make it more attractive for tourists and thereby increase their occupancy rates and annualised yields. Indeed, the tax benefits of negative gearing still apply even if the investment has a negative yield. With reliance on the local caretaker to "clean the gutters just before the Rangers do their annual inspection for fire regulation compliance", their marketing strategies have invariably had reliance on the services of a booking agency to put spin on an advert and just hope for the best.

2.9 Conversely, the owner-operator has reliance on his/her management, marketing and one-on-one people skills to promote their business competitively, but collaboratively, within the confines of the local tourist accommodation industry. In this regard, it is noteworthy that nearly all such businesses have membership of AAATourism and/ or the WA Tourism Council or similar as instruments for the promotion of their businesses. Not so with the bulk of Holiday Homes.

Summary of Disparities

2.10 The "chalk and cheese" disparities of the Short-Stay Accommodation industry can succinctly be seen as the absentee-owner of a Holiday Home being reliant, and reaping the derivative benefits, from the continuing investments of the commercial operators for the "*promotion, marketing and development of the local tourist accommodation industry*" without themselves actively participating in the local industry or contributing – materially, financially or personally - to the gain of those industry benefits. It is a very lopsided equation.

2.11 It can also be said that the lack of active participation or contribution by the holiday home owners towards the promotion and development of the local tourist accommodation industry, the enthusiastic and unrestrained selling of holiday homes by local real estate agents, and the Shire's belated interest in the poor quality of some establishments, has had and is continuing to have a damaging negative impact on the local tourist accommodation industry – a visitor's bad experience at one establishment invariably tarnishes the local tourist industry as a whole.

2.12 All of these disparities are what characterise the current imbalance of the playing field. The imbalance is penalising the entire Short-Stay Accommodation industry's desire and capacity to move forward and invest further in the provision of quality Short-Stay Accommodation in Denmark. Those investments need a secure regulatory environment and it is for this overriding, and if for no other more compelling reason, that the Chamber promotes regulation of the entire industry.

2.13 Balancing these disparities is a difficult challenge in Policy formulation for the Shire. Regardless of anything else, the solution is not to regulate only a part of the industry (that is, only the Holiday Home sector) in a way, as will be highlighted, which will accentuate and permanentise the current problems in the industry. It is against this industry-wide perspective that the Chamber has compiled its views on the draft Holiday Home Policy. The Chamber urges the Shire to also adopt this whole-of-industry view and to not further marginalise a sector of the industry (ie the Holiday Home sector) against the industry's goal to provide quality, diverse and affordable accommodation in Denmark that firmly establishes Denmark as a great holiday destination.

3. Observations & Recommendations

The Chamber observes, and where appropriate, recommends as follows:

3.1. Re - Clause 6 Approval Requirements.

Clause 6 – Application of Policy

Any planning consent granted for Holiday Homes prior to the adoption of the Policy will not require the approval requirements under Section 7.5 of the Policy to be met.

3.1.1 The Chamber expresses disappointment, and has heightened concern, that the draft Holiday Home Policy will only apply to new applicants and that all the existing Holiday Homes will gain automatic transition to the new regulatory regime and will not have to comply with the new approval criteria, most particularly of Clause 7.5. In other words, the draft Holiday Home Policy will, by default, be creating two categories of Holiday Homes:

- o Category A – being any future Holiday Home who must comply with the Policy's new approval criteria (specifically with regard to Clause 7.5 Property Management)
- o Category B – being all those existing Holiday Homes who will be given an exemption to Clause 7.5 if they do not voluntarily chose to comply with Clause 7.5

3.1.2 The creation of two categories of Holiday Homes – by giving an existing Holiday Home an exemption to Clause 7.5 - will allow many of the existing Holiday Homes to maintain their existing unregulated status-quo and to now be regulated as "non-compliant" in perpetuity – the Policy will regulate the unregulated! In other words, the current historical problems created by the absence of past regulation of the existing Holiday Homes have ever likelihood that many of those homes will remain unchanged for ever one notable example being that they will not be required to have a 24/7 property manager (see footnote ²).

² This is one example where the draft Policy is accentuating the imbalance of "the playing field" by permitting those existing unregulated Holiday Homes to continue to operate permanently in the new regulated environment but with minimal if any change from the current status quo.

3.1.3 Whilst the Chamber is concerned about the creation of dual categories of Holiday Homes, it does not have any constructive counter-proposal to suggest how the mentioned historical problems might be better addressed by regulatory means within the confines of the proposed Holiday Home Policy. Conversely, the Chamber's view is that the most effective way to resolve the historical problems will be for the Shire to focus on levelling the playing field for all Short-Stay Accommodation providers and to then rely on competitive market pressure to progressively weed out the non-conforming or the poor-performing operators. The latter will not occur with the current imbalance.

3.1.4 The Chamber highlights the Shire is not in the business of running holiday accommodation, nor are they experts in this area, nor is it their business to promote the activities of either AAATourism or the Tourism Council of WA albeit disguised (in Clause 7.8) as a proposed reduction (unspecified) in the annual registration fee (also unspecified) if a business gains accreditation or a star-rating. Expressed differently, it is not the role of government at any level to try to pick winners in the private sector and those governments that have dabbled in that game, notwithstanding the good intent, have failed dismally. The Shire's business, and its overriding priority, ought to be to set the common basic rules for all operators and to take appropriate steps to maintain the amenity of any area within which Short-Stay Accommodation is permitted. That said, the Chamber recognises the difficult problem that the Shire has to find ways to now un-approve the conditions of approval already given for Holiday Homes to operate that were given without any regulatory framework.

3.1.5 Notwithstanding the difficulty, the Chamber is aware of an option for the Shire to introduce a new TPS planning by-law for Holiday Homes that might force new conditions on all. The Chamber understands that option may be potentially plagued by legal challenge from those existing Holiday Home owners who may feel aggrieved at being forced to re-gain approval to different if not more stringent conditions which may diminish an owner's trading profits. If the Shire rejected their objections, and they then (potentially en-masse) took their objections to the State Administration Tribunal, the likelihood of their potential success in gaining an over-ruling of the Shire may produce an outcome more negative than what the Shire is trying to solve. However, in saying this, the Chamber would be supportive of the Shire taking such measures only if the outcome could avoid duality where ALL Holiday Homes became fully compliant (*see footnote*³).

3.2 Re - Clause 7.8 Voluntary Accreditation

3.2.1 The Shire's proposal in Clause 7.8 for a reduction in the annual registration fee if the owner gets accredited and a star-rating is not only an incentive to encourage voluntary migration to full compliance (ie, to the new approval requirements of Clause 7.5) but is an expectation that, having gained accreditation and a star-rating, the quality of accommodation will improve and, overall, Denmark's reputation as a great holiday destination will be enhanced

³ References to "non-compliance" and "full compliance" in this document are references to the provisions of Clause 7.5 being imposed on new applicants but not on existing Holiday Homes. References to "duality" are to the situation where there will be two categories of Holiday Homes created by the new Policy (see para 2.1.1).

3.2.2 It is the Chamber's view that, as a measure designed to encourage migration towards full compliance (see footnote ⁴) and to ultimately improve the quality of accommodation in Denmark, the nature of that incentive is misguided and will have negligible effect. As previously stated, a Holiday Home owner has no incentive to invest further when the negative geared tax refund cheque arrives regardless, and will continue to do so in perpetuity, from an investment in a (now) "regulated non-compliant" holiday home.

3.2.3 More comment on this is provided in Appendix A where it is concluded that the cost of full compliance to the new Policy (that is, compliance to the new approval criteria in Clause 7.5 and to voluntarily gain accreditation and a star-rating to gain a reduction in the Shire's annual registration fees) is estimated to be about 18-22% of typical annual rental incomes.

3.2.4 Perhaps there is a hidden meaning in these compliance cost figures to suggest that the Shire's annual registration fee should be as high as possible (imposed as a penalty for non-compliance) with commensurate high discounts (offered as a reward) if an owner gains accreditation (which costs about \$300pa) and a star-rating (available only to members of AAATourism which costs about \$250pa). This penalty-reward formula for the design of the Shire's annual registration fee would not be an additional cost penalty for those who already have an accreditation and a star-rating but would be for those who don't and/or those who have no intention to do so, albeit for the tax refund priorities already mentioned. As such a (very) high annual registration fee might force some owners of marginal properties to dispose of their Holiday Home investments and if that happened it might be a good thing in promoting an early weeding out of those who may have been attracted to invest for the wrong or mis-guided or mis-informed reasons.

3.2.5 As another perspective, the Chamber does not agree that offering a reduction in the annual registration fees to have an external accreditation and for getting a star rating is the only tool to achieve full compliance (to Clause 7.5) as a regulatory instrument designed to enhance Denmark's image as a great holiday destination. More the point, it is disguising what the Chamber believes to be the correct tool - market pressure - which will achieve maximum effect if there is a level playing field. Time will eventually bring about higher levels of full compliance as marginalised operators withdraw and competition forces owners to meet the demand of visitor expectations. However, the time delay to achieve this desired outcome without an industry strategy, without collaboration and participation by all participants, and without a level playing field may see Denmark's reputation as a great holiday destination slide whence the time-cost-effort for recovery may be daunting if not elusive.

3.2.6 Further, the perception implied above and an inherent feature of the Shire's proposal, that accreditation and star-ratings will help to enhance Denmark's image as a great holiday destination, also can not be assumed. What encourages property owners to improve the standard and quality of their Short-Stay facility is an improved occupancy rate at a satisfactory rental rate with few if any complaints. The over-arching question remains

⁴ Clause 7.8 also has another important objective that, by encouraging a property to gain accreditation and a star-rating (to encourage Holiday Home owners to improve the quality and management of their facilities) it will also ultimately promote Denmark as a great holiday destination. Whether that is the best and the only way will be discussed later.

as to what is the best pathway to get there? The Chamber reiterates its view that the regulation of Holiday Homes in the manner proposed by the Shire in the draft Policy is not the appropriate pathway. Important and necessary, yes - but there needs to be a whole-of-industry focus.

3.2.7 The two central players in the marketing of Short-Stay Accommodation in Denmark are the DVC and South Coast Properties who between them list a large percentage of the 170 Holiday Homes already approved by the Shire (ignoring the other forms of short-stay). DVC advise that they currently have a listing of 57 Holiday Homes in Denmark Shire. South Coast Properties have not advised the number of Holiday Homes they have listed within the Shire but have advised a total of "about 280 from Esperance to Margaret River". The balance of the listings are understood to be Perth-based agents and/or internet booking services.

3.2.8 It might be said that the DVC and South Coast properties could play a significant role in helping to bring about higher levels of full compliance by "*encouraging*" the property owner to voluntarily gain full compliance to the new Policy. It would be nice to say "*requiring*" the property owner to gain full compliance before accepting a listing but that demand would be putting both players - DVC and South Coast - in the role of enforcers of full compliance of the Shire's policy that the Shire itself is unable to enforce. While South Coast as a real estate agency may be free to impose any conditions that it wishes, such may be very difficult if not impossible for DVC who it is understood, under the Trade Practices Act, are constrained in not being able to impose different listing criteria on different Short-Stay Accommodation providers (*see footnote* ⁵).

3.2.9 If the DVC is to require a Holiday Home owner to have a "24/7 Property Manager", "a Code of Conduct", "a disturbance containment plan", "a Lease Agreement to provide for immediate eviction of the tenant", etc -- all of which are mandatory provisions to achieve full compliance in the Shire's draft Policy that the Shire itself is struggling to find ways to impose -- then the DVC must require those provisions to be satisfied by ALL accommodation providers that it lists not just the Holiday Home owners (*see Appendix C for copy of the DVC Membership application form that details what they currently expect of an accommodation provider / member as a pre-requisite for a listing.*)

3.2.10 That said, these constraints on the DVC are seen as another supportive argument for the Chamber's view that all Short-Stay Accommodation providers should be regulated and not just the Holiday Home sector as the Shire is proposing. If a whole-of-industry solution can be achieved then the DVC and South Coast Properties, and all other booking agents, would be greatly advantaged in only requiring a Short-Stay Accommodation provider to be registered with the Shire as their sole condition for taking a listing it being assumed that the Shire's whole-of-industry Policy addressed all the essential provisions.

3.2.11 It goes without saying that if visitors to Holiday Homes have complaints they should be encouraged to complain back through the booking agent or home owner. This could be facilitated if the booking agents used modern technology that provides opportunity for visitors to tweet their experiences in an online feedback system that is viewable by future prospective visitors. The DVC and South Coast Properties both utilise the BookEasy system which does not (yet) provide tweeting feedback capability. Conversely some

⁵ Advice from Ian Osborne, former Manager DVC

operators who have used a tweeting system say that the feedback can be overtly vindictive and that they can not interpose for the removal of such comments.

3.2.12 Finally, visitors could be encouraged to offer some practical and helpful suggestions -- very simply, by the property owner providing a "Please Give Us your Feedback" form combined with offering a not-insignificant discount on their next visit to Denmark -- is also a valuable tool to encourage property owners to improve their accommodation facilities. These and other suggestions ought be consolidated in a whole-of industry strategy that encourages all operators to adopt the same or similar practices. At the other end of the spectrum, there is certainly no point in being the most luxurious and expensive accommodation provider in Denmark if there is poor occupancy - in which case Denmark's reputation as a great holiday destination would also suffer but for very different, but equally damaging, reasons.

3.3 The Release of the draft Policy for Public Comment is Premature

3.3.1 Concern has already been expressed that the Shire has not consulted with the industry prior to the release of the draft Policy to the public for comment. Aside from that, the Chamber is further concerned that the document released for comment has many significant proposed provisions that are not explained or are vague, are flawed and/or are misleading with consequence that the Chamber, and more so, the general public, is unable to provide informed comment on those proposed provisions.

3.3.2 This gives reason to conclude that the document is a "rough draft" and its release to the public for comment is premature. Because of this, the necessary corrections and modifications to the draft Policy will inevitably and significantly change the modalities and thrust of the Policy. Under these circumstances, the Chamber would expect Council to recognise the public's entitlement to have a further opportunity for comment on a second draft document that will have, hopefully, resolved the issues identified in the current draft. Further, the Chamber highlights that the Shire's lack of consultation with the industry combined with its preparedness, perhaps naively but knowingly, to release a document that contains many significant issues that the Shire has not been able to explain to Councillors nor justify for their appropriateness, is far from being best practice and does little to enhance its engagement with the community. More the point, it has the opposite effect of fuelling dis-engagement.

3.3.3 More specifically:

(i) The proposed provision (in Clause 7.5.1) that, as a condition for annual registration by the Shire, the property owner shall ensure there is "a lease arrangement to allow for immediate eviction by the owner / manager / Council where the tenant's behaviour is unacceptable" is legally flawed.

(a) Contrary to what the Shire is proposing, the "owner / manager / Council" have no legal grounds to "immediately evict" a tenant. The only way a tenant can be evicted is by a Court Order -- a process which may take a minimum of 4 weeks. Conversely, in the event of any noise disturbance anywhere, the Police have power to immediately evict any "non-domiciled guests" (but not a domiciled tenant) by use of the Noise Abatement Direction Notice provisions of the Environmental Protection Act.

- (b) The Denmark Police advise that, while they have never had to process an "eviction" from a Holiday Home, it is best for them to accompany a property manager on a site visit if the latter has problems that (s)he can not resolve. In this context, their presence has everything to do with providing the property manager with moral support and protection in the event of any physical escalation of a disturbance. Their presence may also help the property manager achieve an early termination of the tenancy by embedding anxiety into a disruptive tenant of what the Police might do if the tenant resists a property manager's request to vacant the premises.
- (c) Such measures would indeed be very extreme and are best left with the Police to manage and implement as they see fit. As an alternative approach, the Chamber urges the Shire, but preferably the Police themselves, to inform the community – generally, and not just in regard to Holiday Homes – of the protocols that the Police have adopted for containment of any disturbance anywhere.
- (d) The above advice from the Police, that they would expect to accompany the property manager in such (extreme) situations, will not be effective if that "property manager" happens to just be the "local contact" or the "caretaker" who is only responsible for "cleaning the gutters" and "changing the linen", or who turns their mobile phone off to imply "Do not disturb". Further comment on this is made below.
- (ii) The Shire provides no guidelines, that would enable the Chamber to otherwise provide some informed comment, as to what it considers might be a minimal or a desirable "code of conduct" (in Clause 7.5.1) that might be used as a benchmark – for the property manager and for the Police - to determine if a person's behaviour is "unacceptable".

<p>Recommendation – In the absence of any guidelines from the Shire, the Chamber endorses and recommends the parameters of a Code of Conduct put forward by the Police (see footnote ⁶), namely</p>		
<i>Parameter</i>	<i>Conditions</i>	<i>Chamber's Comments</i>
<ul style="list-style-type: none"> ▪ <i>Noise disturbances</i> 	<p><i>Noise should start a downward trend from 10.30pm onwards, when the occupants should move indoors, and any noise thereafter should not be discernible beyond the property boundary. Noise should also not occur before 6am in the morning.</i></p>	<p><i>The Police highlight that Denmark's long valleys and hilly terrain, combined with calm atmospheric, can accentuate noise problems and they give example of evidence of a noise disturbance being some 14km from the source;</i></p>

⁶ Source reference - "Denmark Police Local Policy" guidelines for a suitable Code of Conduct applicable to any establishment

<ul style="list-style-type: none"> • <i>Parking of cars, boat trailers and caravans</i> 	<p><i>Parking of cars, boat trailers and caravans on the verge should not create a traffic hazard</i></p>	<p><i>Traffic hazard primarily occurs in hilly neighbourhoods, where there is limited off-street parking and very narrow or no constructed verges such as in Weedon Hill. There are anecdotal reports from residents that they have been called to help visitors trapped down steep driveways and unable to get their vehicles out and have needed to be pulled out by tractor or 4WD.</i></p>
<ul style="list-style-type: none"> • <i>Damage to the property and its contents;</i> 	<p><i>Property owners should ensure their Terms and Conditions cater for the restitution of any damage to the property.</i></p>	
<ul style="list-style-type: none"> • <i>Strict limits on the max number of occupants</i> 	<p><i>The max number of occupants (as also proposed by the Shire) should be 6 persons which should also be inclusive of any casual non-domiciled "drop-in guests" of the tenants.</i></p>	<p><i>It is not uncommon that guests of a tenant, after a boozy party the night before, offer the excuse the next morning that they could not drive and had to stay the night. More often than not, that "one night" often extends for the duration of the tenancy unbeknown to the property manager – these "drop-in guests" become defacto tenants and need to be counted in the limits on occupancy</i></p>

In the above, it is the "noise" disturbance (of which an unrestricted number of occupants, and no constraints on off-street parking are physical indicators of the likelihood of partying and potential excessive noise) that collectively precipitates most complaints from residents. The above conditions, where the Police suggest that noise should start a downward trend after 10.30pm is, in their judgement, what the Denmark Police currently adopt with their best intents. Nonetheless, the generality of the cut-off time that the Police adopt disguises the nature of the problem which is that the "degree of disturbance" from a noise disturbance is also location dependent. It ought not be assumed that it is acceptable, but it is mentioned solely for illustrative and comparative purposes, where a 12 midnight cut-off time might be OK for a remote rural property, whereas in the centre of the Denmark CBD it certainly is not. Currently, the Police try to use "their best judgement" of what cut-off time is acceptable which may satisfy some and upset others as being unacceptable.

The noise problem seems to have become more of a problem in the outer urban fringes of the CBD where most of the Holiday Homes are located – in areas initially zoned as Residential but suddenly interspersed with "commercial Residential" Holiday Homes. And herein lies the crux of the problem, not only for the Shire from a planning perspective as to where such facilities can be located, but also for the Police who have the unenviable task of trying to contain the problems (of noise disturbances) that the Shire itself has not been able to regulate for. More the point,

the Shire has not in the past seen regulation of the Holiday Homes to be necessary - its approval of more and more holiday homes has continued unabated whilst it has remained somewhat oblivious to the consequential negative impact on the amenity of the Residential areas.

So what is the solution? It is unfair for the Shire to rely on the Police to do what the Shire itself cant do – they have far more important duties to perform in making our community safe - while the residents are trapped somewhere between the two with no one, least of all the Shire itself, with its Office Hours of 9 to 5, Monday to Friday, impotent to respond to a noise disturbance at 2am on a Saturday night.

The Chamber sees the following as a possible solution to the noise disturbance problem where each of the following are mutually dependent on each other for overall effectiveness:

- (a) to impose strict limits on the maximum number of occupants that a facility is registered for (proposed as 6) with an infringement penalty under the Planning & Development Act and/or de-registration of the Holiday Home owner for second offences;
- (b) to require all vehicles to be parked off-street that would likewise be a Planning & Development Act penalty, if not also a Traffic Offence for the Police for an infringement if traffic safety is affected.
- (c) to designate a number of troubled neighbourhoods as "Residential zones" which, once designated as such, may then allow some zonal noise cut-off time as a Planning condition. (This suggestion is not only a response to the concerns of residents but to try also make the Police enforcement tasks more manageable and more removed from their current one-shoe-fits-all response protocols.

Recommendation

In response to the noise disturbance problems predominantly affecting residents, and the containment demands that are currently solely reliant on the Police, that the Shire designate a number of troubled neighbourhoods as "Residential zones" that have the following zonal "noise" and other Planning approval conditions and to be applied retrospectively on ALL short-stay accommodation:

Planning zone	Noise cut-off (see footnote ⁷)	Max no of occupants	Parking conditions	Speed limits
Designated "Residential zone"	9pm	Less than 6 (?)	All off-street	40 kph
Non-designated Residential zone	10.30pm	6	All off-street	50 kph
Tourist zone (and other zones)	12 midnight (?) (or as set by owner)	As per planning approval (or as set by owner)	As per planning approval (or as set by owner)	Location dependent

⁷ The Denmark Police advise that their assessment of "noise cutoff" means that noise should not be detectable externally beyond the boundary of the premises. Their condition for a "downward trend" is an expectation that any noise should begin to move indoors and to progressively become less detectable externally. The above times are purely suggestive for the purpose of pointing towards a potential solution that, if it has merit to the Police, the Shire then needs to seek comment by residents in affected areas.

(iii) The Shire provides no guidelines (in Clause 7.5.1) for a property owner / applicant to define their proposed plan for containment of any disturbances.

In the absence of any guidelines from the Shire, the Chamber would expect the respondent to the first complaint should be the property manager; and if his/her efforts to contain the disturbance are unsuccessful then involvement of the Police ought to be the backup plan.

Recommendation - The Chamber endorses the following multi-phase and multi-stage disturbance containment plan:

Phase 1 – the property manager (property owner) should always be the first respondent to a complaint of a disturbance

Phase 2 – failing the property manager's efforts to contain a disturbance, the four stage protocol (see footnote ^a) adopted by the Police ought to then be adopted, namely:

When a complaint is received, the Denmark Police adopt the following multi-stage response:

Stage 1 Verbal request to cease the disturbance

Stage 2 Issue of a Noise Abatement Direction Notice under the Environmental Protection Act (1986) Section 81 which empowers the Police, amongst other options, to also remove any equipment contributing to the noise

Stage 3 Depending on the characteristics of the disturbance and/or if there is any breach of the Code of Conduct, the Police (accompanied by the Property Manager) may give directive that any non-domiciled persons (eg guests or patrons of the tenant) but not the domiciled tenant, vacate the premises immediately

Stage 4 If the conditions of a Noise Abatement Direction Notice are not complied with while the Notice is in force, proceedings may be initiated for an offence which, if convicted, may result in a fine not exceeding \$25,000

(iv) The proposal for a 24/7 property manager (in Clause 7.5.1) is applauded for its good intent but the proposal does not define the essential responsibilities required of that property manager. The key issue is to emphasise the required pseudo legal responsibilities of the property manager as opposed to the physical maintenance tasks of a local contact.

Recommendation – that there be a Glossary to define, and to clearly distinguish, the responsibilities as follows:

(a) "property manager" is the person or company, located no more than 30 minutes from the subject property and who must be available 24/7, in whom the property owner has delegated unfettered pseudo legal responsibility to manage the use and occupancy of the property.

NOTE: The property manager must ensure there is 24/7 voice contact and to not rely on a recorded message service. Where the latter occurs then the Shire ought to regard such as a negation of the property manager's essential role and of the annual registration conditions.

^a Source reference - "Denmark Police Local Policy" protocol for containment of disturbances

(b) "property maintenance person" is the person or company who can provide services, as directed by the property manager, for the effective physical maintenance of the property

(v) The Chamber acknowledges the good intent of the Shire's proposal (in Clause 7.5.1) that the property owner should provide a "lease arrangementetc.).

Nearly all bookings are made remotely from Denmark and on-line. That said, the booking methods used by different owners / booking agents are dictated by the adopted system. The DVC and South Coast Properties both use the BookEasy system while others use the Denmark Tourist Bureau's website as the main on-line portal for which booking requests are then either re-directed direct to the property owner (phone or email contact) or to the DVC or the SCP booking systems.

The BookEasy system requires the visitor to "tick-the-box" agree to the operator's Terms and Conditions which are, as best as can be determined, are minimal cancellation and refund policies. Whilst the technology is clearly there, there is no known accommodation provider that interposes Terms and Conditions that also include Codes of Conduct, or describes how "unacceptable behaviour" might be determined that may require "immediate eviction" as requirements proposed by the Shire. Desirable or essential that an agreement to these "conditions" might be as a condition of automated acceptance of a booking, the practicality of how they can be exhibited during the booking process may be technically or logistically difficult and may also persuade the prospective visitor to look elsewhere.

The DVC acknowledge that they do not require any signature or acknowledgement from a visitor of an accommodation provider's Terms and Conditions the receipt of which might otherwise determine an acceptance or rejection of a booking request. Further, the DVC provide an after-hours coded key box to enable the late-arriving visitor to collect their keys. In other words, the DVC, and probably the SCP as well, may never meet the visitor and never get any acknowledgement of the visitor's acceptance of the Terms and Conditions of occupancy. Further, neither may have any awareness of how many occupants there might actually be in the visitor's group.

As important as it may be, the question is asked how the Shire's good intent proposal, for the property owner to require a "Lease arrangement etc", can be facilitated?

Regardless of anything else, the property owner must display all the relevant Terms and Conditions and contact details etc inside the establishment as proposed by the Shire. Whether or not this after-advice can supplant giving pre-advice to a visitor of the Terms and Conditions before the booking is confirmed is primarily a question of the technology and/or booking method(s) used.

Perhaps there is opportunity here for the Chamber (or its nominee) to become more proactive, if a level playing field is achieved. The Chamber could provide an industry-wide service to all of its members who are Short-Stay Accommodation providers and develop a standardised model for Terms and Conditions of occupancy that may include a (simplified) Code of Conduct and advice of what to do in emergencies etc. Also, the Chamber might devise a format for promoting feedback from visitors and for logging any complaints all with the intent of the Chamber itself honouring its stated goals of advancing Denmark's businesses and, by default, Denmark itself.

3.4 Number of Occupants

3.4.1 The Chamber notes the Shire's proposed limit of 6 occupants in a Holiday Home and anticipates this to potentially become a contentious and pivotal issue. The Chamber also notes the Shire is proposing to permit Holiday Homes in Rural, Landscape Protection and Special Rural zones, but not in Special Residential zones.

3.4.2 Firstly, there is clear evidence on the DVC, Denmark Tourism and other websites of many properties (identified and known to be located in Residential R10 zones) promoting their capacity to accommodate upwards of 10 to 12 people. This is in conflict with the draft Policy's stated intent to now impose a maximum ceiling of 6 occupants. The owner of any existing Holiday Home with a capacity for more than 6 persons, with no past regulatory controls to the contrary, and an acquired dependency on the cash flow from those higher occupancies, is not going to be easily persuaded to comply with the proposed new provisions in Clause 7.5 and, more the point, is surely going to object if that is imposed on them, if compliance means now down-grading their occupancy to only 6 persons. In other words, there is a very high probability that these properties will remain non-compliant (to Clause 7.5) in perpetuity simply to hold (if possible) their unrestricted and unregulated status-quo higher levels of occupancy.

3.4.3 Secondly, the evidence of holiday home owners promoting higher occupancy capacity is testimony to the concerns expressed by residents that some Holiday Homes have had large numbers of occupants – far more than what the property can realistically accommodate – and where the effect carries over with an excess number of vehicles parking on-street (*see footnote*⁹).

3.4.4 Thirdly, it indicates that there is a need for larger Holiday Homes being those that can accommodate more than the 6 persons that the Shire is now proposing as the limit.

3.4.5 Finally, Council's existing Planning Policy 19.2 "Home Holiday Accommodation" specifies the following:

"Council in considering Home Holiday Accommodation applications may impose conditions based on the following:

- (1) The maximum number of persons to be accommodated is restricted to 6 exclusive of the owner/operator. If more than 6 are proposed then the proposal must be treated as a boarding house."

3.4.6 If treated as a "boarding house" then the Shire's Health Local Laws (1998) apply. In these Health Local Laws, a "short term hostel" or "Lodging House" or "boarding house" is governed by extensive and very prescriptive conditions, such as requiring a minimum 4 sq metres unobstructed floor space per person per bedroom if using beds or 2.5 sq metres per person per bedroom if using bunks, and so on in great detail. Also, a "Lodging House" has a requirement for an owner-occupier to be on the premises and/or nearby.

⁹ In the Weedon Hill neighbourhood, where the roads are narrow and there is no verge and very little off-street parking, the excess number of vehicles, boat-trailers and caravans does often cause road safety problems that are accentuated by pedestrians and children on bikes also being forced to walk and play on the roadway.

3.4.7 While the above Policy and Local Laws are clear, the problem that the Chamber is grappling with is that the Shire has not explained how it intends to apply and administer the new Holiday Home Policy in those situations where a property owner, who is currently not restricted in accommodating more than 6 persons, objects to the new condition. The Chamber seeks answers to the following questions:

- Is that property owner (with more than 6 occupants) currently operating illegally? to what? - the Health Local Law? or the Planning Policy? or to both?
- If it is illegal, is it that the property owner has been able to accommodate more than 6 persons because:-
 - The Shire is unaware of these situations?
 - The Shire is aware but has traditionally turned a blind eye to the higher number of occupants?
 - The Shire is aware but does not have the resources to undertake regular inspections?
 - The Shire has never inspected the property but if it did then the owner would be cautioned and be required to remove beds in excess of 6 occupants?
- How will the Shire now apply the new Policy? Will it:
 - Inspect every Holiday Home once a year for compliance to all the essential parameters of health (eg cleanliness, effluent), occupancy (excess number of beds as described above), fire regulation compliance and so on?
 - Does it have the resources to undertake this or will the Shire sub-contract, for example, to the Chamber to undertake some of those tasks that do not require a professional qualification (eg. such tasks that the Chamber could undertake for a fee might be an accreditation-equivalent or star-rating-equivalent inspection)?
 - What costs will be incurred by the Shire (for compliance inspections and admin) and will they be fully recovered by being factored into the annual registration fee?
 - If a property has gained an accreditation, will the Shire accept the external agency's inspection report in lieu of itself undertaking an inspection?
 - And will having that external inspection report reduce the applicable Shire annual registration fee for that property?

Recommendation - As a first containment measure, the Chamber would see it most appropriate for the Shire to use its "*planning, building and health regulatory powers*" to now forcefully and universally apply the proposed limits of occupancy on the existing Holiday Homes, as equally for any new applicant.

3.4.8 If satisfactory explanation to all of the above questions can be given that provides positive reassurance that the new Policy will be diligently applied and appropriately resourced on a full cost recovery basis, and the current problem of excessive occupancy and other matters, such as uncontrolled on-street parking, will be strictly controlled, then the Chamber's concerns, that a more level playing field is "under construction", will have been significantly advanced. Conversely, if not, then the Chamber would have reason to raise more objections.

3.4.9 A related issue of occupancy is the planning density codes. In this regard, the Chamber recommends a second containment measure as follows:-

Recommendation		
<i>Planning Zones / Density Codes</i>	<i>Category</i>	<i>Permitted Max Number of Occupants</i>
<i>In Residential R2, R5 and R10 zones</i>	<i>Holiday Home Class 1</i>	<i>Up to 6 occupants conditional that all vehicles can be parked off-street</i>
<i>In Residential R20 zones</i>	X	<i>No Holiday Homes permitted</i>
<i>Rural, Landscape Protection and Special Rural zones</i>	<i>Holiday Home Class 2</i>	<i>Up to 12 occupants conditional that all vehicles can be parked off-street</i>

3.4.10 Finally, the idea is floated that the Shire might structure its annual registration fee on the approved occupancy capacity. In the above table, a Class 2 Holiday Home would have a (significantly) higher annual fee than a Class 1 Holiday Home.

3.4.11 In all cases, the Chamber urges the Shire to emphasise any reference to the "permitted number of occupants" should also include any casual guests of the tenants. The justification for this is not only for health reasons (to reduce excessive demands on the septic effluent and rubbish collection) but to also achieve an outcome that all vehicles must be accommodated off-street (see footnote ¹⁰).

3.5 Tighter Controls on Duration of Tenancies

3.5.1 The Chamber has anecdotal reports of some Holiday Homes owners, facilitated by some local real estate agents, operating as a Holiday Home during the peak summer period and then reverting to commercial rentals for the rest of the year. The Chamber also notes that a Holiday Home is defined in the draft Policy as a Short-Stay Accommodation facility where the duration of a tenancy is to be no more than 3 months.

3.5.2 The Chamber is also aware that some accommodation providers in a Strata Estate have had planning constraints imposed that require them to remain trading as a Short-Stay Accommodation provider for a minimum of 9 months per year and that this condition is aimed at stopping the owner selling off a strata unit to someone who wants a permanent abode in the same manner of a permanent home being now permitted in caravan parks.

Recommendation - Merging these matters suggests the Shire should tighten the controls on Holiday Homes to be more in line with the controls currently imposed on most commercial Short-Stay Accommodation providers such that a Holiday Home must also remain open continuously for at least 9 months each calendar year else its registration to operate as a Holiday Home / Short-Stay Accommodation facility be revoked.

¹⁰ Comment has already been expressed (see the Table on page 9) that it is not uncommon that guests of a tenant, after a boozy party the night before, offer the excuse the next morning that they could not drive and had to stay the night. More often than not, that "one night" often extends for the duration of the tenancy unbeknown to the property manager – these "drop-in guests" become defacto tenants and need to be counted in the limits on occupancy

3.6 Concerns of Residents

3.6.1 While the Chamber predominantly serves the business interests of its members, it also recognises that many of its members live in areas directly affected by Holiday Homes.

3.6.2 Those members / residents, most particularly in the Weedon Hill neighbourhood, have had concerns with "holiday homes" attributable to noise, parking and traffic, and an excess number of occupants (*see footnote ¹¹*). A consistent common denominator for these concerns, and the reason why those residents have been forced to voice their concerns more publicly and/or to contact the Police in extreme cases, is that they do not necessarily know who to contact if there is a problem with a "holiday home". Many residents are elderly and some are incapacitated and certainly can not walk up and down steep steps or pathways where there is also no street lighting. The problem may be a noise or a parking disturbance. Equally it may also be a genuine emergency such as a broken water pipe, overflowing septic, or storm damage. Not-knowing-who-to-contact is understandable given that all "holiday homes", by default, are absentee-owned.

3.6.3 Residents also have no awareness of who is managing or listing a property and do not necessarily have any awareness of the status of the property as a registered Holiday Home, a private holiday home or a commercial rental given that all seem to have a high, variable and regular turnover of occupants.

3.6.4 The Chamber believes these problems can be satisfactorily addressed by the Shire requiring the prominent display of a standardised sign near or on the letter box, or next to the front entrance door, of the property's Registered Holiday Home Number. With this reference number, the residents will then be able to contact the Shire and inquire of who the local property manager is. Having awareness of that person to contact will provide the residents with an avenue of contact that otherwise is currently not available and/or may result in an (unnecessary and avoidable) call to the Police.

3.6.5 In supporting this relatively simple measure to overcome residents' concerns, Chamber members also highlight situations they have had with guests being locked out when they lose door keys. Whilst it is not a problem where the property manager or host lives on-site, it would be a problem where, in the case of Holiday Homes, all the emergency contact information is only displayed inside the dwelling.

Recommendation:

- (a) That a property's "Holiday Home Registration Number" and the after-hours phone number of the local property manager be clearly displayed on a sign on a post or near the letter-box or next to the front entrance door.
- (b) In order to promote uniformity, that the Shire ensure these signs have a standardised format by bulk sourcing the procurement and then on-selling to the property owner as part of the initial registration fee.
- (c) If a complainant (resident) has difficulty contacting the property manager (eg for reason that the property manager's phone is switched off) then the complainant should contact the Shire (during office hours) and advise of the problem, that the

¹¹ Other concerns are also discussed in the next section *re* the preservation of the amenity of an area.

- Shire can note on the property owner's file, for consideration with any other complaints received at the next annual re-registration.
- (d) That a property owner must ensure any change in the contact person and contact details for the property manager are advised to the Shire within 7 days of any change in those details. Failure to do this ought be regarded by the Shire as a most serious negation of the terms of the annual registration of a Holiday Home in recognition of the potential anxiety to residents and others caused in the event of an urgent need to contact those persons.

3.7 Maintenance of the Amenity of Neighbourhoods

The draft Policy's objectives in Clause 4 are noted (inter alia) as :

- o *To ensure that the predominant residential nature and character of neighbourhoods are retained*
- o *To minimise negative impacts of Holiday Homes on the amenity of adjoining residents*
- o *To identify suitable areas where Holiday Homes are deemed to be most suitable and clarify the assessment process for each of these defined areas.*

3.7.1 Whilst the Chamber endorses the above, it is concerned that the Shire needs to also acknowledge the negative impacts that have already been inflicted on some neighbourhoods, such as Weedon Hill, and (even though it is unrelated to the content of the draft Holiday Home Policy) to espouse a commitment to try to rectify some of those historical negative impacts wherever possible, as soon as possible. The Chamber suggests there are at least two main opportunities where some rectification of the historical negative impact of Holiday Homes in Weedon Hill, if not elsewhere, can be initiated in the short term and do not need to be dependent on the approval of the draft Holiday Home Policy.

3.7.2 First, the Shire should acknowledge the negative effects of "holiday homes" are not just with the tenants of those properties but are cumulative with the negative effects of all absentee-owned property, namely:

- poor property maintenance with leaf litter accumulating in roof valleys and gutters and only being attended to (often poorly) just prior to the start of each fire season
- not infrequent argument between a tenant (if a commercial rental) and the owner about who is responsible to keep the property maintained.
- rubbish bins remaining on the verge, often tipped over and lying on the verge, after collection for weeks on end
- junk mail stuffed into and jutting out of letter boxes
- newspapers (mainly the Albany Advertiser, Albany Weekender and advertising brochures) thrown by local distributors from passing vehicles and remaining and accumulating on the verge that, together with stuffed or over-flowing letter-boxes collectively promotes awareness that the property is vacant and a potential target for vandalism

all of which are very legitimate reasons for neighbours to be concerned and to be negative towards all absentee-owned properties, be they registered Holiday Homes or not, not only with an affect on the amenity of the local area but also contributing to a negative downward pressure on neighbouring property values.

Recommendation

The Rangers should undertake regular inspections of known problem areas and (a) strictly enforce the Litter Act (*see footnote* ¹²) and (b) undertake followup inspections, not just once at the beginning, but also during the fire season. A once-a-year blitz campaign by the Rangers might help achieve a quick-fix and an effective change of attitude by recalcitrant absentee-owners.

By recording any of the above factors on the Shire's proposed Register of Holiday Homes, the Shire will have opportunity to caution a property owner during the next review of that property for the annual re-registration as a Holiday Home.

3.7.3 Secondly, the Shire should also acknowledge that the residents' objections to more Holiday Homes being approved, particularly in Weedon Hill, is to be seen in the context of the total number of absentee-owned properties in that or any neighbourhood. Weedon Hill already has about 65% of all properties that are absentee-owned (*see footnote* ¹³). Permanent residents represent about 20% and the balance is vacant land. Those permanent residents are typically retirees who are not infrequently absent from their homes whilst travelling. The consequence is that the neighbourhood is a ghost area for a large part of the year (*see footnote* ¹⁴).

3.7.4 Contrary to what the Shire is now proposing to be the central objectives of the new Policy – to preserve the predominant residential nature of a neighbourhood and to minimise the negative impacts – past practice of unrestrained approvals has already

¹² It is acknowledged that Council recently approved of a new Litter Policy that, if diligently applied, ought to have some positive impact on the mentioned problems notwithstanding awareness of the many other demands placed on the Rangers..

¹³ The former Director of Planning previously advised that the Shire's record keeping had been very poor and he was not able to advise where Holiday Homes are currently located. Consequently, the figures quoted for Weedon Hill are based on absentee-owned property (sourced from the Shire's Property file) combined with local knowledge of what homes are being used for.

¹⁴ Even though some of the following are not directly relevant to the draft Holiday Home Policy per se but are derivatives of the Policy's objectives, the Shire could now start to implement the stated objectives of the Holiday Home Policy by:-

- o identifying Weedon Hill as a discreet neighbourhood "Area 4" in the Holiday Home Policy and classify it as a definitive Residential precinct
- o impose a 40kmh speed limit in recognition of the roads in many places not having any constructed verges that force vehicles to be parked (often partially blocking the roadway), and pedestrians and children to walk and ride their bikes, on the formed road. There is a more recent and dangerous occurrence of groups of youngsters racing each other on skateboards down Gilbert Ave and around the blind Bracknell Cres intersection – there is a serious accident waiting to happen
- o not approve any more Holiday Homes in that neighbourhood for reason that it already has a very high level (about 60-65%) of absentee-owned property
- o investigate road sight distances, in particular at the intersection of Payne, Bracknell and Gilbert, and if validated, to ensure that verge vegetation is regularly maintained by the Shire and/or sight distances are improved by clearing away some of the earth embankment, and/or speed restraining devices (humps) installed
- o install appropriate warning signage (of pedestrians and children unavoidably being on the road) around that intersection.

severely impacted some neighbourhoods, most particularly in Weedon Hill. The cumulative negative effects of all of this are profound in their totality that the Shire must assess when considering any application for a new Holiday Home.

Recommendation

The Shire's proposed assessment criteria for the approval of any new Holiday Homes should, firstly at the macro neighbourhood level, be evaluated against the total number of ALL absentee-owned properties already in an area and then further, at a micro level, avoid an aggregation of holiday homes in close proximity. In the Weedon Hill situation, no more holiday homes should be approved.

4. Towards a Level Playing Field

4.1.1 Comment has already been made of the Chamber's concern of the draft Holiday Home Policy potentially aggravating the current problems experienced by the Short-Stay Accommodation industry. This is seen to be attributable to the draft Holiday Home Policy being aimed at full regulation only of future Holiday Homes and of those existing Holiday Homes that voluntarily migrate, whilst those who don't migrate being partially regulated (being exempted to Clause 7.5). Meanwhile, the rest of the Short-Stay Accommodation industry remains totally unregulated but controlled by variable restrictive planning constraints.

4.1.2 It has also previously been commented that those Short-Stay Accommodation providers who operate in Tourist, Commercial and Rural zones have had conditions imposed on them through the DA approval process that are, in many cases, at some variance with similar approvals in those zones. That variance is minor in relative terms when then compared to the unregulated Holiday Homes. Historically, all of that variance has arisen because each DA has been considered as a one-off. What has been needed, and what is now called for, is some standardisation of conditions for all Short-Stay Accommodation providers notwithstanding that the industry straddles the Residential, Tourist, Commercial and Rural planning zonings.

4.1.3 In summary, the Chamber's view is all the conditions need to apply equitably if not equally to the whole industry. While the Chamber opposes over-regulation however that might be specified, when it comes to the reputation of the industry some whole-of-industry regulation is required. Those that go on to get their star ratings and / or accreditation should then be rewarded and have this taken into account especially in regard to the way the Shire's annual registration / inspection fees might be determined.

4.1.4 At present, once a property is approved, whether it be a chalet, villa, unit or a holiday home, that is the end of the journey as far as the Shire is concerned - there is no follow up inspection to check that health or environmental standards are being met or DA conditions complied with. Some think that market forces is the only way to go. They may be right but in the meantime (particularly at peak times when every accommodation facility is booked out) some visitors will get a very bad experience and blame the industry as a whole instead of the one facility they were unfortunate enough to book. Not only won't those visitors come back to that facility again, they will have had a bad experience and not

come back to Denmark and the entire industry suffers. These bad experiences for visitors can be minimised with an annual inspection of all facilities and a policy that applies to all.

4.1.5 Success is all about giving the guest the best possible experience and drawing them back again. A customer gained is easier to keep than trying to attract a new one. The challenge for long-term success of the industry, and to enhance Denmark's reputation as a great holiday destination, is for everyone involved in the industry to ensure that every visitor has a good experience.

4.1.6 By drawing a line in the sand, all of the negativity as described can be considered to be historical. While retrospective re-specification of some of those historical conditions may now be difficult in some cases, the Chamber urges the Shire to temporarily put aside the draft Holiday Home Policy whilst it gains insight into the whole-of-industry issues. With that insight, the Chamber believes the draft Holiday Home Policy document can then be re-visited and re-packaged as a "Short-Stay Accommodation Policy" document with minimal change to the substance of the proposed provisions in the current draft, but with strategic changes made to achieve a "levelling of the playing field" not just for the benefit of all existing operators but equally for those waiting to invest further in the local industry. Their hesitancy to invest further is directly attributable to the uncertainty of the current unregulated industry and by the confusion being generated by the Shire's narrow focus on the industry as a whole.

4.1.7 Finally, the Chamber re-iterates its concern that the Shire has not seen it as important enough to consult with the industry before compiling, proposing and releasing the current draft Holiday Home Policy for public comment. It has generated unnecessary anxiety and raised expectations in the community that can not be fulfilled that could have been avoided with appropriate collaborative consultation beforehand. While that is in the past, the Chamber now looks forward with positive expectation that the Shire will consult with the industry to jointly prepare a roadmap to ultimately achieve a levelling of the playing field.

APPENDIX A

Re Clause 7.8 Voluntary Accreditation

7.8 Voluntary Accreditation

Council shall encourage Holiday Home owners to become a member of a suitable Holiday Home accreditation agency. Where a Holiday Home is accredited (i.e. a star rating), then a reduced annual registration fee is available as determined under Council's fees and charges

1. In Clause 7.8, the Shire is proposing to offer a reduction in annual registration fees "where a Holiday Home is accredited (ie star rating)". Separate comment is made in Appendix B to explain that the Shire is confused as to what "accreditation" and "star rating" mean. Nevertheless, the idea behind the Shire's proposal in Clause 7.8, to offer a reduced annual registration fee "where a Holiday Home is accredited" would appear at first glance to have some merit. The question is how can that proposal be properly evaluated?

2. In the following section, the endeavour is to try to evaluate just how attractive the Shire's proposal might be and whether or not it may help to achieve the ultimate goal of eliminating duality if ALL Holiday Homes can be made fully compliant to Clause 7.5 (see footnote ¹⁵)

What is an appropriate fee-cost model for annual registration?

3. In the following hypothetical analysis, two different fee-cost models (in Table 1) are postulated with the intent of then (in Table 2) analysing and drawing some conclusions on the relevance of the Shire's proposal to offer a reduction (unspecified by the Shire) in the annual registration fee (also unspecified by the Shire) if a property owner achieves a star-rating and becomes accredited. The two models are :

- o *"Option A" Annual Fee-Cost Model*
Option A pre-supposes the Shire will adopt a minimalist fee structure similar to all of its other fees as documented in its standard Schedule of Fees & Charges and that the reduction offered will also be minimalist.
- o *"Option B" Annual Fee-Cost Model*
Rather than just offer a reduced annual registration fee "where a Holiday Home becomes accredited", the Option B model pre-supposes that the Shire could first impose a **penalty** if the property owner does not achieve full compliance (to Clause 7.5) and then a **reward** if they also gain a star-rating and/or become accredited.

¹⁵ It has previously been noted that Clause 7.8 also has another important objective, by encouraging a property to gain accreditation and a star-rating, which is to motivate Holiday Home owners to improve the quality and management practices of their facilities and, as a consequence, enhance Denmark's reputation as a great holiday destination.

TABLE 1 – Options for Schedule of Fees & Charges for Annual Registration of Holiday Homes		Percent adjustment	Annual Fee Option A	Annual Fee Option B
		(hypothetical – for illustrative purposes)		
For any Holiday Home not compliant to Clause 7.5	Penalty	Base PLUS 100%	\$100	\$400
For a Holiday Home fully compliant to Clause 7.5	Base annual fee			\$200 (see footnote ¹⁶)
For a Holiday Home compliant to Clause 7.5 and also having membership to AAATourism (to gain a star-rating)	Rewards	Base LESS 10%	\$80	\$180
For a Holiday Home compliant to Clause 7.5 and also being accredited with the Tourism Council of WA (or equivalent)		Base LESS 20%		\$160

How Meaningful is the Shire's Proposal for Voluntary Accreditation?

4. Using the two fee-cost models for the annual registration fees in Table 1, the following Table 2 then summarises the potential annual costs to a property owner for each element of the proposed fee structure (from Table 1) and attempts to evaluate the efficacy of the Shire's proposal for Voluntary Accreditation. The hypothetical scenario is that the Holiday Home has an annual rental income of \$10,000 (or an annualised average weekly income of \$200pw). This figure is taken to represent the higher performing Holiday Homes whilst it is understood most would be struggling to achieve \$7500pa and many barely \$5,000pa. With these levels of income, the sole attraction of a Holiday Home for an investor is the negative gearing available against taxable income. That said, the lack of motivation that owners may currently have to improve the performance of many such homes is the adequacy of the benefits they gain from negative gearing - why should they then invest further in quality fixtures and features in their investment properties when the occupancy levels are poor or marginal.

TABLE 2 – Comparison of potential annual costs to a property owner (arising from the fee structure Options of Table 1)	Annual Fees Option A Model		Annual Fees Option B Model	
	Total annual	As percent of annual income	Total annual	As percent of annual income
Situation 1 – Existing (non-regulated) situation				
Caretaker fee (say) avg \$10pw = \$500pa	\$500pa	= 5%	\$500pa	= 5%
Situation 2 – Non-compliant to Clause 7.5				
Shire annual registration fee (non compliant)	\$400		\$100	
Caretaker fee (say) avg \$10pw = \$500pa	\$500		\$500	
	\$900pa	= 9%	\$600pa	= 6%

¹⁶ What costs will the Shire incur to process an annual registration and what charges will it impose to recover those costs? It is assumed that the Shire will incur at least the following costs:
 (1) at least one additional inspection for checking compliance to the fire regulations through to the end of the fire season (the first inspection is an existing Ranger function and is already funded through the Rates)
 (2) an internal inspection of the dwelling for health and hygiene compliance might be a second inspection
 (3) internal admin costs for processing the annual registration
 Therefore, the total estimated annual costs to the Shire = 2 hours @ \$55/hr + cost overheads + gst = \$200pa (assumed).
 If there are any complaints (eg noise, parking, excess number of occupants) recorded against the property to be determined, then the extra costs of that determination should be added to the annual registration fee

Situation 3 -- Compliant to Clause 7.5 but no star-rating or accreditation

Shire annual registration fee (compliant)	\$200		\$100	
Caretaker fee (say) avg \$10pw = \$500pa	\$500		\$500	
Property manager fees (say) 10% (?) of \$10,000 rental income = \$1000pa	\$1000		\$1000	
	\$1700pa	= 17%	\$1600pa	= 16%

Situation 4 -- Compliant to Clause 7.5 and with star-rating and accreditation

Shire annual registration fee (reduced)	\$160		\$80	
Caretaker fee (say) avg \$10pw = \$500pa	\$500		\$500	
Property manager fees (say) 10% (?) of \$10,000 rental income = \$500pa	\$1000		\$1000	
Membership to AAATourism (to gain a star-rating)	\$300		\$300	
Accredited with the Tourism Council of WA (or equivalent)	\$250		\$250	
	\$2210pa	= 22.1%	\$1830pa	= 18.3%

5. Given the hypothetical assumptions used in the analysis, any conclusions are presumptuous. Nonetheless, in the absence of any definitive proposal from the Shire, the analysis serves to illustrate that the cost penalty on a property owner to voluntarily gain a star-rating and accreditation is 16% and 22% respectively of their annual rentals. In percentage terms and coming off a very low annual income, these new costs are significant. They are not softened or made any more palatable by the Shire offering a (minimal / negligible) reduction in the annual registration fees.

6. It is probably not inappropriate to conclude that if a Holiday Home is currently marginal in its return on investment, as the Chamber believes most are, that the further imposition of regulatory compliance costs, ranging from 16 to 22% of annual rentals, may cause some of those marginal Holiday Home owners to dispose of their investment asset. Whether this is a desirable outcome will remain for others to evaluate and comment on.

APPENDIX B

Re – Clause 7.8 “Accreditation”

“7.8 Voluntary Accreditation

Council shall encourage Holiday Home owners to become a member of a suitable Holiday Home accreditation agency. Where a Holiday Home is accredited (i.e. a star rating), then a reduced annual registration fee is available as determined under Council's fees and charges”

The terminology that the Shire has used in the draft Policy needs to be corrected -

1. Accreditation means that an establishment has undertaken to supply what they say they are supplying, irrespective if is 1 star or 5. This is verified by the accreditation authority such as the Tourism Council of WA (approx cost \$250 pa) who do an annual desk top audit followed up by a visit to the property each 18 months to 2 years. There is no requirement to be accredited to have a star rating or vice versa.

2. Conversely, Star Ratings are assessed by AAATourism (the national body representing Australia's Auto Clubs) according to a comprehensive set of standards established for different types of facilities - Holiday Homes come under the category of “self-catering accommodation” along with chalets, villas and apartments. Score sheets are adapted for each type of facility and an assessment not only checks what an establishment has, but also the standard of the cleaning and maintenance. A star rating will tell the property owner or host where the property scored at the time of assessment, but not if the owner or host guarantees to keep it that way and that is where accreditation has relevance. Star assessments are carried out approx 12 to 18 month intervals and are available only to AAATourism members (annual membership is about \$300 per year which varies depending on the number of units or dwellings to be assessed).

APPENDIX C -- Denmark Visitor Centre Membership Pre-Requisites

SECTION THREE: MEMBERSHIP PRE-REQUISITES

1. ACCOMMODATION The DVC requires accommodation operators to have the following:

- Contact numbers to be clearly visible for caretakers and relevant emergency numbers;
- Provision of Gas Barbecue where Barbecue is provided;
- Plan for disposal of excess rubbish including recycling;
- Clear instructions to be highly visible at premises regarding gas supply, firewood, hot water and other appliances or hazards.

2. FIRE PLAN: All accommodation operators must provide the following in their fire plan;

- Fire and outdoor burning restrictions notices, and contact number for Shire Fire Officer;
- Emergency evacuation instructions and relevant phone numbers;
- Smoke detectors (hard-wired are recommended) and fire extinguishers;
- Gutters clean and free of leaves and minimised fire fuel sources around the buildings.

3. ELECTRONIC BANKING: for electronic transfer of funds please provide banking details
NB: commissions and accounts are paid at the beginning of each month.

Bank Name: ..	
Account Name:	
BSB Number:	Account Number:

4. CREDIT CARD FACILITIES: I would like to use this facility:

If you do not have credit card facilities, the DVC can process your payments for 2.75% for Visa and MasterCard; and 3.25% for Amex and Diners Card. Phone through c/c details and amount so we can electronically deposit the money into your bank account at the end of the month. (NB: the DVC reserves the right to review credit card fees from time to time. We may vary the fee by giving you written notice of the change.)

5. COMMISSION RATE: A commission rate of 15% will apply for all tours and accommodation bookings. This rate includes all credit card and BookEasy charges.

6. BOOEASY ADMINISTRATION: The Denmark Visitor Centre is authorised to enter my bank details into the BookEasy system and to assist staff in optimising booking options, I agree to notify the DVC of all owner bookings.

7. TARIFFS: Please complete the tariff table below, ie YOUR STANDARD ADVERTISED RATES

TARIFF per night	Min Nights	PAX	HIGH	PAX	LOW
1 Night only per night					
2 - 6 Nights per night					
Weekly Rate					
Extra Adult per night					
Extra Child per night					
Linen: per person / per night / per stay:		Towels: per person / per night / per stay:			

NOTE: 'High season' means all Western Australian school holidays, public holidays and long weekends.

8. TICK ONE OPTION FOR PRIMARY BOOKING AGENT:

- DVC is Primary Booking Agent (I and my other agents must ask DVC before making a booking.)
- Operator/Manager is my Primary Booking Agent (DVC must ask me before confirming a booking.)
- DVC is my BookEasy Mothership (Please transfer my current BookEasy console to the Denmark Visitor Centre.)

Please initial and date all relevant pages /

PAGE THREE



Government of Western Australia
Department of Planning

Great Southern Region

Your ref: TPS3/PLN.64
Our ref: DPI/09/01134
Enquiries: Anthony Deutschmann

13 July 2010

Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

ATTN: Mr Sam Williams

Dear Sam

1671042020
Shire of Denmark
PLN.64

15 JUL 2010
CCR# 0021061810

DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

RE: SUBMISSION - DRAFT TOWN PLANNING SCHEME POLICY 19.3 - HOLIDAY HOMES

I refer to your letter dated 28 June 2010 seeking comment on the abovementioned matter.

Firstly, the Department wishes to acknowledge the Shire's efforts in developing a well formulated town planning scheme policy which responds to the emerging issues surrounding the establishing of holiday homes.

Secondly, this Office wishes to only make the following comments in regards to the Draft Policy.

- i) There is considered to be a need in 'Section 7.5. Approval Requirements' of the Policy to indicate that off-street parking requirements for single houses are to be satisfied and the parking areas are to be in place.
- ii) In 'Section 9. Conditions of Approval' of the Policy it should be outlined that the conditions of approval are: to limit the planning consent to a period of between three(3) and five (5) years, and a maximum period of stay for persons (i.e. no more than three(3) months in any twelve(12) month period.



Government of Western Australia
Department of Planning

If you have any further queries in regards to this matter please contact Anthony Deutschmann (Senior Planner) on ph. 9892 7307, or email: Anthony.Deutschmann@planning.wa.gov.au

Yours faithfully

A handwritten signature in black ink, appearing to read 'G. Folvig'.

GEORGINA FOLVIG
ACTING REGIONAL MANAGER
GREAT SOUTHERN PLANNING
REGIONAL PLANNING AND STRATEGY DIVISION

SCANNED



Your Ref: TPS3/PLN.64 SW/RH
 Our Ref: D10/06319
 Tourism WA File: IPD/1129

Shire of Denmark
 PO Box 183
 DENMARK WA 6333

Att: Sam Williams

Shire of Denmark ICR1072161	
27 JUL 2010 TPS3/PLN.64	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

2 Mill Street
 PERTH WA 6000
 GPO Box X2261
 PERTH WA 6847
 Telephone +61 8 9262 1700
 Facsimile +61 8 9262 1702
 info@tourism.wa.gov.au
 tourism.wa.gov.au

Dear Sam

DRAFT TOWN PLANNING SCHEME POLICY NO. 19.3 – HOLIDAY HOMES

Thank you for your letter dated 28 June 2010 referring the Shire of Denmark Draft Policy 19.3 to Tourism Western Australia (Tourism WA) for comment.

The holiday home sector is a recognised and important component of the short stay accommodation market in WA. Denmark has a strong holiday home industry, mainly due to a high number of absentee land owners and a lack of alternative large scale tourist accommodation facilities.

However, holiday homes are a largely unregulated land use and can impact on the tourism industry by competing with formal accommodation properties while not contributing to the overall marketing of the destination. They can also drive up long stay rental prices and create conflicts with existing residential properties.

The WA Planning Commission through the Department of Planning has undertaken significant research into the regulation of holiday homes and has released Planning Bulletin 99 – Holiday Homes Guidelines and associated Guidelines document, to assist in the preparation of local planning policies. These documents highlight the main issues that should be addressed and include standard definitions, approval considerations and conditions, non compliance and other matters. It is noted that this document was used to guide the preparation of the Shire of Denmark policy.

Tourism WA recommends that the Shire initiates a Scheme Amendment to include a specific definition of holiday homes. While it is appreciated that the existing holiday accommodation definition can apply to holiday homes, providing a separate land use category into the Scheme will give the Shire greater capacity to facilitate the other requirements of the policy, for example ongoing registration, preferred precincts and the like. The holiday accommodation definition should be amended to exclude holiday homes and to include a maximum length of stay of 3 months in 12, consistent with current policy on defining short stay use.

The Shire of Busselton has recently advertised an amendment to its Scheme which facilitates similar changes. In addition, Busselton has determined that the adoption of a local law on holiday homes is a more efficient method to manage such matters as annual licensing and enforcement.



For example, as a local law is prepared under the Local Government Act, the issuing of fines for non compliance can be immediate, rather than the lengthy and potentially expensive process of the issuing of a notice under the Planning and Development Act. You may wish to contact Paul Needham at the Shire of Busselton for further information.

I trust this information is of assistance. Please do not hesitate to contact Vicki Robertson on 9262 1784 should you wish to discuss any matters further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Turnbull', written in a cursive style.

MATT TURNBULL
A/Director Development

22 July 2010

SCANNED

19

Peta Leiper

Shire of Denmark	
TCR1082697	
27 AUG 2010	
DATE	(S+)
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

From: Friday, 27 August 2010 9:13 AM
 Sent: Denmark Shire Enquiries
 To: Fwd: Launch of Holiday Rental Guidelines
 Subject: SoD FILE REF: TPS3/SA124

Categories: FORWARDED TO DIR OF PLANNING

For the attention of the person reviewing Holiday Home policy.

*Cindy,
Pls note etc.
SW.*

Dear Sir/Madam,

We are accommodation providers in Denmark and have provided a written submission on Holiday Home policy.

One of the largest holiday home listings in Australia (including Denmark) is the Stayz website. Being owned by Fairfax press they are a strong force in this market and have been able to devote considerable resources to addressing Guidelines for Holiday Home owners.

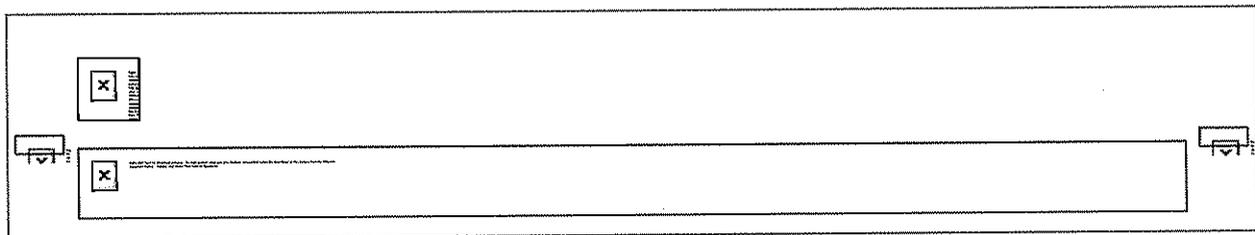
In drawing up your own policy it may be helpful to avail yourself of this material which is why we have forwarded it to you.

We hope this helps

Sincerely,

----- Forwarded Message -----

From: "Stayz" <announcement@email.stayz.com.au>
 To: info@pelicansatdenmark.com.au
 Sent: Thursday, 26 August, 2010 9:23:10 AM GMT +08:00 Beijing / Chongqing / Hong Kong / Urumqi
 Subject: Launch of Holiday Rental Guidelines



Dear Property Owner,

Signifying an important step towards self-regulation for the holiday and short term rental industry, we have been working with other holiday rental websites to develop a set of national Holiday and Short Term Rental Guidelines for owners and agents that will help sustain the industry.

We recognise that your holiday rental is an important investment for you and these Guidelines will establish consistent, acceptable industry standards of behaviour not only for all property owners but importantly for holiday rental guests and their visitors. We hope you support this and recognise it as an important step towards the sustainability of our industry.

Why do we need 'Holiday and Short Term Rental Guidelines'?

The purpose of the Guidelines is to assist you to meet the residential amenity needs of guests, neighbours, local communities, councils and government. When you read them you will probably recognise that you are already following the Guidelines and have procedures in place that are outlined within them.

When do the Guidelines take effect?

They take effect from Thursday 9th September 2010. Please review the Guidelines [here](#). They will also be accessible through the Standard Terms and Conditions published on <http://www.stayz.com.au/terms-and-conditions>.



The Holiday and Short Term Rental Guidelines are mandatory for all owners and agents listing on Stayz from this date. Continuing to list on Stayz after this date will be deemed acceptance of these changes to the Terms and Conditions.

Who needs to be aware of the Guidelines?

The mandatory guidelines cover property management, letting agreements, bonds and payments, recycling and garbage, parking, and complaints in addition to covering visitor obligations regarding noise levels and compliance with council by-laws.

What do I need to do?

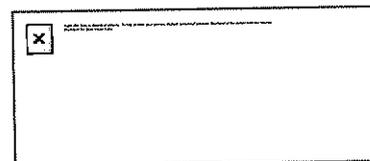
Please read the Guidelines carefully and ensure that you are providing your guests with all the necessary information outlined in the Guidelines.

What other information is Stayz providing us?

To help you ensure your guests are behaving appropriately we are providing some guidance on suggested Terms and Conditions which you could send to your guests once you have accepted a booking. If you wish to use these Terms and Conditions, please remember to adapt the document to your specific rental requirements and, if necessary, seek independent legal advice. Download the Terms and Conditions [here](#).

Finally we have produced some Stayz House Rules - a one page overview outlining acceptable behaviour which can be displayed as a reference for guests. Download the Stayz House Rules [here](#).

If you have any feedback on the Holiday and Short Term Rental Guidelines please click [here](#).



If you have any further questions, please don't hesitate to contact Stayz Customer Support at support@stayz.com.au.

Kind regards,
The Stayz Team

To unsubscribe from further Stayz updates, please email support@stayz.com.au.
Stayz Pty Ltd ABN 41 102 711 599 | 1 Darling Island Road, Pyrmont NSW 2009 | 1300 550 251

Cindy Simpson

From: Sam Williams
Sent: Monday, 30 August 2010 9:07 AM
To: Cindy Simpson
Subject: FW: Correction to links - Holiday & Short Term Rentals Guidelines

Hi Cindy,

Please note re home holiday from Ken. I haven't looked at but you never know; there may be something good!

Regards

Sam Williams

Director Planning and Sustainability
 Shire of Denmark
 PO Box 183
 Denmark WA 6333

Phone: (08) 9848 0300
 Mobile: 0419047516
 Fax: (08) 9848 1985
 Email: planner1@denmark.wa.gov.au
 website: www.denmark.wa.gov.au

Please consider the environment before printing this email.

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FILE NUMBER:
 RELATED CORRESPONDENCE:

From: willowleigh@westnet.com.au [<mailto:willowleigh@westnet.com.au>]
Sent: Friday, 27 August 2010 10:23 AM
To: Sam Williams
Subject: Fw: Correction to links - Holiday & Short Term Rentals Guidelines

Hi Sam, I told Duncan about this yesterday. It may be of some value for our policy or for DTI and its members. Check the download here for guidelines.

regards
 ken r-n

From: Occupancy.com
Sent: Thursday, August 26, 2010 11:57 AM
To: willowleigh@westnet.com.au
Subject: Correction to links - Holiday & Short Term Rentals Guidelines



Dear Ken,

Our apologies, the correct guidelines web page links are below and these will go live on 31 August.

Holiday & Short Term Rentals Guidelines Launches 26 August 2010

Signifying an important step towards self-regulation for the holiday and short term rental industry, Occupancy.com (takeabreak.com.au and rentahome.com.au) has worked with Stayz to develop a set of national holiday and short term rental guidelines for agents, owners and guests.

[Download a copy of the guidelines here - effective from 9 September 2010](#)

The holiday and short term rentals guidelines establish a set of industry practices that satisfy the needs of local communities, property owners, tourism operators and guests.

Justin Butterworth, Joint CEO at Occupancy.com says "holiday rentals deliver significant benefits to regional communities and local economies in terms of visitor expenditure and jobs. These guidelines help ensure the sustainable growth of this popular form of affordable accommodation which has a 140 year tradition in Australia."

The guidelines will help improve the experience of visitors by improving the overall standards of holiday rentals and encourage more domestic tourism, particularly to regional areas.

As a condition of listing on Stayz and Occupancy.com property owners and agents will need to comply with the Guidelines which cover: property management, letting agreements, bonds and payments, recycling and garbage, parking, and complaints.

They also cover visitor obligations regarding noise levels and compliance with council by-laws.

Effective from 9 September 2010, the guidelines are based on the already successful Real Estate Institute of NSW (REINSW) holiday rental guidelines and were developed in collaboration with key state tourism bodies, local councils, state and territory real estate institutes and guests.

The guidelines will be mandatory Occupancy and Stayz websites. **A full copy of the guidelines can be found from 31 August 2010 on:**

rentahome.com.au/bestpracticeguidelines.html
takeabreak.com.au/bestpracticeguidelines.html

Regards

Justin Butterworth
Joint CEO

Occupancy.com



Evacuation Plan

1. Listen to ABC Radio 630AM
2. Upon the need to evacuate; *Calmly* . . .
3. Calmly gather your personal possessions if safe to do so and time permits.
4. When all persons have vacated the building ensure the windows and shutters are closed and premises are locked.
5. Contact _____ (property agent) on Ph: _____ and notify them of your intention to evacuate the premises.

Insert map of area with safe access routes.

Important Contacts

Shire of Denmark Ph: 9848 0300

Denmark Police Ph: 9848 0500

FESA info line Ph: 1300 657 209

WWW@fesa.wa.gov.au

List emergency contact number of agent ph:

FOR EMERGENCIES CALL 000

Holiday and Short Term Rentals Guidelines

Background and Objectives

- These Guidelines were developed following a collaborative process between the Real Estate Institute of New South Wales and industry representatives including Stayz and Occupancy.com (TakeABreak and rentahome.com.au), as well as public consultations.
- The objective of these Guidelines is to assist owner-managers and agent-managers (**Managers**) of short term holiday rental accommodation meet the residential amenity needs of all stakeholders including guests, neighbours, local communities, local councils and government.
- Towards this objective these Guidelines also seek to encourage acceptable standards of behaviour for holiday rental Guests and their Visitors.

Guidelines

1. Property Management

- 1.1. Managers should act with integrity, professionalism, courtesy and consideration when dealing with guests, neighbours, representatives of owners corporations, local councils and other government bodies.
- 1.2. The property offered should be in a clean, safe and habitable state of repair. Managers must ensure that smoke detectors are fitted and should provide fire safety information to Guests appropriate for the type of the property and in accordance with applicable legislation.
- 1.3. Managers should provide, or have displayed prominently in the property, information promoting good neighbourly behaviour. Examples could include leaflets or materials produced by the Manager, industry associations, local councils, Tourism agencies or Fair Trading offices.
- 1.4. Managers should familiarise themselves with the provisions of any local planning instruments regulating the use of the property.
- 1.5. Managers should make these Guidelines available to Guests.
- 1.6. Managers must advertise the property with fair and reasonable representation.
- 1.7. Managers should provide general, after hours and emergency telephone numbers to Guests, building management and neighbours.

2. Booking Terms and Conditions

The Booking Terms and Conditions may be in the form of electronic communications, Booking Conditions, Letting Agreement or otherwise as required by legislation. The Booking Terms and Conditions may incorporate information by reference including these Guidelines, House Rules, By Laws, Codes of Conduct and information made available to the Guest from web sites.

The Booking Terms and Conditions must include:

- 2.1. The property address sufficient to identify the particular property;
- 2.2. Dates of occupancy and check-in/check-out times;
- 2.3. Guest's name, usual residential address (or most appropriate contact address if other than this property), email and contact phone number(s);
- 2.4. Rental rate and other charges (if applicable);
- 2.5. Terms and conditions of occupancy including any special conditions;
- 2.6. The grounds upon which, and the manner in which, the Agreement may be terminated;
- 2.7. Details of how a Guest can amend or cancel a booking or seek a refund;
- 2.8. After hours contact details for the Manager or their nominated representative;
- 2.9. Maximum permitted number of Guests and their identity where applicable;
- 2.10. If relevant, maximum number of vehicles permitted onsite and the parking space(s) allocated. If requested, Guests should supply all vehicle/trailer registration numbers which will occupy such spaces;
- 2.11. Notification of the existence of any By-laws or House Rules relating to the property (if applicable) and provision to make copies available either prior to arrival, on arrival or in the property;
- 2.12. An express clause to the effect that the Guests will:
 - 2.12.1. respect the residential amenity of the property and neighbours;
 - 2.12.2. maintain the security of the property;
 - 2.12.3. abide by any noise abatement order issued by police or any regulatory authority;
 - 2.12.4. refrain from engaging in any drunken, obscene or antisocial behaviour.

3. Bonds and Security Deposits

- 3.1. If a rental bond is required by legislation it should be taken and properly administered by the Manager in accordance with the applicable legislation.
- 3.2. Any security deposit (or equivalent) otherwise taken that is not subject to a residential tenancies legislation should be taken by the Manager (e.g. as cash or a credit card transaction or authorisation) prior to each period of occupancy. Guests should be advised that failure to comply with the terms and conditions of the Booking Terms and Conditions may constitute a breach of the Booking Terms and Conditions and may result in deductions from the security deposit prior to its release or additional charges levied.
- 3.3. Security deposits should be released or returned to the Guests as soon as possible following their departure, subject to retention of any amount required to rectify any damage to the property, common property or to neighbouring properties caused by the Guests or their invitees.

4. Recycling and Garbage

- 4.1. Guests must be informed that garbage must be disposed of in accordance with the usual practice at the property and in the allocated bins, and that excess rubbish must not be left in public or common areas.
- 4.2. Managers should provide details of local council garbage and recycling collection days, and any special requirements relating to the disposal of garbage or waste minimisation.

5. Access and Parking

- 5.1. Managers should provide information on, or prior to, arrival regarding access or parking, including any parking restrictions, to ensure ease of access with minimum disturbance to other residents or neighbouring properties.

6. Insurance

- 6.1. Owners and Managers should hold appropriate insurance, including comprehensive landlords' and public liability insurance (as appropriate).

7. Noise

- 7.1. Guests must be encouraged to keep noise to a reasonable level at all times, in conformity with the residential amenity of the property and community, in particular, between 10pm and 8am.

8. Complaints

- 8.1. Managers should have a legislatively compliant policy setting out how to deal with disputes or complaints and retain a log of related communication and actions taken.

9. Guests' Obligations.

The following are fundamental obligations of Guests which Managers should convey to Guests (either in the Occupancy Agreement or otherwise).

Guests must:

- 9.1. Maintain noise to a reasonable level and, in particular, between 10pm and 8am;
- 9.2. Comply with parking regulations and show consideration to neighbours and other vehicles;
- 9.3. Dispose of garbage and recycling in accordance with the usual practice at the property and in the allocated bins. Guests must not leave excess rubbish in common or public areas;
- 9.4. Notify the Manager of any complaints as soon as is practicable;
- 9.5. Minimise their impact upon the residential amenity of the neighbours and local community.
- 9.6. Be responsible for their Visitors



stayz



TakeABreak



rentahome

PROPERTY RENTALS & CORPORATE ACCOMMODATION



DENMARK TOURISM INCORPORATED

73 South Coast Highway Denmark Western Australia 6333

Tel: 08 9848 2055

Fax: 08 9848 2271

Email: ceo@denmark.com.au

Web: www.denmark.com.au

ABN: 87 260 403 659 Lic 9TA 1373

19 January 2011

Shire President and Councillors
Shire of Denmark
PO Box 183
DENMARK WA 6333

Dear Shire President and Councillors

TOWN PLANNING SCHEME No.3 AMENDMENT No.124 – HOLIDAY HOMES

In addition to comments provided to the Shire of Denmark on 18 August 2010, Denmark Tourism Incorporated (DTI) seeks answers to the following pertinent questions and would also like Shire Council to take into consideration the following additional comments regarding the Shire's Town Planning Scheme No.3 now that the draft Amendment has been made public.

This Amendment is largely focused on the nuisance value of Holiday Homes not the provision of quality accommodation, the latter should be the aim of any regulation regarding tourist accommodation. DTI's role is to encourage and support quality accommodation in Denmark to ensure the retention of visitation. DTI hopes that Council takes this, and the following questions/comments into consideration.

Questions:

1. How many serious complaints have been received by the Shire regarding Holiday Homes? DTI seeks a justification that the Shire has received a level of complaint that warrants such an Amendment.
2. Has the Shire sought comment and scrutiny from Tourism Council Western Australia, and the Tourism Planning and Development Managers who specialise in tourism planning currently employed by the State Tourism Organisation, Tourism Western Australia?

3. Referring to question 2 – if not, will this be done before acceptance of the Amendment by Council?
4. Is there proof that Holiday Homes adversely impact on residential amenity of nearby residents and the character of neighbourhoods more so than any other type of tourist accommodation?
5. How will the Shire police the proposed Amendment?

Comments:

Referring to section 2 and section 9:

DTI strongly recommends that Council adopt the two definitions for Holiday Homes provided by the WAPC in the “Planning Bulletin 99 – Holiday Homes” – that is to also include short stay accommodation “for no more than 12 people”. To restrict occupancy to no more than 6 people unjustifiably restricts the appeal of this type of accommodation to the family market. All applications should clearly stipulate whether they are a “small” or “large” Holiday Home and should prove that they can provide amenity applicable to the number of people allowed.

Referring to section 7.1:

DTI does not agree to the zoning of area 3, as an area where council will not support Holiday Homes.

Currently there are approximately ten high quality, well managed holiday homes operating within this zone.

DTI believe that these homes have lessor impact on the amenity of the area than many permanently occupied homes and rental properties.

Denmark is a popular family destination, which supports the use of home holidays where family groups can enjoy the option of walking to the town’s amenities. The discerning visitor is not necessarily satisfied by other types of short-stay accommodation within the town centre (e.g. hotels, motels, units, etc).

Referring to section 7.7:

The Amendment suggests that an annual registration fee be imposed on Holiday Homes. The entire tourist accommodation industry is largely unregulated, and therefore the Shire should broaden its scope beyond just the Holiday Home sector. For the sake of a level-playing-field, fees imposed on Holiday Homes should be imposed on all types of tourist accommodation.

If Council agrees to impose fees on Holiday Homes this sector will be forced to increase tariffs and the additional cost will be absorbed by the visitor. Unlike Margaret River, Denmark as a destination doesn’t have the marketing pull (or the marketing dollar) to

compensate for a tariff increase. Comments on Trip Advisor already suggest that Denmark is too expensive. The implementation of section 7.7 should not be considered lightly.

If Holiday Homes are to be pushed out, a feasible solution should be reached to accommodate the peak tourist season. It has been suggested that caravan parks and camping grounds be extended – this type of tourist doesn't spend money and therefore the flow-on effects of tourism are lost. It has also been suggested that the Shire allows for more apartment-style accommodation – who pays for this, the private sector? Apartment blocks are also not in-keeping with the aesthetics of Denmark.

It needs to be remembered that the majority of Holiday Homes are negatively geared. The number of successful Holiday Homes in Denmark is few. A price increase will price them out of the tourist accommodation market in Denmark. This may not happen overnight but it is a likely risk. Holiday Homes essentially accommodate the overflow of tourists when other types of accommodation are running at 100% occupancy – imposing strict regulation on only one sector of the industry and thereby gambling with their longevity is not wise when this town's economy so strongly relies on the tourism dollar.

Referring to Section 7.9:

This section provides the Star Rating as an example of accreditation. This is incorrect. The Star Rating system only relates to visual standards not business operation.

Other

Adherence to accreditation standards will work towards ensuring a sustainable Denmark tourism industry moving forward. **All** tourism businesses in Denmark should become accredited to Australian accreditation standards (or higher). The Shire should consider broadening the Policy in question to encompass all short stay accommodation.

Any Policy implemented by the Shire regarding Holiday Homes should be introduced over a period of time that encourages and enables Holiday Home owners to transition to a new (highly-regulated) standard.

Holiday Homes provide a necessary service to Denmark's tourism industry. Aspects of this Amendment have the ability to impact detrimentally on this tourism industry both socially and economically. A decision to adopt this Amendment in its entirety should not be taken lightly.

Please do not hesitate to contact me to discuss any aspect of this letter. I can be contacted on 9848 2055 or at ceo@denmark.com.au

Yours faithfully

Justine Nagorski

CHIEF EXECUTIVE OFFICER
Denmark Tourism Incorporated