



### 11.1 LIONSVILLE SITE CONTAMINATION FORMER SHIRE DEPOT

<b>File Ref:</b>	ORG29, A3157
<b>Applicant / Proponent:</b>	Lionsville Denmark (& Amaroo)
<b>Subject Land / Locality:</b>	Former Shire Depot, Cnr Mount Shadforth & Hardy St, Reserve 34209
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	19 February 2011
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	Yes

#### Summary:

This report considers a request from Lionsville Denmark (& Amaroo) for assistance with the estimated \$30,000 cost of determining the extent of the contamination and what will be required to decontaminate/remediate (clean up) the former Shire Depot site in Hardy Rd to the satisfaction of the Department of Environment's contaminated sites branch and to achieve sufficient site stability to allow the proposed aged persons accommodation units to be built using standard construction methods. The remediation process will involve process removal items such as tree stumps, logs, number plates and old vehicles that were buried at the site during its usage as a shire depot and the testing of soil for hydro carbons and other contaminants.

The report provides four possible scenarios for dealing with the issue.

The first is that the estimated \$30,000 cost of determining the extent of the contamination be split between Council, Amaroo Village, Lionsville, the Department of Housing and the State Land Service. Once this study is complete and the extent of the contamination has been established the report recommends that Council follow the approach that was adopted in East Perth where a community housing group project encountered contamination part way through a project. The cost of remediating this site was significant and the East Perth Development Corporation which is a State Government agency eventually came up with the necessary funding for the site's remediation. In the Lionsville case it is suggested that the Department of Housing and the State Land Service be approached for a contribution.

The second is that that Council cover the cost of Lionsville's interest payments for a period of 3 months while they redesign the project to relocate the six units that are due to be constructed onto the Hardy Rd frontage of the site where contamination is not likely.

The third is that Council cover the cost of Lionsville's interest payments for a period of 3 months while Council's Chief Executive Officer negotiates Council's acquisition of the site Reserve 34209 as a free hold site.

The fourth is that State Land Services be approached regarding the usage of the estimated \$420,000 windfall that they will receive from the sale of the front portion of the property to Amaroo Village and that this money be used to investigate and remediate the entire site.

#### Background:

Prior to the middle 1980s the Hardy Rd site was used as a Shire Depot for many years. During this time while the rear of the site was never actually used as a municipal or community landfill it was however used for the burial of logs and

stumps, drums, old number plates, at least two small trucks, old sanitary pans, oil and filters from serving trucks, cars and earthmoving equipment and the disposal of rocks and various types of fill. In considering these activities Councillors should note that at the time they were both legal and typical of council and privately operated transport depots both in country towns and the Perth metropolitan area.

When the new depot was constructed at Zimmerman St the Hardy Rd site was no longer needed and in 1996 Wood & Grieve Consulting Engineers were engaged to conduct an investigation and prepare a report on contamination levels at the site. This report was also followed up by a full environmental assessment of the site by the Environmental Protection Authority. On the basis of these reports land was then handed back to State Land Services and rezoned by Council and the Planning Commission for usage as senior's accommodation. This process occurred prior to the introduction of the Contaminated Sites Act 2003 which set the current guidelines for the assessment and remediation of contaminated sites.

The vesting of the site was subsequently transferred by State Land Services to Lionsville who have constructed and managed a number of senior's accommodation units on the Mount Shadforth Rd side the block while they built up sufficient funds from rents they received to commence the main development on the site which consists of 16 units followed by a further 10 units. They are currently at the stage where in late 2010 they substantially commenced the site works and retaining walls for all 26 units only to stop work in December 2010 when they started to encounter some of the items that have been buried at the site.

The front portion of the site (Hardy Rd) is in the process of being converted by the State Land Service to freehold land and will be sold to Amaroo Village who intend to use the land to build a seniors recreation facility as well as a further 4 free hold aged accommodation units. These units will then be sold to seniors as part of Amaroo Village's commercial processes.

The Lionsville project is being funded via a substantial contribution from the Department of Housing as community housing project with the remainder of the funds required coming from \$600,000 in loans that Lionsville have raised through Council and money that they have accumulated in rents from their other units. Lionsville have advised that they have spent \$325,000 to get the site up to its present state of development.

The Department of Housing have advised that they have out sourced the project management of the entire construction process to Amaroo Village who will build the units and then hand them onto Lionsville when they are complete. They have also advised that the contract assigns responsibility for conducting due diligence regarding possible site contamination and the project generally to Amaroo Village and that this assignment includes checking the site and its associated services for issues that are likely to frustrate the project such as site contamination, suspect fill, drainage and reactive soils ect. Council staff have not yet been able to obtain a copy of the development contract for the units as Council is not a party to that contract. Staff have however sourced a copy of the 2003 contract for the Peace St/ Mount Shadforth Rd units from Council's files and the annexure on the final page of this contract clearly assigns responsibility for removal of debris to the developer. It is unlikely that the current contract varies from this document.

On receipt of the management and construction contract it appears that Amaroo Village have then sub let the site and retaining works to Lionsville who commenced the work only to find once they had completed the majority of the retaining walls and had carted substantial volumes of fill onto the site that the back two thirds of the site had been filled with number plates, logs and stumps and in isolated spots had a

hydrocarbon odour. Lionsville estimate that approximately 30,000m<sup>3</sup> of material will need to be removed and replaced with clean compaction sand in order for the site to be suitable for standard slab on ground construction and are seeking an estimated \$30,000 to engage Opus International (Albany Office) to provide a report detailing options and estimates for remediating the site.

As the land owner (reserve vested) Lionsville also incurred a responsibility under the Contaminated Acts 2003 to report the site to the DEC which they have done and the site has recently been declared a contaminated site by that agency. As result of this reporting and the subsequent declaration of the land as a contaminated site the cost bringing the site up to an acceptable standard has increased and is potentially in the region of \$100,000 to \$300,000 dollars.

These expenses were from Lionsville's perspective unexpected and they have approached Council seeking an estimated \$30,000 to engage Opus International (Albany Office) to provide a report detailing options and estimates for remediating the site followed by 100% of the funds required to decontaminate the site.



Note: This map was produced using a 2006 data set

### Comment:

In discussing this issue the most appropriate place to start is to consider where the various players stand in regards to the development, who will benefit and to look at how the Department of Housing has approached similar issues in the past.

Shire of Denmark as a former land owner:

Investigations indicate that as the former landholder apart from a moral responsibility to clean up what it has left behind Council has no direct legal responsibility in regards to the site. The reasons for this are that the activities that took place at the site were both legal and socially acceptable practices at the time that they occurred and the activities took place prior to the introduction of the Contaminated Sites Act 2003. In addition to this a report on the site was conducted by a competent person and the site was subject to a full environmental assessment and cleared by that agency prior to it being rezoned and handed back to State Land Services.

In considering Council's "moral responsibility" Councillors should note that Lionsville had an interest in acquiring the site at the time of its rezoning and that at

this time a shire councillor and Bob Woods, Council's former long term Environmental Health Officer/ Building surveyor were involved with the Lionsville Board so Lionsville had access to as much information as anyone in relation to the site. It appears however that as an organisation they have not managed to pass that information onto their current members.

Shire of Denmark as a planning agency:

One of the primary outcomes of a land rezoning process is that the resultant documentation should address all of the land capability issues associated with the intensification of a land use. While the history of the rezoning process is yet to be fully researched it appears that the preparation of the documentation was outsourced to Ayton Taylor & Burrell who engaged Wood & Grieve to investigate the site contamination aspects. While the resulting documents do clearly discuss the past land use and mention possible site contamination issues they have to be read pragmatically to deduce that further site investigations should be undertaken prior to undertaking a development of the site.

In 2009/10 Council issued a planning scheme consent and building licence for the construction in response to a planning application that was lodged by TME. Possible site contamination issues were not discussed on any of these three documents.

Shire of Denmark as a rating agency:

The Amaroo Village and Lionsville both enjoy community housing rating exemptions. This means that even though 30 units are being constructed Council will not enjoy a future rate income from the development of these units. This means that any contribution towards the sites remediation cannot be considered as "loan" that will be paid off by the rates from the 30 units.

Shire of Denmark as a community facilitator:

The ongoing provision of quality, affordable aged accommodation is important part of maintaining Denmark as a socially balanced community and the ongoing participation of Amaroo Village and Lionsville in this market is essential if the supply of these units to continue.

While it is likely that Amaroo Village will survive as a community service group and most likely complete the project without either Council or State Government contributions Lionsville will be significantly impacted and if it survives will not be able to build further units for a very long time. Similarly other aged accommodation providers who hear about the Lionsville/Amaroo Village experience with this project and will be dissuaded from building in Denmark due to the "word" in the industry that another group was "burnt" leading to a chronic shortage of aged accommodation.

Against this back drop is the fact that the \$4,000 – \$12,000 per unit that is required to remediate the site so that ultimately a further 30 units and a seniors recreation facility can be built is a worthwhile community investment and overall represents very good value for money.

Shire of Denmark as a contributing party:

While Shire of Denmark has a strong interest in facilitating the provision of quality, affordable seniors accommodation in Denmark the prime beneficiaries of this project are Lionsville, Amaroo Village, Dept of Housing and the State Land Service

and as result they should be the primary contributors to towards the cost of the remediating the site.

The current scenario being presented by Lionsville and Amaroo exposes the Shire of Denmark to all of the downsides (expenses and risks) and the majority of the costs of rehabilitating the site with all of the upsides going to Amaroo, Lionsville, the Department of Housing and the State Land Service. The only other contributing party is Lionsville whose contributions are limited to their holding costs during the length of time that the remediation takes where as Amaroo will achieve its goal of obtaining a contamination free piece of freehold piece of land and be able to collect the management fees that it has factored into the project without any costs other than those related to project delays.

On this basis it is recommended that if Council resolves to do so that any contribution be limited to:

- 1) In terms of the estimated \$30,000 cost of the preliminary investigation of the site Council being one of five equal contributors with Lionsville, Amaroo, the Department of Housing and the State Land Service.
- 2) In terms of the remediation of the site Council providing opportunities for the disposal of the waste materials and contaminated soil where it is able to do so without incurring significant costs.

Department of Housing as a housing provider:

The Department of Housing has quite clearly stated that they have outsourced responsibility for due diligence and the site investigations to Amaroo Village when they awarded them the management contract.

In terms of making a contribution to the remediation of the site they have also commented that the project has been funded from an area that has already been over allocated (over budget). Notwithstanding this they have indicated that they are not a closed door in terms of funding requests.

When asked what has been done with similar cases they advised that they have only had one similar case and it was with community housing project in East Perth and that the East Perth Development Authority (a state government QUANGO) had contributed the necessary funds to cover the rehabilitation of the site so that the project could continue.

### State Land Service

Unlike Council, the State Land Service have profited by accepting the land back on the basis of the Wood & Grieve report and a full Environmental Protection Authority assessment, vesting it in Lionsville and then subsequently selling the front portion to Amaroo as free hold land.

The estimated \$420,000 windfall that they will receive from the sale of the front portion of the property to Amaroo Village would be sufficient to investigate and remediate the entire site.

### Lionsville:

Lionsville are in the position where they have already borrowed and expended significant funds on the retaining and filling of the site. The uncertainty and delays surrounding the contamination and instability of the site is costing them significant sums in terms of interest payments on drawn funds and they are keen to get the project back under way so that they can get the initial six units completed and start receiving a rental income.

Lionsville have communicated that in their opinion the Shire of Denmark was the agency that put the material there in the first place therefore they should pay all of the costs associated with removing and rehabilitating the site.

### Amaroo Village:

It seems from conversations with Amaroo's project manager and correspondence from them that their investigation of the site was limited to a physical inspection and the engagement of Structuree who are a structural and civil engineering company to drill 6 core holes to test the site for compaction and stability. When these test holes produced acceptable results it appears that Amaroo did not investigate the site further.

Apart from their responsibilities to successfully complete the development under their contract with the Department of Housing Amaroo are also keen to see the development move forward as their plans to acquire the front portion of the property and to build the senior's recreation centre and their own units revolve around the successful completion of the Lionsville units.

Amaroo communicated in a recent briefing session that they were not aware of the soil stability issues at the site and would not have proceeded with if they had known about them. They have also stated that they were not advised of these issues by Council and that they were of the opinion that Council was at best irresponsible and at the worst negligent for allowing land to be zoned for development with these soil conditions.

In stating this opinion Amaroo have omitted reference to their own due diligence responsibilities under their project management contract with the Department of Housing which if discharged properly requires them to ask both Lionsville (their client), Council and potentially State Land Services for whatever history they regarding the property.

### Officer response to the briefing session comments:

An officer response to the briefing session comments is that both Lionsville and Amaroo had sufficient opportunities to take notice of the site's former usage as a Shire Depot and potential for poor stability for construction by the following means.

- a) In the 1990s when this project was first visualised the Lionsville Board had long standing a shire councillor and Bob Woods who was Council's former long term Environmental Health Officer/ Building surveyor as members. This means that Lionsville as organisation had access to as much information as anyone in relation to the site but in a business continuity oversight failed to in place a procedure to ensure that it was passed onto their current members.
- b) Lionsville were interested and involved in 1996 rezoning of the site and as a result of this involvement aware of the previous land use, the contaminated sites investigation undertaken by Wood and Grieve (Trevor Mckell) and the subsequent formal assessment by the Environmental Protection Authority.
- c) In 1999 Lionsville engaged Wood and Grieve (Trevor Mckell) to prepare a site works and retaining wall design. This design included a reference to the removal trees which presumably means buried trees as the site has been clear for many years in the location where the tree removal was noted.
- d) Site plans for a previous development (circa 2000) drawn up by Paul Tulloch who at the time was a local architect also showed the notation from Wood and Grieve (Trevor Mckell) in the same location.
- e) Amaroo have been seeking to get involved in the Hardy Rd aged persons precinct since at least as early as 2005 and have had plenty of time to undertake due diligence regarding the area.

Other options for dealing with the site and constructing the units:

Council several has several options open to it in dealing with the site.

- i) To do nothing and advise Lionsville and Amaroo that they should have their own due diligence before acquiring the site and deciding to build on the property.

Such an approach is reasonable given that Council engaged Wood Grieve who at the time were one of the recognised experts in contaminated sites to assess site and make recommendations. In addition to this the site was also subject to a formal assessment by the Environmental Protection Authority and provisions relating to these assessments were written into the rezoning documentation meaning that anyone who chose to research the history of the site would be aware of the site's former use.

The main disadvantage of this approach is that while it is legally correct it has the potential to cause serious damage to Lionsville's future capacity as a local aged care accommodation provider.

- ii) To allow Lionsville and Amaroo to build on the site as is.

While it is technically and legally possible to not remediate the site and build the units using either stumped floors or piled and keeled construction. This is in reality unacceptable as site would have future settlement issues, the increased floor heights of the units would create universal access issues for their occupants and Council, the Dept of Housing, Lionsville and Amaroo would be seen to be allowing seniors to live on a sinking contaminated site.

- iii) That the development not be built and that Lionsville either retain the site as parkland or that it be acquired by Council and used as parkland until such time

as there are sufficient funds or a sufficiently important use to warrant remediating it.

The drawback with this approach is that Lionsville have already spent \$325,000 on site works and retaining at the site and this would be difficult for them to service without a rental income and Council would need to reimburse them for the cost of these works which would equate to a one off rate increase of approximately 8%.

- iv) That the development be redesigned so that the six units that Lionsville currently propose to build can be located the Hardy Rd frontage of block which is most likely to be free from contamination.

While this approach would satisfy Lionsville's current needs it would mean that Amaroo would not be able to acquire the front portion of the land and as a result would have to acquire part of the definitely contaminated rear section of the site from State Land Services and clean it up at their own cost if they chose to proceed.

The advantage of this approach is that while it is not the highest and best use of the land and may mean that the seniors centre never gets built it at least allow Lionsville to build the six units that they are currently seeking.

The disadvantage of this proposal to Lionsville is that they will not get the full benefit of the \$325,000 they have invested in site works and retaining walls as they will only be able to build the remaining units when they have accumulated enough funds to remediate the rear of the site.

- v) That Council seek to acquire the whole of Reserve 34209 from State Land Services at no cost as freehold property on the basis that it will pay Lionsville for its improvements (\$325,000) and then remediate the site so that it is suitable for standard building construction if in the future it is to be used for a purpose other than a park land.

While this approach will be capital intensive for Council it has the following benefits that make it a preferred option:

- a) It puts Council staff firmly control of both the process and costs of the remediation process.
- b) It provides Council with the opportunity benefit from the upside of the risks that it is being asked to take on.
- c) By acquiring the land freehold Council will then be in the position to deal with Lionsville in a manner that is advantageous for both Lionsville and the community. Acquiring the land will also place Council in the position where it will be able to negotiate with Amaroo if it chooses to do so in a manner that is advantageous for Lionsville.
- d) The 2000m<sup>2</sup> parcel of land on the Hardy Rd frontage of the property that Amaroo are planning to purchase is rumoured to be valued at \$420,000. If Council is able to acquire the site and successfully remediate it the proceeds from the sale of this block would go a long way towards covering Council's costs in acquiring and remediating the property.
- e) Acquiring the land freehold will enable Council to negotiate with Amaroo as to the nature of the senior's facility that will built there ie; bowling club/ tennis ect or possibly a medical centre.

- vi) Payment of Lionsville's interest payments for an interim period (ie 3 months)

The payment of Lionsville's interest on the \$325,000 that they have invested in the development to date for three months by Council would give the group sufficient breathing space consider its options in terms of either redesigning or possibly relinquishing the site.

The cost of Lionsville's current interest bill is in the region of \$2500 per month.

- vii) Payment of Lionsville's interest payments for an interim period (ie 3 months) and authorise the Chief Executive Officer to approach State Land Services regarding the using of the estimated \$420,000 windfall that they will receive from the sale of the front portion of the property Amaroo Village to investigate and remediate the entire site.

**Conclusion:**

As has been previously discussed the prime beneficiaries of this project are Lionsville, Amaroo and the Dept of Housing and State Land Services and therefore they should be the primary contributors to towards the cost of investigating and remediating the site.

If Council's preference is for the project to proceed in its current design then given the precedent that is inferred by the East Perth Development Commission's contribution to the East Perth community housing development it is recommended that Council express its preference for a five way split of the investigation and remediation costs with the majority of funding being sourced from the Dept of Housing or State Land Services, with Council's contribution being limited to a \$6000 contribution towards the preliminary investigation costs followed by providing opportunities for the disposal of the waste materials and contaminated soil where it is able to do so without incurring significant costs and Lionsville and Amaroo contributing the balance.

If however Council intends to go down the acquisition or redesign path it is recommended that Council offer pay to Lionsville's interest bill for three months to give them sufficient space to properly consider their options.

**Consultation:**

A briefing session was organised to enable discussion with Loinsville and Amaroo Village representatives.

**Statutory Obligations:**

The Contaminated Sites Act 2003 places notification requirements on land owners, developers and local governments.

**Policy Implications:**

The issues associated with remediation of this site will have significant policy implications for Council as they will set a precedent for future community housing projects both on former Council land and in Denmark generally.

**Budget / Financial Implications:**

The cost of the site remediation will range between \$100,000 - \$300,000. If Council contributes to the remediation of the site it will have an impact on Council's 2010/2011 and 2011/2012 Budgets.

If Council resolves to fund Lionsville's interest payments or to contribute to the site investigation report an absolute majority vote will be requires as it is unauthorised expenditure.

**Strategic Implications:**

There are no known significant strategic implications relating to the report or the officer recommendation.

**Sustainability Implications:**

➤ **Environmental:**

While the site has been classed as being contaminated by the DEC this classification does not mean that it is having an impact on surrounding land and water ways in its current state.

➤ **Economic:**

The successful completion of this project will contribute the Denmark's base level of economic demand for goods and services.

➤ **Social:**

The successful completion of this project will provide quality affordable housing for Denmark's seniors for many years come which will in turn will contribute to the diversity and social balance of Denmark.

Conversely if the project is not completed the Denmark Community will most likely lose Lionsville as a Community housing provider and Amaroo Village be reluctant to take on further projects in Denmark resulting in a shortage of suitable aged accommodation.

**Voting Requirements:**

An absolute majority vote will be required as this item authorises expenditure that has not been budgeted for.

Alternative recommendations that Council could consider include;

That with respect to the request by Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc., to assist them fund their liabilities and obligations in respect to site investigation and remediation of portion of Reserve 34209 Hardy St, Denmark, arising out of their senior's accommodation joint venture with the Department of Housing, Council advise that;

- 1) Lionsville, Amaroo, Dept of Housing and State Land Services as the prime beneficiaries of the Hardy Rd senior's housing project should be the primary contributors to towards the costs of investigating and remediating the Reserve 34920.
- 2) Council not make any contributions to either the investigation or the remediation of the site until such time as the Chief Executive Officer has viewed the project management contracts between the Department of Housing, Lionsville and Amaroo Village and is satisfied regarding the allocation of responsibilities in these contracts.
- 3) Once the Chief Executive Officer has viewed the project management between contracts the Department of Housing, Lionsville and Amaroo Village and is satisfied regarding the allocation of responsibilities in these contracts that Council make an out of budget contribution of \$6,000 towards the estimated \$30,000 cost of a preliminary investigation of the site based on Council one of five contributors with Lionsville, Amaroo, the Department of Housing and the State Land Service all making contributions.
- 4) Given the trend that has been established by East Perth Development Commission's contribution to the East Perth community housing project that Council express its preference for a five way split of the remediation expenses with the majority of funding being sourced from the Dept of Housing or the Great Southern Development Corporation, with Council's contribution being limited to providing opportunities such as disposal of the waste materials and contaminated soil where it is able to do so without incurring significant costs with Lionsville and Amaroo contributing the balance the cost of the remediating the site.

Or

That with respect to the request by Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc., to assist them fund their liabilities and obligations in respect to site investigation and remediation of portion of Reserve 34209 Hardy St, Denmark, arising out of their senior's accommodation joint venture with the Department of Housing, Council advise;

That once the Chief Executive Officer has viewed the project management between contracts the Department of Housing, Lionsville and Amaroo Village and is satisfied regarding the allocation of responsibilities in these contracts, Council;

- 1) Delegates authority to the Chief Executive Officer to enter into discussions regarding the reconfiguration development so that the six units that Lionsville currently propose to build can be relocated to the Hardy Rd frontage of block which is most likely to be free from contamination.
- 2) Offers to pay Lionsville's interest bill for the site works and retaining walls on the project to date for three months to give them sufficient space to properly consider their options.

Or

That with respect to the request by Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc., to assist them fund their liabilities and obligations in respect to site investigation and remediation of portion of Reserve 34209 Hardy St, Denmark, arising out of their senior's accommodation joint venture with the Department of Housing, Council advise;

That once the Chief Executive Officer has viewed the project management between contracts the Department of Housing, Lionsville and Amaroo Village and is satisfied regarding the allocation of responsibilities in these contracts, Council;

- 1) Authorises the Chief Executive Officer to seek to acquire the whole of Reserve 34209 from State Land Services at no cost as a freehold property on the basis that Council will pay Lionsville for its improvements which are estimated to be \$325,000 and will remediate the site so that it is suitable for standard building construction if in the future it is to be used for a purpose other than a park land.
- 2) Offers to pay Lionsville's interest bill for the site works and retaining walls on the project to date for three months to give them sufficient space to properly consider their options.

Or

That with respect to the request by Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc., to assist them fund their liabilities and obligations in respect to site investigation and remediation of portion of Reserve 34209 Hardy St, Denmark, arising out of their senior's accommodation joint venture with the Department of Housing, Council advise;

1. That once the Chief Executive Officer has viewed the project management between contracts the Department of Housing, Lionsville and Amaroo Village and is satisfied regarding the allocation of responsibilities in these contracts, Council;
  - a) Authorises the Chief Executive Officer to negotiate with State Land Services regarding the using of the estimated \$420,000 windfall that they will receive from the sale of the front portion of the property Amaroo Village to investigate and remediate Reserve 34290 in its entirety.

- b) Offers to pay Lionsville's interest bill for the site works and retaining walls on the project to date for three months to give them sufficient space to properly consider their options.
- 2. That once a suitable arrangement with State Land Services has been negotiated by the Chief Executive Officer that the remediation of the site be managed by Council staff.

Or

That with respect to the request by Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc., to assist them fund their liabilities and obligations in respect to site investigation and remediation of portion of Reserve 34209 Hardy St, Denmark, arising out of their senior's accommodation joint venture with the Department of Housing, Council advise;

- 1. That once the Chief Executive Officer has viewed the project management between contracts the Department of Housing, Lionsville and Amaroo Village and is satisfied regarding the allocation of responsibilities in these contracts, Council;
  - a) Authorises the Chief Executive Officer to negotiate with State Land Services regarding the using of the estimated \$420,000 windfall that they will receive from the sale of the front portion of the property Amaroo Village to investigate and remediate Reserve 34290 in its entirety.
  - b) Offers to pay Lionsville's interest bill for the site works and retaining walls on the project to date for three months to give them sufficient space to properly consider their options.
- 2. That once a suitable arrangement with State Land Services has been negotiated by the Chief Executive Officer that the remediation of the site be managed by Council staff.

*Discussion ensued.*

*7.22pm – The Director of Finance & Administration left the meeting.*

*7.23pm – Cr Richardson-Newton left the meeting.*

*7.25pm – The Director of Finance & Administration returned the meeting.*

<b>COUNCIL RESOLUTION</b>	ITEM 11.1
MOVED: CR HINDS	SECONDED: CR PHAIR
That Standing Orders be resumed.	
CARRIED: 11/0	Res: 310211

**OFFICER RECOMMENDATION** ITEM 11.1

That with respect to the request by Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc., to assist them fund their liabilities and obligations in respect to site investigation and remediation of portion of Reserve 34209 Hardy St, Denmark, arising out of their senior's accommodation joint venture with the Department of Housing, Council;

- 1. Authorise the Shire President and Chief Executive Officer to urgently seek meetings with the Department of Housing, State Land Services, the Minister for Housing, the Minister for Lands and the Honourable Terry Redman MLA with a view to the State Government recognising that;
  - a. the liabilities and obligations are unexpected and unreasonable for these not for profit community groups to bear and;
  - b. the Shire of Denmark in agreeing to transfer the land free of charge from

- its management to the State in approximately 1996, did everything reasonable and expected of it as 'vendor' at the time and;
- c. the State via State Lands Services transferred the management of the land free of charge to the Denmark Lions Club Inc. on the basis that it was suitable for Aged Housing and that accordingly;
  - d. the State should now accept financial responsibility for investigation and remediation of the Reserve 34290 in its entirety to enable completion of its current joint venture to build subsidised aged housing on behalf of the State and allow for future activities including the construction of additional seniors units together with a planned Seniors Recreation Centre.
2. Request that the CEO report back to Council on the outcomes of the meetings in part 1 by no later than 30 April 2011.
  3. Offer to pay the Lionsville Denmark Inc. existing self supporting loan (with Council) interest bill for the site works and retaining walls on the project for a period up to six months to allow for adequate time for site remediation and give them sufficient time to properly consider all options.
  4. Subject to the outcome of Part 1 being that the State Government agrees to fund all of the costs associated with site investigation and remediation and subject to the support of Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc (as the land 'owners'), the CEO be authorised to instruct Council staff to manage and supervise the remediation process on behalf of the landowners and the State.

**COUNCIL RESOLUTION**

ITEM 11.1

MOVED: CR SYME

SECONDED: CR RICHARDSON-NEWTON

That with respect to the request by Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc., to assist them fund their liabilities and obligations in respect to site investigation and remediation of portion of Reserve 34209 Hardy St, Denmark, arising out of their senior's accommodation joint venture with the Department of Housing, Council;

1. Authorise the Shire President and Chief Executive Officer to urgently seek meetings with the Department of Housing, State Land Services, the Minister for Housing, the Minister for Lands , Minister for Environment and the Honourable Terry Redman MLA with a view to the State Government recognising that;
  - a. the liabilities and obligations are unexpected and unreasonable for these not for profit community groups to bear and;
  - b. the Shire of Denmark in agreeing to transfer the land free of charge from its management to the State in 1997, did everything reasonable and expected of it as 'vendor' at the time and;
  - c. the State via State Lands Services transferred the management of the land free of charge to the Lionsville Denmark Inc. on the basis that it was suitable for Aged Housing and that accordingly;
  - d. the State should now accept financial responsibility for investigation and remediation of the Reserve 34290 in its entirety to enable completion of its current joint venture to build subsidised aged housing on behalf of the State and allow for future activities including the construction of additional seniors units together with a planned Seniors Recreation Centre.
2. Request that the CEO report back to Council on the outcomes of the meetings in part 1 by no later than 30 April 2011.
3. Offer to pay the Lionsville Denmark Inc. existing self supporting loan interest (with Council) with respect to Loan No. 142 less any investment interest for the project for a period up to six months (up to \$22,000) to allow for adequate time for site remediation and give them sufficient time to properly consider all options.

4. Subject to the outcome of Part 1 being that the State Government agrees to fund all of the costs associated with site investigation and remediation and subject to the support of Lionsville Denmark Inc. and Amaroo Cottages For Senior Citizens Inc (as the land 'owners') and the State Government, the CEO be authorised to instruct Council staff to manage and supervise the remediation process on behalf of the landowners and the State.

CARRIED: 11/0

Res: 320211

REASONS FOR CHANGE

Council made minor administrative amendments that also included reference to the Minister for Environment.



Shire of Denmark  
ICR1125101  
- 2 FEB 2011  
A3157

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

*Gregg*

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

Dear Sir/Madam

New legislation is in place to record and manage contaminated sites in Western Australia, in order to protect people's health and the environment. Please note that contamination does not necessarily mean that an area is unsafe to live or work in – for example, it may be limited to groundwater, and only becomes an issue to be managed if a groundwater bore was being considered.

The *Contaminated Sites Act 2003*, which came into effect on 1 December 2006, requires the Department of Environment and Conservation (DEC) to classify sites reported to it and inform a number of people, including owners and occupiers, so they can make informed decisions about the site.

Set out below in this letter is the formal notice of a classification of a known or suspected contaminated site in which you have an interest. The notice explains why the site received the classification, any restrictions on the use of the site, and how you can appeal the classification if you believe it is incorrect. In some cases, this notice may include a list of lots in addition to the one in which you have an interest.

Also attached is a copy of the brochure *Contaminated sites: New laws for Western Australia*, which has more information about the new Act. If you have any queries, please contact DEC's Contaminated Sites Section on 1300 762 982.

**NOTICE OF A CLASSIFICATION OF A KNOWN OR SUSPECTED CONTAMINATED SITE GIVEN UNDER SECTION 15 OF THE CONTAMINATED SITES ACT 2003**

The site detailed below, consisting of 1 parcel(s) of land, was reported to the CEO of DEC as a known or suspected contaminated site and has been classified under the Act:

- LOT 3002 ON PLAN 45104 as shown on certificate of title LR3151/703 known as 26 Hardy St, Denmark WA 6333 (the Site)

This notification is being sent to you in accordance with section 15(1) of the Act on the grounds that you, as the recipient, are one or more of the following:

**DIRECTOR GENERAL AND ENVIRONMENTAL SERVICES DIVISIONS:** The Atrium, 168 St Georges Terrace, Perth, Western Australia 6000

Phone: (08) 6467 5000 Fax: (08) 6467 5562

**PARKS AND CONSERVATION SERVICES DIVISIONS:** Executive: Corner of Australia II Drive and Hackett Drive, Crawley, Western Australia 6009

Phone: (08) 9442 0300 Fax: (08) 9386 1578 Operations: 17 Dick Perry Avenue, Technology Park, Kensington, Western Australia 6151

Phone: (08) 9219 8000 Fax: (08) 9334 0498

**POSTAL ADDRESS FOR ALL DIVISIONS:** Locked Bag 104, Bentley Delivery Centre, Western Australia 6983

www.dec.wa.gov.au

wa.gov.au

- (a) owner of the site;
- (b) occupier of the site;
- (c) relevant public authority;
- (d) person in the CEO's opinion there is particular reason to notify;
- (e) person who made the report under section 11 or 12; and
- (f) person in the CEO's opinion who may be responsible for remediation of the site classified as *contaminated – remediation required*.

### Site Classification

The Site is classified as the following category:

**Category of Site classification:** Possibly contaminated - investigation required

**Date of site classification:** 24/01/2011

**Reasons for classification:** This site was reported to the Department of Environment and Conservation (DEC) as per reporting obligations under section 11 of the 'Contaminated Sites Act 2003', which commenced on 1 December 2006. The site classification is based on information submitted to DEC by December 2010.

The site was historically used as a Shire Council Depot, a land use which has the potential to cause contamination as detailed in the DEC guideline "Potentially Contaminating Activities, Industries and Land Uses" (Department of Environment, October 2004).

The site was reported because recent soil excavations, conducted during residential redevelopment works at the site, uncovered potential hydrocarbon-impacted soils (such as from diesel and oil) and evidence of historical waste burial activities. Items uncovered included: building rubble; sleepers; trees; drums; licence plates; and general rubbish.

In 1997, test pit and bore hole inspections of soils were conducted at the site and detected evidence of assorted timber, textiles and scrap metals at the site. However, limited soil testing undertaken at the time did not identify any potential contaminants of concern above relevant assessment levels.

A limited engineering assessment conducted at the site in December 2010 similarly detected evidence of uncontrolled fill, rubble and miscellaneous wastes (including metal, wire ropes, organic materials) and strong petroleum hydrocarbon odours within stockpiled soils.

Soil and groundwater quality investigations undertaken at the site to date are limited and do not meet the requirements of DEC's current Contaminated Sites Management Series of guidelines. The quality of soils and groundwater across the site has not been thoroughly assessed.

Based on information submitted to DEC to date, further investigations are required to determine the nature and extent of possible contamination at the site and the suitability of the site for the proposed redevelopment for residential use.

As there are grounds to indicate possible contamination of the site, and since a suitable investigation of soil and groundwater and a risk assessment to determine the risk to human health, the environment, or any environmental value, has not been carried out, further works are required to determine the contamination status of the site and suitability for proposed residential land use. The site has therefore been classified as "possibly contaminated - investigation required".

When the results of soil and groundwater investigations are submitted to DEC, these will be reviewed, and the site may be re-classified.

DEC, in consultation with the Department of Health, has classified the site based on the information available at the time of classification. It is acknowledged that the contamination status may have changed since this time, and as such the usefulness of this information may be limited.

In accordance with Department of Health advice if groundwater is being, or is proposed to be, abstracted DEC recommends that analytical testing should be carried out to determine whether the groundwater is suitable for its intended use.

The nature and extent of contamination and any restrictions on the use of the land, if applicable, are listed in Attachment A.

Information in relation to the classification of the site will be available to the public through a request for a summary of records on written application and payment of a prescribed fee from the Reported Sites Register.

In some instances DEC has had to classify sites based on historical information. It should be noted that a site may be re-classified at any stage to better reflect the current status when additional information becomes available, for example where a new investigation or remediation report completed in accordance with DEC's *Contaminated Sites Management Series* of guidelines, is submitted to DEC. The current site classification is the classification most recently conferred on the site.

### Memorials

In accordance with section 58(1) of the Act, DEC will lodge a memorial against the Certificate of Title(s) LR3151/703 relating to the site, with Registrar of Landgate, which will record the site classification. The parcel(s) that do not have a registration number or certificate of title will not have a memorial lodged against them until a certificate of title has been created. Confirmation of the lodgement of the memorial(s) will be forwarded to the following people once completed:

- (a) each owner,
- (b) the Western Australian Planning Commission;
- (c) the CEO of the Department of Health;
- (d) the Local Government Authority;
- (e) the relevant scheme authority.

Given that memorial(s) will be lodged against the site, the Western Australian Planning Commission (WAPC) may not approve the subdivision of the land under Section 135 of the *Planning and Development Act 2005*, or the amalgamation of that land with any other land without seeking, and taking into account, the advice of DEC as to the suitability of the land for subdivision or amalgamation. Furthermore, a responsible authority (e.g. Local Government Authorities) may not grant approval under a scheme for any proposed development of the land without seeking, and taking into account, advice from DEC as to the suitability of the proposed development.

### Appealing the Site classification

All site classifications given by DEC are appealable. However, only certain people can lodge a valid appeal depending on the classification category as detailed in the attached Fact Sheet. Appeals need to be lodged in writing with the Contaminated Sites Committee at Level 22, Forrest Centre, 221 St Georges Tce, Perth WA 6000, within 30 days of being given this notification. The appeal should set out the appellant's relationship to the site, and must include the grounds and facts upon which it is based.

For further information on all aspects of site classification, please refer to the *Site Classifications – What do they Mean?* Fact Sheet and *Site Classification Scheme 2006* (guideline) which are available from DEC's website [www.dec.wa.gov.au/contaminatedsites](http://www.dec.wa.gov.au/contaminatedsites) or by contacting the Registrar on 1300 762 982.

Yours sincerely



.....

Sally Dodds, A/SECTION MANAGER

CONTAMINATED SITES BRANCH  
Delegated Officer under section 91  
of the *Contaminated Sites Act 2003*

24/01/2011

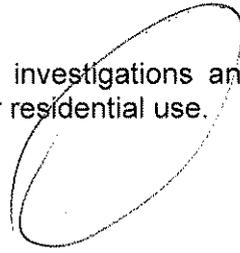
Enc. Attachment A – Nature and Extent and Restrictions on Use.

## ATTACHMENT A – Nature and Extent and Restrictions on Use

- **LOT 3002 ON PLAN 45104**

**Nature and Extent:** Fill material, potentially including hydrocarbon impacted soil, (such as from diesel and oil); building rubble; sleepers; trees; drums; licence plates; and general rubbish has been identified in soils at the site.

**Restriction on Use:** DEC recommends that further investigations and, if necessary, remedial works are completed before the site is redeveloped for residential use.



Lionsville Denmark Inc.  
P.O. Box 259 Denmark W.A. 6333  
A.B.N. 889 558 866

Tel. 98481500

Amaroo Care Services Inc.  
Mr. David Fenwick.  
6<sup>th</sup> December 2011

Dear David,

Further to your letter of 17<sup>th</sup>. November regarding your offer to act as interim caretaker and manger of Lionsville Denmark Inc.

The board of Lionsville Denmark Inc. met on the 5<sup>th</sup>. December to consider this proposal and a motion was passed to accept your offer until final arrangements can be made with the Department of Housing and the Shire of Denmark for the takeover to be completed. It is our understanding that Amaroo Care Services Inc. will accept full responsibility for the collection of rents and maintenance. Please do not hesitate to contact Lionsville if you require further information.

We look forward to a meeting with Amaroo staff to complete a hand over of all necessary tenant and financial details.

Our regards,  
W. Farquharson,  
President .

c.c. Department of Housing.  
Shire of Denmark

Shire Of Denmark ORG. 38	
13 DEC 2011 ICR11210640	
EPH	
COUNCILLORS	
CEO	✓
DIR of FINANCE	✓
DIR of PLANNING	
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

21 July 2011

Will Farquharson  
Lionsville Denmark Inc  
PO Box 529  
Denmark WA 6333



OPUS REF: WBMSC301/004ZA

Dear Will

## OFFER OF SERVICE

### CONTAMINATED SITES SITE MANAGEMENT PLAN, GROUNDWATER MONITORING AND REMEDIATION VALIDATION REPORTING

#### LOT 3002 HARDY STREET, DENMARK

Thank you for the opportunity to offer our proposal for professional services to assist you with the project as described below.

### GENERAL DESCRIPTION OF THE PROJECT

Opus understands that, based on the previous investigations undertaken on site, a Contaminated Sites Site Management Plan is required for Lot 3002 Hardy St, Denmark.

Opus can offer services to undertake a Site Management Plan (SMP), groundwater monitoring and Site Remediation Validation Reporting as per the DEC Contaminated Sites Management Series to assist in remediation of the site.

### SCOPE OF WORKS

#### Site Management Plan

The SMP involves completing a summary of the previous investigations undertaken and detailed outline of the proposed remediation works to be undertaken. Further investigation required as recommended in the Detailed Site Investigation (DSI) includes:

- One site visit to residential properties downstream from site to determine bore water usage in the area;
- Further soil assessment to determine depth of Natural Clay soils, beneath contaminated material;
- Notification of neighbouring residences via a letter of the proposed remediation works.

The SMP will involve (but may not be limited to):

- Collation and summary of previous investigations undertaken onsite;
- Proposed testing to validate the site after remediation;
- Contingency plan if the selected remedial strategy fails;

- Interim site management (prior to remediation), including fencing erection of warning signs, stormwater diversion;
- Site management plan (operational phase), including stormwater management, soil management, noise control, dust control, odour control, management of air emissions, occupational health and safety;
- Remediation schedule;
- Hours of operation;
- Contingency plans to respond to site incidents, to obviate potential effects on surrounding environment and community;
- Identification of regulatory compliance requirements;
- Proximity to exposure receptors/ populations;
- Contingency plan for receptors if management plan fails;
- Long term site management plan;
- Location/ source of any clean fill material to be used.

The proposed documentation will be undertaken in accordance with the requirements of the Department of Environment and Conservation (DEC) *Contaminated Sites Management Series*.

#### Groundwater Monitoring and Site Remediation Validation Reporting

Based on the findings of the Detailed Site Investigation is recommended that groundwater monitoring bores are installed and monitored quarterly in the creekline to the east of Lot 3002 (one upstream and one downstream of the site). Installation of monitoring bores is proposed to be undertaken by Albany Drilling (refer to Constraints section).

Onsite monitoring will be undertaken to measure pH, temperature, Total Dissolved Solids (TDS) and Dissolved Oxygen (DO). Groundwater samples will be collected for laboratory analysis by ALS Laboratory for the following parameters:

- Heavy metals: Arsenic; Cadmium; Chromium; Copper; Lead; Nickel; Zinc; and Mercury;
- Polynuclear Aromatic Hydrocarbons (PAHs);
- Total Petroleum Hydrocarbons (TPHs);
- Phenols;
- Volatile Organic Compounds; and
- Monocyclic Aromatic Hydrocarbons (MAHs) (otherwise known as BTEX: Benzene, Toluene, Ethylbenzene and Xylenes).

Following removal of material (including uncontrolled fill and re-useable material) onsite, validation of natural soils beneath will require validation to ensure all contaminated material has been removed. Soil removed from the site may also require analysis to determine waste classification for disposal. Validation of soils and waste classification will require, but may not be limited to, laboratory analysis of the following:

- Heavy metals: Arsenic; Cadmium; Chromium; Copper; Lead; Nickel; Zinc; and Mercury;
- Polynuclear Aromatic Hydrocarbons (PAHs);
- Total Petroleum Hydrocarbons (TPHs);
- Phenols;
- Volatile Organic Compounds; and
- Monocyclic Aromatic Hydrocarbons (MAHs) (otherwise known as BTEX: Benzene, Toluene, Ethylbenzene and Xylenes).

It is unknown at time of writing how many samples will be required and this will be provided as an estimate in the Site Management Plan and the Provisional Sum will be determined at this time.

The Site Remediation Validation Reporting will involve (but may not be limited to):

- Collation and summary of previous investigations undertaken onsite;
- Remediation and Validation strategy utilised;
- Ongoing site monitoring requirements (soil, groundwater, surface water, air emissions), including monitoring parameters and frequency;
- Results of groundwater monitoring and soil validation analyses;
- Responsibilities for maintenance and monitoring program;
- Reporting frequency;
- Recommendations for further sampling;
- Conclusions of the remediation;
- Statement of limitations and constraints on the use of the site.

### **Deliverables**

- Three (3) hard copies and one (1) PDF electronic copy of the Site Management Plan and Site Remediation Validation Reporting.

### **Assumptions**

Not included in the offer of service:

- Remediation of the site;
- Residential site visit will be limited to one day. If residents are not available during this site visit a letter will be left with contact details;
- Soil and groundwater sampling and laboratory analysis for validation of site (to be determined in the Site Management Plan);
- Groundwater monitoring is recommended to be undertaken prior to, during and post remediation of the site. If this period extends beyond 12 months (as provided in this offer of service), the monitoring will be required to be extended and offered as an additional cost;
- Health, Safety and Environmental Plan preparation and submission to WorkSafe WA, however this can be provided as an additional cost;
- Technical Specifications, Tender preparation/recommendation and Contract administration or supervision of remediation of the site.

These may be provided by Opus as an additional offer of service.

### **Constraints**

- Please refer to our conditions and limitations sheet attached to this offer of service.
- Although not expected based on information available there is a possibility that the DEC may require the reporting to be independently audited. If required by DEC these must be audited by an Accredited Contaminated Sites Auditor who is independent to the development and consultant(s). The Audit shall be undertaken in accordance with DEC guidelines.

If requested by DEC an Accredited Auditor must be engaged directly by the client so ensure independence from the consultant. Therefore it is the responsibility of the Client to appoint an Accredited Auditor to review the DSI and any future reporting and investigations.

Accredited Contaminated Sites Auditors can be found on the DEC website [www.dec.wa.gov.au](http://www.dec.wa.gov.au).

- Installation of groundwater monitoring bores is proposed to be undertaken by Albany Drilling to an approximate depth of 9m. This cost has been provided as a Provisional Sum and may be subject to change beyond the control of Opus due to onsite conditions encountered at time of installation.

## **ALIGNMENT TO RELEVANT LEGISLATION, POLICY AND GUIDELINES**

- *Contaminated Sites Act 2003*;
- Landfill Waste Classification and Waste Definitions 1996 (as amended December 2006);
- Department of Environment and Conservation (previously Department of Environmental Protection) Guidelines:
  - Contaminated Sites Management Series –
    - Assessment Levels for Soil, Sediment and Water 2010;
    - Contaminated Sites Auditors: Guidelines for Accreditation, Conduct and Reporting 2009;
    - Bioremediation of Hydrocarbon Contaminated Soils in Western Australia 2004);
    - Development of Sampling and Analysis Programs 2001;
    - Potentially Contaminating Activities, Industries & Land Uses 2004;
    - Reporting of Site Assessments 2001; and
    - Community Consultation 2006.
- Department of Health WA Guidelines;
- Department of Water Guidelines.

## **CLIENT TO SUPPLY**

It is our understanding that you will make available all relevant information regarding this project to help assist us with carrying out the scope of work. In particular, we will require:

- Any previous analyses undertaken on the site (if any);
- Previous communications with the DEC, WAPC and the Department of Planning and Infrastructure regarding the site (if any);
- Previous soil testing conducted on site (if any);
- Any historical site information; and
- Access onto the site.

We would prefer that where possible all information is provided in suitable electronic format. Please note that any delays or inability to supply the above information may delay cause unplanned or unnecessary delays to the project timeline.

## **OPUS RESOURCES TO BE DEPLOYED ON THIS PROJECT**

### **Project Team**

- Evan Chadfield, OPUS Albany Manager will provide Project Management and Opus Quality Assurance.
- Vicki Laurie, Environmental Team Leader, will complete the Site Management Plan and undertake consultation with Department of Environment and Conservation Contaminated Sites Branch.
- Jon English, Technical Principal (Environment and Contaminated Land) will provide technical review of reporting.

The resources of the OPUS Albany office will provide additional services as required.

## SUBCONTRACTORS TO BE ENGAGED BY OPUS FOR THIS PROJECT

Opus will engage the professional services of:

- Albany Drilling;
- Thermofisher Scientific;
- ALS Laboratory Group, Perth; and
- Courier Australia.

## SCHEDULE/TIMETABLE

The timeline for this project is to be determined, in consultation, with the client at the time of engagement (signed offer of service) and will be subject to the availability of Opus staff and sub-consultants.

## FEE STRUCTURE AND PAYMENT TERMS

**[ALL AMOUNTS QUOTED ARE SUBJECT TO 10% GST]**

Opus fees are to be charged to provide the services listed above for the lump sum value of **\$34,205.00** Ex GST as specified in the tables below. Opus fees are to be charged monthly on a percentage complete basis.

	HR	RATE \$	ESTIMATED COST \$
<b>Site Management Plan</b>			
Environmental Team Leader (Further field assessment, community consultation and reporting)	57	\$ 175.00	\$ 9,975.00
Technical Principal - Environment and Contaminated Land (OPUS Technical Review)	8	\$ 240.00	\$ 1,920.00
Manager – Albany (Opus QA)	1	\$ 240.00	\$ 240.00
Administration	1	\$ 125.00	\$ 125.00
Travel to site – 2 site visits (200km @ \$0.75)			\$ 150.00
		<b>Sub total</b>	<b>\$ 12,410.00</b>
<b>Groundwater Monitoring (Quarterly)</b>			
Environmental Team Leader (groundwater monitoring and project management)	24	\$ 175.00	\$ 4,200.00
Technical Principal - Environment and Contaminated Land (OPUS Technical Review)	8	\$ 240.00	\$ 1,920.00
Manager – Albany (Opus QA)	1	\$ 240.00	\$ 240.00
Travel to site – 4 site visits (400km @ \$0.75)			\$ 300.00
Consumables (for groundwater sampling)			\$ 100.00
		<b>Sub total</b>	<b>\$ 6,760.00</b>
<b>Site Remediation Validation Reporting</b>			
Environmental Team Leader (4 site visits allowed for, reporting and project management)	72	\$ 175.00	\$ 12,600.00
Technical Principal - Environment and Contaminated Land (OPUS Technical Review)	8	\$ 240.00	\$ 1,920.00
Manager – Albany (Opus QA)	1	\$ 240.00	\$ 240.00
Travel to site – 3 site visits (300km @ \$0.75)			\$ 225.00
Consumables (for soil sampling)			\$ 50.00
		<b>Subtotal</b>	<b>\$ 15,035.00</b>
<b>TOTAL ALL STAGES EXCLUDING GST</b>			<b>\$ 34,205.00</b>
<b>GST</b>			<b>\$ 3,420.50</b>
<b>TOTAL ALL STAGES INCLUDING GST</b>			<b>\$ 37,625.50</b>

If further consultation is required beyond that budgeted for in this project this will be charged as an additional cost to the client on a timewrite basis. Any additional service will be agreed in writing between the client and Opus project managers. The tendered costs include allowance for **all** costs associated with the completion of the Project as identified.

## PROVISIONAL SUMS

Item (including 10% Opus Administration fee)**	ESTIMATED COST**
<b>Groundwater Monitoring</b>	
Albany Drilling – Operator, machine hire and travel for installation of 2 groundwater monitoring bores (approximately 9m)	\$ 2,768.70
ALS Laboratory Services Perth – 3 groundwater samples (incl 1 control) x 4 sampling periods (quarterly) = 12 samples	\$ 4,950.00
Courier Australia	\$ 440.00
ThermoFisher Scientific – Low flow groundwater pumping system x 4 quarters	\$ 1,100.00
<b>Site Remediation Validation</b>	Cost unknown at time of writing
<b>Please note at time of writing the cost of soil sampling for validation of the remediation process is unknown and will be outlined in the Site Management Plan.</b>	
<b>SUBTOTAL</b>	<b>\$ 9,258.70</b>
<b>GST</b>	<b>\$ 925.87</b>
<b>SUBTOTAL (INCL GST)</b>	<b>\$ 10,184.57</b>

**\*\*Provisional Sum is an estimate of the laboratory investigations, (the provisional estimate is based on testing as described in this Offer of Service, materials and subcontractors as required). This does not include costs of further laboratory analysis if leachate testing is required for waste classification as per DEC standards.**

## REIMBURSABLE EXPENSES

The cost of obtaining and maintaining any or all approvals which are required for the lawful implementation and completion of the project; if Client has requested Opus to obtain on behalf of the Client. The PM will discuss any reimbursable costs with the client as they arise (if any).

The cost of any services initiated or authorised by the Client directly to sub-consultants or other agents.

The cost of soil testing and laboratory analysis as estimated on the previous page as Provisional Sums.

## SCHEDULE OF RATES

Opus reserves the right to review and vary any and all contract prices and rates, at no sooner than twelve (12) months from the commencement of this project, to take into account fluctuations in wage and/or materials costs. The intention to apply any such variation will be advised by Opus to the Client in writing; giving no less than one (1) months notice.

## EXCLUSIONS

The cost of obtaining and maintaining any or all approvals which are required for the lawful implementation and completion of the project; which have not already been allowed for.

Any and all services not explicitly included in this proposal are implicitly excluded.

## CONDITIONS OF ENGAGEMENT

Unless agreed otherwise, Opus will deliver professional services in accordance with the current issue of the Association of Consulting Engineers Australia (ACEA) Short Form Contract and the Site Investigations Conditions and Limitations (attached) will apply for this contract.

This proposal will remain valid for three (3) months from the date of this offer. If formal acceptance has not been received by Opus by **20<sup>th</sup> October 2011** then Opus reserves the right to review or withdraw this offer.

The services described in the Scope of Works shall not commence until the attached **Authorisation to Proceed** has been signed and returned to Opus.

We sincerely hope that our proposal meets with your approval. If you require additional information or wish clarification on any aspect, please call Vicki Laurie on (08) 9842 6155.

Yours faithfully



**Vicki Laurie**  
**Environmental Team Leader**  
**Opus International Consultants**  
**Albany**

# AUTHORISATION TO PROCEED

**To: Opus International Consultants (PCA) Ltd. Albany**

**From: Will Farquharson  
Lionsville Denmark Inc  
PO Box 529  
Denmark WA 6333**

## OFFER OF SERVICE

### CONTAMINATED SITES SITE MANAGEMENT PLAN, GROUNDWATER MONITORING AND REMEDIATION VALIDATION REPORTING

LOT 3002 HARDY STREET, DENMARK

#### GENERAL DESCRIPTION OF THE PROJECT

Opus understands that, based on the previous investigations undertaken on site, a Contaminated Sites Site Management Plan is required for Lot 3002 Hardy St, Denmark.

Opus can offer services to undertake a Site Management Plan (SMP), groundwater monitoring and Site Remediation Validation Reporting as per the DEC Contaminated Sites Management Series to assist in remediation of the site.

#### SCOPE OF WORKS

##### Site Management Plan

The SMP involves completing a summary of the previous investigations undertaken and detailed outline of the proposed remediation works to be undertaken. Further investigation required as recommended in the Detailed Site Investigation (DSI) includes:

- One site visit to residential properties downstream from site to determine bore water usage in the area;
- Further soil assessment to determine depth of Natural Clay soils, beneath contaminated material;
- Notification of neighbouring residences via a letter of the proposed remediation works.

The SMP will involve (but may not be limited to):

- Collation and summary of previous investigations undertaken onsite;
- Proposed testing to validate the site after remediation;
- Contingency plan if the selected remedial strategy fails;
- Interim site management (prior to remediation), including fencing erection of warning signs, stormwater diversion;
- Site management plan (operational phase), including stormwater management, soil management, noise control, dust control, odour control, management of air emissions, occupational health and safety;
- Remediation schedule;
- Hours of operation;
- Contingency plans to respond to site incidents, to obviate potential effects on surrounding environment and community;

- Identification of regulatory compliance requirements;
- Proximity to exposure receptors/ populations;
- Contingency plan for receptors if management plan fails;
- Long term site management plan;
- Location/ source of any clean fill material to be used.

The proposed documentation will be undertaken in accordance with the requirements of the Department of Environment and Conservation (DEC) *Contaminated Sites Management Series*.

#### Groundwater Monitoring and Site Remediation Validation Reporting

Based on the findings of the Detailed Site Investigation is recommended that groundwater monitoring bores are installed and monitored quarterly in the creekline to the east of Lot 3002 (one upstream and one downstream of the site). Installation of monitoring bores is proposed to be undertaken by Albany Drilling (refer to Constraints section).

Onsite monitoring will be undertaken to measure pH, temperature, Total Dissolved Solids (TDS) and Dissolved Oxygen (DO). Groundwater samples will be collected for laboratory analysis by ALS Laboratory for the following parameters:

- Heavy metals: Arsenic; Cadmium; Chromium; Copper; Lead; Nickel; Zinc; and Mercury;
- Polynuclear Aromatic Hydrocarbons (PAHs);
- Total Petroleum Hydrocarbons (TPHs);
- Phenols;
- Volatile Organic Compounds; and
- Monocyclic Aromatic Hydrocarbons (MAHs) (otherwise known as BTEX: Benzene, Toluene, Ethylbenzene and Xylenes).

Following removal of material (including uncontrolled fill and re-useable material) onsite, validation of natural soils beneath will require validation to ensure all contaminated material has been removed. Soil removed from the site may also require analysis to determine waste classification for disposal. Validation of soils and waste classification will require, but may not be limited to, laboratory analysis of the following:

- Heavy metals: Arsenic; Cadmium; Chromium; Copper; Lead; Nickel; Zinc; and Mercury;
- Polynuclear Aromatic Hydrocarbons (PAHs);
- Total Petroleum Hydrocarbons (TPHs);
- Phenols;
- Volatile Organic Compounds; and
- Monocyclic Aromatic Hydrocarbons (MAHs) (otherwise known as BTEX: Benzene, Toluene, Ethylbenzene and Xylenes).

It is unknown at time of writing how many samples will be required and this will be provided as an estimate in the Site Management Plan and the Provisional Sum will be determined at this time.

The Site Remediation Validation Reporting will involve (but may not be limited to):

- Collation and summary of previous investigations undertaken onsite;
- Remediation and Validation strategy utilised;
- Ongoing site monitoring requirements (soil, groundwater, surface water, air emissions), including monitoring parameters and frequency;
- Results of groundwater monitoring and soil validation analyses;
- Responsibilities for maintenance and monitoring program;
- Reporting frequency;

- Recommendations for further sampling;
- Conclusions of the remediation;
- Statement of limitations and constraints on the use of the site.

**Deliverables**

- Three (3) hard copies and one (1) PDF electronic copy of the Site Management Plan and Site Remediation Validation Reporting.

**FEE STRUCTURE AND PAYMENT TERMS**  
**[ALL AMOUNTS QUOTED ARE SUBJECT TO 10% GST]**

Opus fees are to be charged to provide the services listed above for the lump sum value of **\$34,205.00 Ex GST plus Provisional Sums.**

I/We accept this proposal from **Opus International Consultants (PCA) Ltd. Albany**

*(tick one)*

With no changes to the Scope Of Works, Fee Structure, terms and conditions specified in this Offer;

or

With the following requested changes as specified below (attach separate sheet if required). We understand that this may require Opus to review and/or modify the Offer to accommodate the variation(s).

.....  
 .....  
 .....

We understand that no works shall commence until this signed document and attachments have been received by Opus.

~~As a new client of Opus, we attach a duly completed Application for Credit, which will apply for the balance of this Project and all future projects.~~

For and on behalf of **the client:**

Signature: .....

Date: .....

Name of Authorised Representative: .....

Position Title: .....

Telephone Contact Number: .....

## **SITE INVESTIGATION**

### **CONDITIONS AND LIMITATIONS**

1. Any report prepared is confidential to the clients stated in the report and has been prepared to their instructions for their own purposes and is not permitted to disclose this report to other parties (except the client's own Solicitors and Professional Advisers) without the prior consent of the Consultant.
2. The copyright of this report remains the property of the Consultant.
3. Attention is drawn to the fact that, whilst every effort is made to ensure the accuracy of the data and any conclusions derived from it, the possibility exists of variations in ground conditions around and between trial pits. No liability can be accepted for such variations or for agreed sampling rates/trial hole frequency.
4. Unless specifically stated otherwise in the report, any recommendations for works given in the report are outline only and are to be confirmed or modified as appropriate at detailed design stage.
5. No liability can be accepted for any services or other below ground items unless clearly shown on a plan to us in advance of any site works.
6. The Consultant shall not be liable for any claims resulting from, arising directly or indirectly out of, in consequence of, or in any way involving:
  - the existence, handling, removal, processing, distribution, storage or use of asbestos, asbestos products and/or products containing asbestos.
  - Pollution, seepage, or contamination howsoever arising
7. In accepting instructions to carry out site investigations it is assumed that the client has all necessary permissions from existing owners and/or other authorities for such works to proceed, No liability is accepted for any claims arising as a result of anything contrary to this.
8. It is also assumed that a suitable clear access to the site is available for the required equipment and plant.
9. All holes are normally back-filled with excavated material compacted by its own weight only. Any excess spoil will be spread evenly around the direct area of excavation.
10. No liability for the services performed for the client is accepted to any parties and the client shall indemnify the Consultant from any claims arising directly or indirectly from the Consultant carrying out the Services.
11. Laboratory testing where carried out will be undertaken by sub-contract laboratories. No liability is accepted arising from any errors or omissions on the part of such laboratories.
12. Unless dealt with more specifically above the Association of Consulting Engineers Australia Conditions of Engagement, Short Form Agreement August 2004 applies.

Shire Of Denmark ICR12111093	
16 JAN 2012	
NAME	
A3154	
COUNCILORS	
CEO	<input checked="" type="checkbox"/>
DIRECTOR GENERAL	<input checked="" type="checkbox"/>
DIR OF FINANCE	
DIR OF INFRASTRUCTURE	
DIR OF COMMUNITY	
OTHER	

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

Dear Dale,

#### Lionsville Denmark Inc Transfer

Further to my letter of 23<sup>rd</sup> December, I am writing to confirm that Amaroo Care Services Inc shall be taking over the management of the existing Lionsville Denmark Inc village operation as the "interim care taker" with support from the Dept of Housing from the 6<sup>th</sup> February.

Essentially what this means is that Amaroo shall take over the day to day management of the existing Lionsville village; receiving rent and paying out disbursements including scheduled repayments for the estimated \$170K Treasury Corp loan associated with 22 of the units making up the 26 units of the village.

Meanwhile, the Dept of Housing is terminating the JV community housing agreement they have with Lionsville Denmark Inc and formalising a new JV agreement with Amaroo Care Services Inc as the new manager and operator.

Perhaps you may like to consider providing an agreement between the DSC and Amaroo for the remaining \$170K Treasury Corp loan that Lionsville took out through Council. Ideally, this agreement could be formally activated at same time as the Dept of Housing JV agreement.

In closing, Amaroo, has not agreed to take over any other Treasury Corp loan that may be outstanding, however Amaroo has indicated that it is willing to purchase Reserve 34209 once it has been 'decontaminated' and this should provide resources to adequately clean the site.

Again, I am seeking a written response at your earliest convenience

Yours sincerely,



**David Fenwick**  
Chief Executive Officer

6/1/2012

1CR12512902

Shire of Denmark	
A3157	
03 MAY 2012	
ED:	
COUNCILLORS	
CEO	
DIR of FINANCE	<input checked="" type="checkbox"/>
DIR of PLANNING	
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	



**Amaroo Care Services Inc**  
 ABN: 56 630 732 275

2 Wreford Court, Gosnells WA 6110  
 Tel: (08) 9490 3899 Fax: (08) 9398 4923  
 Email: amaroo@amaroovillage.com.au  
 Website: www.amaroovillage.com.au

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

**Re: Amaroo Proposal to Acquire Hardy Street Reserve 34209 for Further Development**

Dear Dale

Further to our recent meeting with yourself, Councillors Ross Thornton and Ian Osborne with Amaroo Directors Norm Smith, Tony Italiano and David Fleming plus myself on Saturday 28<sup>th</sup> April, I will endeavour to confirm our discussion.

Firstly though, on behalf of the Amaroo Board, I would like to express our appreciation for you and the Councillors to meet with us on a Saturday.

Briefly Amaroo Care services Inc have committed to buying Hardy Street Reserve 34209 for the sum of \$1,209,700 on the condition that the entire area has been certified as being free from contaminants by the Department of Environment and Conservation and deemed suitable to construct residential dwellings upon, and that this can be done within two years – say April 2014.

*(Ross Thornton)*

As a sign of Amaroo's good will, an offer is made to deposit \$100,000 into Council's legal practitioner's trust account as a deposit.

Meanwhile, should Council support the general proposal to acquire the Hardy Street Reserve 34209 from the WA Government and to remediate the site under the guidance of Opus recommendations the so that it meets the afore-mentioned conditions that Amaroo will then purchase it from Council, an MOU between Council and Amaroo will be entered into and signed off.

It is understood that Council will need to negotiate with other government agencies such as: Department of Lands & Regional Development, Department of Conservation & Environment and the Department of Housing to achieve the objective.

In closing, Amaroo plans to continue developing an attractive senior's village, building on the quality that we have already established. On this site, it is planned to construct a village clubhouse and approximately 24 additional villas including some more rentals. This will then make the precinct an attractive senior's residential area both catering for Denmark's seniors and attracting new ones into the area as they move closer to their families.

Yours sincerely,

**David Fenwick**  
 Chief Executive Officer

1 May 2012