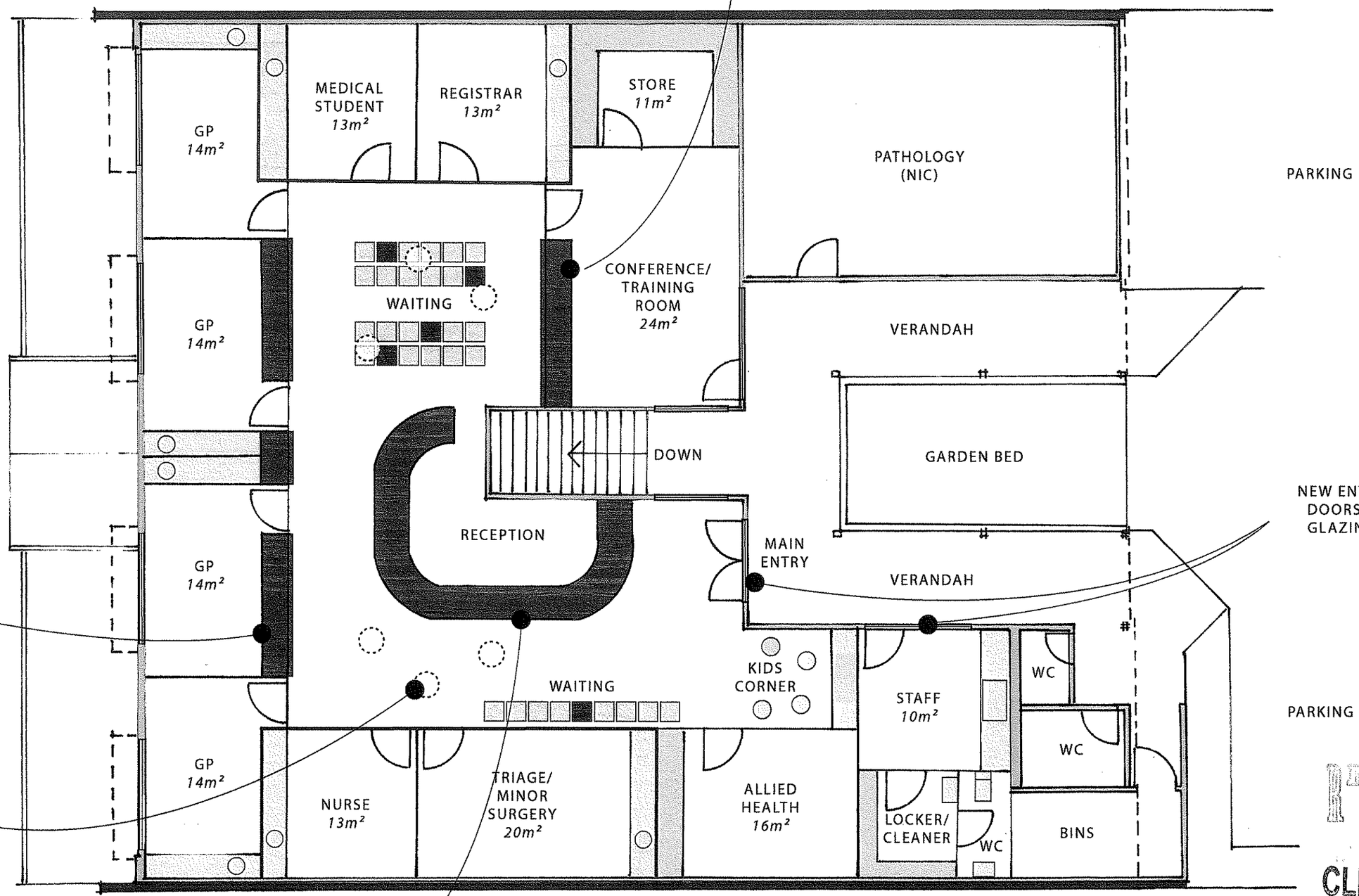
NOTE:
1. DUCTED A/C THROUGHOUT
2. EXISTING JARRAH FLOOR TO REMAIN
3. NEW GLAZING FOR MAIN ENTRY AND STAFF ROOM
4. LTWT WALLS: 90mm WITH SOUND INSULATION
5. DOORS WITH SOUND CONTROL

TOTAL FECA: 295m²



RECEIVED
07 DEC 2011

CLIENT COPY

PIXELTRIX
Design Studio

SKETCH FLOOR PLAN 1:100
Job no. 1129
DENMARK MEDICAL CENTRE, Lot 218 North St, Denmark WA 6333

sk.03
05.12.11

Attachment 8.1.1 a)

DENMARK MEDICAL CENTRE
Rear 27 Strickland Street
Denmark, Western Australia 6333
Telephone (08) 9848 1522
Facsimile (08) 9848 2033
Email admin@denmarkmedicalcentre.com.au

8 March 2012

Mr Dale Stewart
Chief Executive Office
Shire of Denmark
953 South Coast Hwy
Denmark WA 6333

Dear Dale

REQUEST FOR CONSIDERATION OF A "CASH-IN-LIEU" OPTION IN ORDER TO SATISFY PARKING REQUIREMENTS: LOT 218, 3 MOUNT SHADFORTH ROAD

Our previous application dated 6 December and the Council's subsequent refusal of this application has reference.

Following Council's advice that it would consider off-site parking arrangements to accommodate the parking shortfall, being the basis of the refusal of our initial application, we actively pursued what we believe are to be all available options to seek such off-site parking arrangements. We pursued this option, instead of trying to appeal the decision, as we also believe that the best alternative is to provide sufficient parking for the building.

Unfortunately we are now faced with the harsh reality that there are no practical alternatives available to us at present. The obvious alternative was the land owned by the Denmark Co-op which is immediately adjacent to the Shaddie Plaza. We have put in an offer on that land, which was rejected by the Co-op. Events subsequent to this, which the council will be fully aware of, has resulted in the Co-op not being willing or able to negotiate any further in relation to that block.

We have assessed the surrounding area to identify sites that would have the potential to satisfy the requirements and have approached the only three land owners that had land available that fit the requirements and not one of them was willing to consider selling or entering into a lease sufficient to satisfy the Council's criteria.

We are now of the opinion that we have exhausted all possible feasible options to satisfy Council's requirement for the provision of off-site parking. We therefore now request Council to kindly reconsider our application, based on the following:

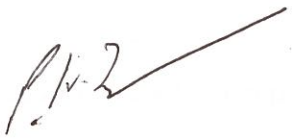
1. We request approval of our change of use application through the granting of a "cash-in-lieu" option in order to overcome the parking barrier;
2. We commit ourselves to continue to seek viable alternative parking, and request that in the event that we do purchase land that is suitable for our purposes and which satisfies

Council's requirements, that we be reimbursed for the cash-in-lieu paid by us for the parking shortfall;

3. Achieving agreement with the Denmark Co-op remains one of the potential solutions, however this may prove to be a process that will not be completed in the short term, and in the interest of expediency we kindly request that Council approve our application on the basis of our commitment expressed above.
4. Although we are a private medical group, the service that we provide and the enhanced service that we will be able to provide when we are able to relocate to the proposed new premises will be of significant benefit to the Denmark community.

Your assistance in assessing and approving this application is appreciated. Please do not hesitate to contact us at any time if you require addition information or clarification on any point.

Yours sincerely



Dr Hector Faulkner

Prior to Item 8.1.2, the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

Cr Osborne is a patient of the Denmark Medical Centre and as a consequence there may be a perception that their impartiality on this matter may be affected. Cr Osborne declares that he will consider this matter on its merits and vote accordingly.

8.1.2 PROPOSED CHANGE OF USE: SHOP/OFFICE TO MEDICAL CENTRE – NO. 3 (STRATA LOTS 3-6/LOT 218) MT SHADFORTH ROAD, DENMARK

File Ref:	A5435; A5436; A5437; A5438 (2011/211)
Applicant / Proponent:	Karrip Pty Ltd ATF DMC Property Trust
Subject Land / Locality:	No. 3 (Strata Lots 3-6/Lot 218) Mt Shadforth Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	4 January 2012
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.2 a) – Floor plan of the Proposed Development 8.1.2 b) – Letter Requesting Waiver of Parking Requirements 8.1.2 c) – Approved Car Parking Plan

Summary:
Karrip Pty Ltd are seeking Planning Approval for a Change of Use from 'Shop/Office' to 'Medical Centre' at No. 3 (Strata Lots 3-6/Lot 218) Mt Shadforth Road, Denmark. The applicants have requested Council's consideration to waiver the requirement for cash in lieu payment associated with the on-site parking shortfall as a result of this proposal.

From a Planning Services perspective it is not considered appropriate to waiver the requirement for cash in lieu, thus it is recommended that the Planning Application be granted approval with a condition specifically requiring the applicant/landowner to pay cash in lieu associated with the parking shortfall generated from the proposal.

Background:

Current Application

An application for Planning Approval was lodged with Planning Services in December 2011 for a Change of Use from 'Shop/Office' to 'Medical Centre' at No. 3 (Strata Lots 3-6/Lot 218) Mt Shadforth Road, Denmark (being the upstairs units of 'Shaddie Plaza') – refer Attachment 8.1.2 a).

Accompanying the planning application is a letter from Denmark Medical Centre requesting Council waiver the requirement for 'cash-in-lieu' associated with the on-site parking shortfall that approval to this proposal will result in – refer Attachment 8.1.2 b).

Approved Development

Planning Approval 120/2006 was granted on 18 July 2006 for a Commercial (Shop/Office) Development on the subject site.

Condition 5 of the planning approval required the provision of fifteen parking bays (inclusive of 1 disabled bay) being provided on-site, with such bays to be drained, sealed and line marked to the satisfaction of the Manager Engineering Services. Attached at Attachment 8.1.2 c) is a copy of the approved parking plan – noting access to the car parking area located at the rear of the site is obtained off the Right of Way which extends from South Coast Highway through to Millar Street.

It should be noted that from a recent site inspection of the premises by Planning Services, the car park has been built in accordance with the approved plans, noting however that the line marking is no longer evident thus should be required to be re-line marked – either as a condition of this Planning Approval and/or as a compliance matter associated with the current development on-site.

Attachment 8.1.1 c)

Comment:
In accordance with Town Planning Scheme No. 3 (TPS No.3), a 'Medical Centre' is an "AA" use in the 'Commercial' zone – that is a use that the Council may, at its discretion, permit the use in the zone.

Given that the built form of the development proposal is existing on-site, the main issue that requires consideration with this planning application is compliance with the car parking requirements of TPS No. 3. In this regard, the car parking requirements for the overall development proposed on-site are:

Land Use	Scheme Provision	Required No. Of Bays
Medical Centre – Strata Lots 3-6 (being the upstairs portion of the building)	First consultant 4 bays; Additional consultants 4 bays	24 bays (based on 5 x consulting rooms for the Denmark Medical Centre operations and 1 x consulting room with the pathology operations)
Shop/Office – Strata Lots 1 & 2 (being the two downstairs units)	1 bay per 40m^2 gross leasable area	6 (based on total floorspace of 234 m^2)
		TOTAL – 30 bays

There currently are fifteen (15) car parking bays located on-site, thus this development proposal will result in a shortfall of fifteen (15) car parking bays on-site as there is no further ability to provide additional on-site car parking.

As per Clause 5.23 of TPS No. 3, there is the ability for a cash payment in lieu of provision of on-site car parking to be paid by the applicant to Council for Council to either purchase land and/or provide a public car park in the nearby vicinity.

In this instance Planning Services consider it appropriate to allow the shortfall of fifteen (15) car parking bays to be addressed via a cash in lieu payment on the basis that:

- The existing parking already provided on-site will account for 50% of the TPS No. 3 on-site requirements (noting that Town Planning Scheme Policy No. 31: Commercial Strategy references that cash-in-lieu should not be seen to be replacing the developer's responsibility to provide on-site parking);
- Notwithstanding that it is acknowledged some patients of the medical centre will have medical conditions that may require them to park immediately adjacent to the medical centre, the majority of patients would be able to access the medical centre after parking in the public car parking spaces (e.g. Strickland Street, proposed car park in North Street etc) – noting that there is generally limited on-site parking available for patients at the medical centre's current site; and
- The cash in lieu monies can be utilised by Council to provide public car parking in and around the commercial centre of town.

Having regard to the above, the Director of Planning and Sustainability was prepared to issue a Planning Approval for this planning application, under delegated authority, with the following condition to specifically address the car parking requirement:

Prior to the issuance of a building licence associated with the proposed medical centre operations, a cash in lieu contribution for the shortfall of fifteen (15) car parking bays on-site is to be paid to the Shire of Denmark, with such payment to be calculated as per Council's operative Schedule of Fees & Charges applicable at the time of payment.

The application of such a condition would require a licensed valuer to be engaged by the applicant/landowner to undertake a land valuation in order to determine the applicable cash in lieu payment - noting that as per Council's 2011-2012 Fees & Charges Schedule, cash in lieu of car parking is to be calculated as per the following:

Shortfall x [(Bay Size x Land Value per m^2) + Construction Cost]
Definition of formula terms:
"Bay Size" = $27m^2$
"Construction Cost = $2,075 per Bay"
"Land Value per m^2" = as determined by a licensed valuer, and agreed to by the Shire of Denmark
"Shortfall" = difference between the number of car parking bays required to be provided on-site as per TPS 3 and the number of car parking bays to actually be provided

For demonstration purposes, if the land value was $250 per square metre, the cash in lieu payment for a proposal with a shortfall of 1 car parking bay would be $8,825.00.

This advice was provided to the applicants and they have subsequently requested Council's consideration of waivering the cash in lieu requirement for shortfall of car parking, thus the basis for referring this matter to Council.

In this regard, as per Clause 6.2 of TPS No. 3 Council does have the discretion to modify any development standards and approve applications accordingly however in exercising such discretion Council may only exercise this discretion where it is satisfied that:

a) Approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenity of the locality;
b) The non-compliance will not have any adverse effect upon the occupiers of users of the development or the inhabitants of the locality or upon the likely future development of the locality; and
c) The spirit and purpose of the requirement or standard will not be unreasonably departed from thereby.

From a Planning Services perspective it is not considered appropriate to waive the requirement for cash in lieu associated with the fifteen (15) car parking shortfall as there is a genuine requirement for car parking (either on-site or in the public realm) associated with any commercial development, and from the 2011 Shire of Denmark Community Needs and Customer Satisfaction Report, 62.3% of respondents agreed or strongly agreed that Council should provide more parking in the CBD area. Accepting payment of cash in lieu by commercial developments that are unable to provide on-site car parking (particularly pertains to landholdings that have limited land areas and/or refurbishment/redevelopment is encouraged) provides suitable funding mechanisms to enable Council to provide such parking in the public domain which will benefit all commercial developments in the CBD area.

As per Clause 6.2 of TPS No. 3, Council does also have the ability to modify the car parking requirements for the development on-site however it is considered that Planning Services have applied some discretion already as the current car parking requirements have had regard to the number of consulting rooms (excluding the nurses room, allied health room and triage/minor surgery room) and not necessarily the number of practitioners/consultants (which includes persons ordinarily associated with a practitioner in the prevention, investigation or treatment of physical or mental injuries or ailments – i.e. nurse).

In addition to the above, it should be noted that as per Clause 5.22 of TPS No. 3, there is the ability for car parking to be provided on an adjoining property (generally known as reciprocal parking arrangements) provided the following criteria are met:

- The property where the car parking is proposed at least satisfies their own car parking requirements;
- The property ideally being adjacent to the development site;
- The car parking on the adjoining property being constructed to the Shire's specifications; and

- All landowners entering into a legal agreement to ensure permanent access to the car parking area regardless of ownership arrangements over the sites;

The applicants have been advised that they could consider this option and they are currently exploring options available to them in this regard.

Consultation:
External Consultation
- Karrip Pty Ltd

Internal Consultation
- Planning Services
- Director of Infrastructure Services
- Chief Executive Officer

Statutory Obligations:
Town Planning Scheme No. 3 specifies the pertinent development requirements for the site.

Policy Implications:
Town Planning Scheme Policy No. 31: Commercial Strategy has the following objectives relevant to this proposal:

- Encourage the redevelopment and infill development of the existing commercial area.
- Support the principle of new uses for old buildings and the revitalisation of the town centre.
- Continue to provide appropriate levels of accessibility and car parking, and allow for time shared and reciprocal use of car parking areas.

Section 7 of Town Planning Scheme Policy No. 31: Commercial Strategy states:

Cash in lieu of parking bays may be considered where developments have a shortfall of parking. Council may accept money for this shortfall, to provide bays in a nearby existing or proposed public parking facility. Cash-in-lieu should not be seen to be replacing the developer's responsibility to provide on-site parking. The provisions of an adequate supply of parking is the intent and as such the following considerations are important:

- *Contributions shall be permitted only in localities where Council is proposing to provide a public car park in the near future or where a public car park already exists;*
- *Contributions may comprise all or part of the on-site parking requirements for a development;*
- *Contributions received for proposed facilities shall be held in a Council Trust Fund for the purpose of acquisition of land for parking in appropriate areas; or accepted by Council as a contribution towards the cost of providing existing public parking facilities in the area.*

Budget / Financial Implications:
As per Council's 2011-2012 Fees & Charges Schedule, cash in lieu of car parking is to be calculated as per the following:

Shortfall x [(Bay Size x Land Value per m2) + Construction Cost]

Definition of formula terms:
"Bay Size" = 27m^2
"Construction Cost = $2,075 per Bay"

"Land Value per m^2" = as determined by a licensed valuer, and agreed to by the Shire of Denmark

"Shortfall" = difference between the number of car parking bays required to be provided on-site as per TPS 3 and the number of car parking bays to actually be provided

As at January 2012, the Shire has $53,178.17 held as 'Restricted Cash' as cash-in-lieu payments for other commercial developments in the CBD area. As per TPS No. 3 the money is required to be specifically spent on provision of public parking facilities anywhere within the commercial centre of the town or in close proximity of the site in which the cash-in-lieu arrangement was made.

Although not directly related to this planning application, the medical centre operating out of this site will increase vehicular traffic on the Right of Way (ROW) that extends from South Coast Highway through to Millar Street – noting that the car parking area associated with the development on-site is solely accessed via the ROW. The ROW, which is only 5.0 metres wide, is asphalt sealed from South Coast Highway up to the car parking entrance associated with the subject property, with the remainder of the ROW currently gravel sealed.

In this regard, it is considered that Council needs to give due regard to the following issues:

- The ROW should ideally be asphalt sealed given that it predominantly is associated with 'Commercial' zoned properties/development, particularly noting that with increased usage of the ROW it is anticipated that there will be pressure from the adjoining properties and/or users of the ROW for upgrading.

  To date Council has not identified this project in budget considerations and/or as part of any forward capital works plan.

- Having regard to the overall width of the ROW and the current sealed widths of the asphalt area (minimum 3.8 metres directly adjacent to the subject property's entrance), the ROW should technically be nominated as one-way – particularly with increased traffic that will be using the ROW should the medical centre move to the area. Generally this would require signage and/or line marking to be provided.

Strategic Implications:
The Shire of Denmark's adopted Local Planning Strategy (2011), which is currently awaiting endorsement from the Western Australian Planning Commission, contains the following objective for 'Future Retail':

To ensure that the Denmark town centre continues to be the focus for all forms of commercial activity that support a vibrant town centre and to ensure that future development enhances its village character.

Sustainability Implications:

➢ **Environmental:**
There are no known significant environmental considerations relating to this report or officer recommendation.

➢ **Economic:**
Refer to comments provided in 'Budget/Financial Implications'.

➢ **Social:**
Provision of adequate medical services in the Shire is necessary and the Shire are aware that the Denmark Medical Centre have been in search of a suitable property to accommodate their growth for some time.

Voting Requirements:
Simple majority.

OFFICER RECOMMENDATION ITEM 8.1.2

That with respect to the planning application for Proposed Change of Use: Shop/Office to Medical Centre for No. 3 (Strata Lots 3-6/Lot 218) Mt Shadforth Road, Denmark, Council resolve to grant Planning Approval subject to the following:

Conditions

1. Development shall be carried out in accordance with the stamped approved plans.
2. Prior to the commencement of the use, the fifteen (15) bay car parking area is to be suitably marked (including the disabled bay) as per the original approved car parking plan for the development.
3. All car parking areas and access ways shall be maintained for their stated purpose at all times and shall not be used for display or general storage purposes.
4. Prior to the issuance of a building licence associated with the proposed medical centre operations, a cash in lieu contribution for the shortfall of fifteen (15) car parking bays on-site is to be paid to the Shire of Denmark, with such payment to be calculated as per Council's operative Schedule of Fees & Charges applicable at the time of payment (refer Advice Notes 1 and 2).
5. All signs proposed to be erected on-site require the separate approval of the Shire of Denmark (Planning Approval and/or Building Licence) prior to erection of such.

Advice Notes

1. In accordance with Council's 2011-2012 Fees & Charges Schedule, cash in lieu of car parking is calculated as per the following:
   Shortfall x [(Bay Size x Land Value per m2) + Construction Cost]
   Definition of formula terms:
   "Bay Size" = 27m^2
   "Construction Cost = $2,075 per Bay"
   "Land Value per m^2" = as determined by a licensed valuer, and agreed to by the Shire of Denmark
   "Shortfall" = difference between the number of car parking bays required to be provided on-site as per TPS 3 and the number of car parking bays to actually be provided
2. Notwithstanding Condition 4, should the applicant/landowner be able to secure a reciprocal parking arrangement agreement with an adjoining landowner that satisfies the relevant criteria for such parking arrangements, Council authorises the Director of Planning and Sustainability to accept such arrangement in lieu of cash-in-lieu subject to the appropriate conditions being imposed on the applicant/landowner.
3. Concrete rubbish bin collection pads have been provided for this development on the eastern side of the car park entrance adjoining the Right of Way - refer notation on the approved car parking plan for the development.
4. The applicant/landowner is advised that at this point in time the Shire of Denmark has no immediate plans to upgrade the Right of Way that extends from South Coast Highway to Millar Street.
5. The Shire of Denmark strongly recommends that the business occupiers of the development on-site encourage staff to park off-site such that the on-site parking is primarily made available for customer/client usage.

COUNCIL RESOLUTION ITEM 8.1.2
MOVED: CR SAMPSON SECONDED: CR SYME

That with respect to the planning application for Proposed Change of Use: Shop/Office to Medical Centre for No. 3 (Strata Lots 3-6/Lot218) Mt Shadforth Road, Denmark, Council resolve to:

1. Refuse Planning Approval for the following reasons:
   a) As per Clause 5.21 of Town Planning Scheme No. 3, thirty (30) car parking bays are required to be provided on-site, thus approval to this proposal will result in a shortfall of fifteen (15) car parking bays; and
   b) Council is not prepared to accept cash-in-lieu as an arrangement to address the car parking shortfall in this instance having regard to the nature of medical centre operations and the limited potential to provide car parking in the public domain that will provide some benefit to the medical centre clientele.
2. Advise the applicants that Council is prepared to consider off-site parking arrangements to accommodate the car parking shortfall generated by this development proposal subject to the following:
   a) A new Application for Planning Approval for the Proposed Medical Centre will need to be lodged with Planning Services and depending on the site that has been sourced to accommodate the car parking shortfall, an Application for Planning Approval may also have to be lodged for that site as well if 'car park' is the only land use proposed on-site (noting that this proposal would then be deemed a "Use Not Listed" and would be subject to public advertising processes prior to formal consideration by Council in accordance with the requirements of Town Planning Scheme No. 3);
   b) If the land sourced is owned by a different landowner(s), reciprocal rights of parking arrangements will need to be entered into with the adjoining landowner(s) and the following criteria and/or conditions are relevant:
      i. The property where the car parking is proposed needs to at least satisfy their own car parking requirements;
      ii. The car parking area on the adjoining property is to be suitably constructed (asphalt, concrete or brick pavers), drained, kerbed, marked (including disabled bays if required) and thereafter maintained;
      iii. A Deed of Agreement being entered into between all relevant landowners and registered on the relevant Certificate of Titles as an encumbrance to ensure permanent access to the car parking area, with all preparation and execution costs being met by the applicant/landowner.
   c) If land sourced is proposed to be purchased by the landowner(s), such land needs to be either amalgamated with Lot 218 or appropriate legal arrangements put into place to ensure permanent access to the car parking area regardless of the ownership arrangements over the relevant sites.
3. Advise the applicants that it is strongly recommended they undertake regular discussions with the Shire's Director of Planning and Sustainability prior to progressing any formal discussions with adjoining landowner(s) to ensure the appropriateness of the site and to identify upfront the relevant criteria that will apply to such site.

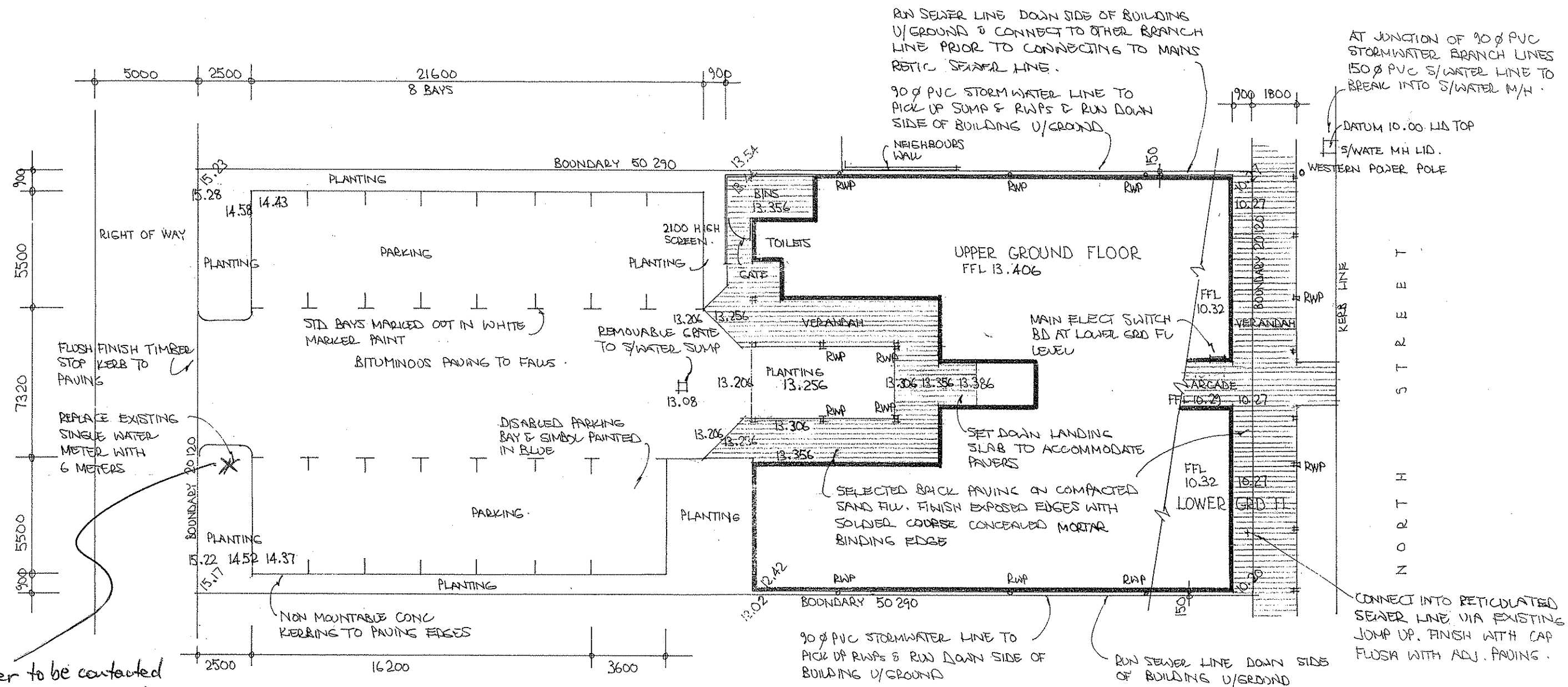
DEFERRAL
MOVED: CR HINDS

That the motion be deferred.

LAPSED FOR WANT OF A SECONDER

THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 9/0 Res: 080112

REASONS FOR CHANGE
Council were did not wish to waive the parking provisions given the shortage of parking already within the CBD.



SITE PLAN 1:200

5.23 DENOTES EXISTING R.L.S.

15.23 DENOTES FINISHED R.L.S.

DATUM 10.00 TOP OF S/WATER LID ADJACENT NORTH CNR OF SITE.

APPROVED BL 6101 11.12.06
SHIRE OF DENMARK
BUILDING SURVEYOR

23 OCT 2006

Attachment 8.1.1 d)

PROPOSED DEVELOPMENT
LOT 218 NORTH ST DENMARK

MAXWELL DESIGNS
Building Design ABN: 13 846 760 378
PO BOX 31 DENMARK 6333
a/h – Ph/Fax 9848 1849
Ph/Fax: 9848 3123

Date: OCT 2006
Drwg: WD 1.

assess_no: A3020 2 SCOTSDALE ROAD SHIRE OF DENMARK
legal_area: 11100 1093

North Road Carpark 138m

Road Reserve for Carpark?
150m

150m to carpark.
Somewhat downhill,
joint access issues

138m to
carpark under
construction,
downhill

40m to
carpark
owned
by Co-op

40m

138m to
carpark,
reasonably
level

Opportunity for
formalising Randall Park
carpark? 138m

Attachment 8.1.1 e)

Shire of Denmark	Randall Park Proposed Parking			
DESIGNED 03/12 B.S.	SCALE 1 : 1000	APPROVED	SMALL PLAN No. S019	
DRAWN 03/12 B.S.	SURVEY			

Attachment 8.1.1 f)