

SCALE 1 : 200



OWNER:
DENMARK CO-OPERATIVE
CO. LTD.

LOT 2
SOUTH COAST HIGHWAY
DENMARK
WA

OFFICE COPY

RECEIVED
3 MAY 2012



953 South Coast Highway, Denmark Western Australia 6333

Tel (08) 9848 0300 Fax (08) 9848 1985

Our Ref: DS/CT File A1162 / A1327

Enquiries: Dale Stewart

21 February 2012

Mr Chris Langslow
Manager, Denmark Cooperative
Strickland Street
DENMARK WA 6333

Emailed to: general.manager@denmark-coop.com.au

Dear Chris

Re: Car Parking Requirements – Denmark Cooperative

Further to my telephone request for a meeting between yourself, your Chairman, the Shire President, Cr Ross Thornton, and myself, I now formally seek a meeting to discuss concerns with the Cooperative not providing car parking pursuant to your approved development activity (that being the Denmark Cooperative and associated business activities on lot 6 & 226 South Coast Highway, Denmark).

The issue has arising following the application for development by the Denmark Medical Centre which was recently refused on the grounds that they needed to provide additional car bays (15 short of their requirement) near the proposed Medical Centre (application lodged for what is called the Shadforth Plaza).

Thereafter we identified that land owned by the Denmark Cooperative Co Ltd (lot 2, South Coast Highway) would potentially be suitable for providing extra car bays and the Medical Centre advised that they were in discussion with yourselves regarding potential for acquisition and/or sharing of development rights in the lot.

This gave rise to discussion with longer serving Councillors and a review of the file for the property which confirmed that;

- 1. The approved use of the land is for carpark – that being approximately half of the site which we estimate should have provided (and did) 15 car bays.*
- 2. The current use of the site appears to not have development approval (that being storage associated with the Cooperative's activities on lot 6 & 226, South Coast Highway).*

2/..

27 November 2012 - Attachment 8.1.1 b)

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3. *There have been at least three (3) known attempts of sale of the land in part or total that could have inadvertently caused a breach of the planning approval for the site if there was no replacement car parking or cash in lieu of carparking provided.*

From a review of the Shire records pertaining to the Co-op development, the situation is as follows:

- *In July 1988 planning approval was granted for Extensions to the Denmark Co-op (resulting in overall floor area of 1609m²) subject to the following conditions:*
 - *Developer to gravel sheet Lot 221 Moore Street (South Coast Highway) for car parking;*
 - *Developer to resolve on-site unloading of delivery vehicles in conjunction with Shire Engineer; and*
 - *Developer to contribute to carparking improvements at rear of Civic Centre.*
- *There is no development approval for Lot 2 other than the original requirement for the land to be developed as a carpark associated with the Co-op development, noting there is no reference to this requirement on the Certificate of Title for Lot 2.*

In summary the Shire President and myself would like to meet with yourself and your Chairman to discuss what appears to be a requirement to address a shortfall in carparking and to also address the issue of not seeking development approval for the storage occurring on lot 2. In this regard it would be appreciated if you could make contact with my Executive Assistant, Claire Thompson on (08) 9848 0300 to arrange an appointment.

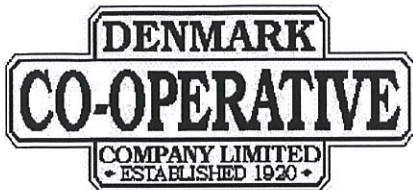
Should you require further information or advice on this matter please contact the undersigned on telephone (08) 9848 0300 or email enquiries@denmark.wa.gov.au.

Yours faithfully



*Dale Stewart
Chief Executive Officer*

cc. Cr Ross Thornton, Shire President



ABN 85 073 305 039

Denmark Co-operative Company Ltd
Strickland St
DENMARK WA 6333
PHONE (08) 9848 1200 FAX (08)9848 1307
E-mail General.Manager@denmark-coop.com.au

1 March 2012

Dale Stewart
CEO
Shire of Denmark
PO Box 183
DENMARK
WA 6333

Dear Dale

Your letter of 21 February 2012

Thank you for the above letter.

Since its receipt, I have researched the matters raised by you through a number of sources, including a careful review of the files kept on record at the Shire, the minutes of meeting of the Board of the Co-op and the personal recollections of various Co-op officers and Directors. The outcome of my research is not consistent with the suggestions set out in your letter and I have summarised below.

“Approved use of land”

- The Town Engineer noted on 5 July 1988 that “221 Sth Coast Highway to be gravel sheeted only – contribution to carparking treatment – rear of Civic Centre”.
- The Third Schedule to the Application for Approval to Commence Development notes the Determination of Council on 5 July 1988 that the Development Application is approved subject to “(1) Developer to gravel sheet Lot 221 Moore St (South Coast Highway) for carparking”; and “(3) Developer to contribute to carparking improvements – rear of Civic Centre”.
- Minutes of the Shire Council Meeting on 26 July 1988 record that the following motion was carried: “That Council waive part of the provisions of carparking requirements for the Denmark Co-op, provided a suitable contribution is made to the upgrading of the carpark at the rear of the Civic Centre”.
- Shire records show that the building licence was issued “subject to suitable car parking arrangements being made with the Shire Engineer”.

It is clear from these records that the initial Condition (1) of the Determination of Council was subsequently waived by Council, as long as Condition (3) was followed through. Minutes of the Board of the Co-op on 30 June 1988 record that an offer of a maximum of \$1,800 was approved to be made towards the sealing costs of the parking area behind the Civic Centre adjoining the Co-op block. This would have satisfied the condition noted on the building licence.

No attempt to suggest any other interpretation of these records has been made for almost a quarter of a century. No letters or communications of any kind in this regard have been recorded in the intervening period. Members of the Board of the Co-op and Co-op officers at the time and in the intervening period have confirmed to us that they were aware of no condition relating to the gravel sheeting of Lot 221 and/or its use being placed on the building licence. Furthermore, as you acknowledged in your letter, the Certificate of Title for Lot 2 bears no reference whatever to any requirement relating to approved use for carparking.

XREF 00R12211686

Shire Of Denmark ICR12311870	
02 MAR 2012	
EPH	
A1162	
COUNCILLORS	
CEO	<input checked="" type="checkbox"/>
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	



ABN 85 073 305 039

Denmark Co-operative Company Ltd
Strickland St
DENMARK WA 6333
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E-mail General.Manager@denmark-coop.com.au

On the basis of the above, we wholly reject your assertion (1.) that the "*approved use of the land is for carpark*". There is no evidence of that being the approved use. We also, in consequence, reject your assertion (3.) that any sale of the land might "*cause a breach of the planning approval for the site*". We also reject your further reiteration of the assertion regarding the existence of "*the original requirement for the land to be developed as a carpark*".

Current use of site

During the tenure of your predecessor, Mr Pascoe Durtanovich, a meeting was held between him and Mr Reg Watson, Manager of the Co-op, at which Mr Durtanovich was asked to confirm whether any planning approval would be required to gravel sheet part of Lot 2 and to erect a boundary fence around that portion. Mr Watson was informed by Mr Durtanovich that no planning consent was required to be sought. This would seem to be consistent with Clause 6.1.2 of the Shire of Denmark TPS 3 which specifies that "*planning consent is not required for....the erection of a boundary fence except as otherwise required by the Scheme*".

Since no follow-up was required from this meeting, no paperwork was recorded, but Mr Watson's recollection of the meeting and its contents is very clear. The meeting is believed to have taken place some time around 2003.

On the basis of the above, we assert that the Co-op, in good faith, believed and continues to believe that no development approval was or is required for Lot 2's current use.

In conclusion, we also reject your assertion that there even "*appears to be a requirement [for the Co-op] to address a shortfall in carparking and to also address the issue of not seeking development approval for storage occurring on lot 2*".

On the assumption that there are no other pieces of data which you have not already referred to or set out in your letter which might be of relevance to this matter, I hope that this puts the matter to rest. If, however, there is further information which you would like to share with me, I would be pleased to receive and review it. Thereafter, if you still feel that there would be anything to be achieved by a meeting in person, please let me know and we can liaise.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Chris Langslow", is written over the typed name and title.

Chris Langslow
Chief Executive Officer

Cc: Tony Wilson, Chair



953 South Coast Highway, Denmark Western Australia 6333

Tel (08) 9848 0300 Fax (08) 9848 1985

Our Ref: DS/CT File: A1162 / ICR12311870

Enquiries: Dale Stewart

9 March 2012

Mr C Langslow

Chief Executive Officer, Denmark Co-Operative Co Ltd

Emailed to: General.Manager@denmark-coop.com.au

Dear Chris

Re: Reply to letter re Car Parking Requirements - Denmark Cooperative

Thank you your letter dated 1 March 2012.

I advise that Council remains of the view that the Cooperative was required, and should continue to provide, a number of car bays on site as evidenced by the fact that the Coop gravelled the area and utilised the area for car parking for the period from 1988 until the erection of fencing in early 2008 (the fencing occurred during my time with Council) and whilst you are correct that there is no need for development approval for a fence – changing the use of the gravelled area from car parking to storage contravenes both the original development approval and also puts in place a new development that has not been approved.

This has been confirmed with conversations with senior persons involved both with the Coop previously (at the time) and with Council at the time and whilst Council staff have not been able to find correspondence to date proving the specific requirement to provide 'x' number of bays, it is our belief that it was the reduction in the number of bays down from what was required (resulting in gravelling of only a portion of the lot) that was waived in 1988 and not the need to provide car parking at the site in toto.

The Planning and Development Act and Council's Town Planning Scheme No. 3 are clear in that approval from the Council for development of the land for the current usage (storage) is required and it has not been provided (by current or former officers of the Council, verbal or otherwise).

In summary I suggest the Shire President, Cr Thornton and I meet with yourself and your Chair to discuss these issues at a mutually convenient time.

Should you require further information or advice on this matter please contact the undersigned on telephone (08) 9848 0300 or email enquiries@denmark.wa.gov.au.

Yours faithfully

Dale Stewart

Chief Executive Officer

17 November 2012 - Attachment 8.1.1 d)

cc. Shire President Cr Ross Thornton and Mrs Annette Harbron, Director of Planning & Sustainability



953 South Coast Highway, Denmark Western Australia 6333

Tel (08) 9848 0300 Fax (08) 9848 1985

Our Ref: DS/CT File: A1162 / ICR12311870

Enquiries: Dale Stewart

19 March 2012

Mr C Langslow

Chief Executive Officer, Denmark Co-Operative Co Ltd

Emailed to: General.Manager@denmark-coop.com.au

Dear Chris

Re: Reply to letter re Car Parking Requirements - Denmark Cooperative

Further to the meeting on Thursday, 15 March 2012 between yourself and your Chairman together with myself and the Shire President, I confirm that Council requires a retrospective Planning Application for the Denmark Co-operatives identified activities on Lot 2, South Coast Highway, Denmark (storage activities associated with Lot 226, South Coast Highway).

I have attached the required forms which are required to be completed and submitted to Council's Planning Department, together with the required fees, within 30 days from the date of this letter (COB Wednesday, 18 April 2012).

Council's Director of Planning & Sustainability will then assess the application and either determine it under delegated authority or refer it to Council for determination. In either circumstance you will be entitled to a right of review or be able to appeal the decision and/or any conditions which may be imposed.

In relation to the matter of Council's assertion that there remains an outstanding requirement to provide car parking on Lot 2 associated with a development approval from 1988, I confirm that the outcome of the meeting was that:

- the Denmark Co-operative believes Council waived any requirement for car parking on this lot pursuant to Council's resolution of 26 July 1988;
- Council believes that Council waived portion of the requirement for car parking on this lot, with Council staff unable, at present, to confirm the extent of that waiver (down from the 38 car bays required) as part of its 5 July 1988 approval);
- Council staff will seek guidance from Council as to how to progress with the disputed condition and will be in touch with the Co-operative following those deliberations.

Should you require further information or advice on this matter please contact the undersigned on telephone (08) 9848 0300 or email enquiries@denmark.wa.gov.au.

Yours faithfully

Dale Stewart

Chief Executive Officer

Encl. Planning Application

cc. Shire President Cr Ross Thornton and Mrs Annette Harbron, Director of Planning & Sustainability

27 November 2012 - Attachment 8.1.1 e)

26 July 1988

11. LATE CORRESPONDENCE...11.10 DENMARK CO-OPERATIVE LTD

RE: PROPOSED WAREHOUSE EXTENSION AND AMENITIES BUILDING

MOVED: CR MORRELL

SECONDED: CR NEKEL

That Council waive part of the provisions of carparking requirements for the Denmark Co-op, provided a suitable contribution is made to the upgrading of the carpark at the rear of the Civic Centre.

CARRIED

12. GENERAL BUSINESS12.1 DENMARK TOURIST BUREAU

The Acting Shire Clerk advised that the Tourist Bureau Committee had indicated verbally the breakdown of costs within their Budget.

MOVED: CR FRASER

SECONDED: CR GALLASH

This matter be referred to the next meeting of the Finance Committee.

CARRIED

12.2 PROPOSED CHALET DEVELOPMENT LOT 568 & PLANTAGENET LOCATION 5510 (BEING LOT 1)

Cr Morrell briefed Council on the site inspection and advised that in his opinion the inspection revealed that concerns previously expressed had been minimised by modification of the concept.

MOVED: CR NEKEL

SECONDED: CR MORRELL

The applicant be advised to submit the modified proposal and such be referred to the Town Planning Review Committee.

CARRIED.

12.3 CEMETERY COMMITTEE

The Shire Engineer advised that arrangements had been made for the Cemetery Committee to meet at 7.30pm on July 27, 1988.

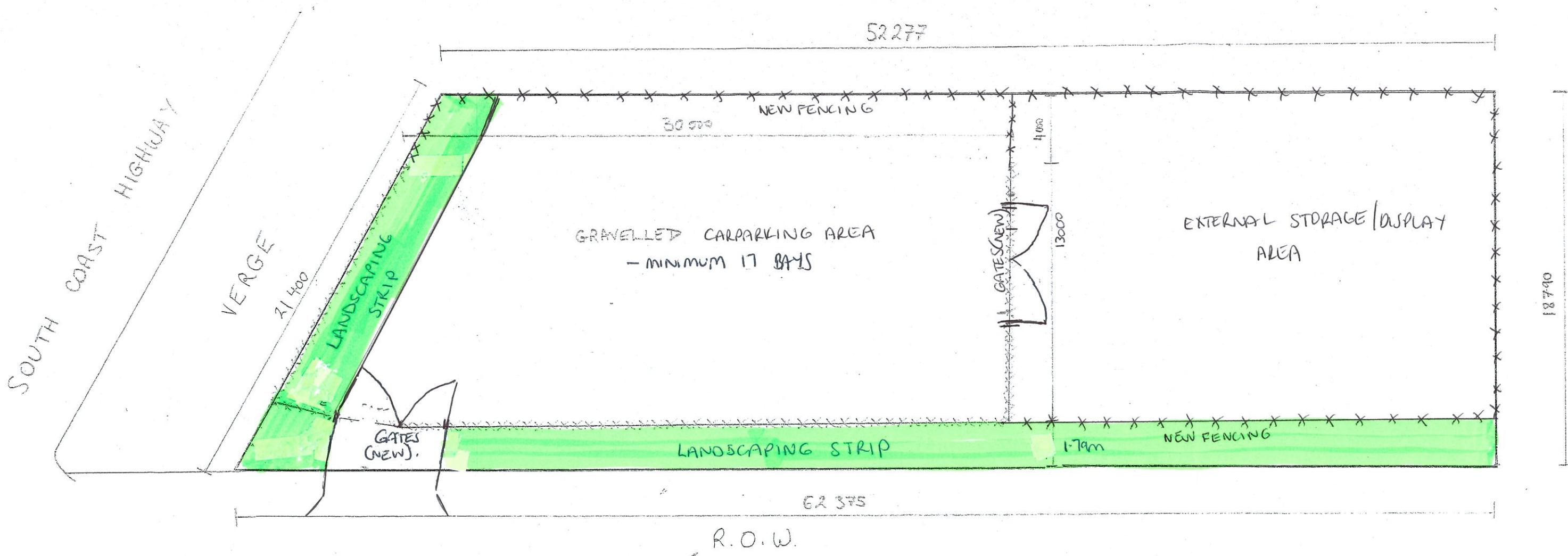
12.4 SCOTSDALE WATER CATCHMENT - MR T RINEY

MOVED: CR GALLASH

SECONDED: CR WILSON

That no action be taken on matters raised in Mr Riney's letter in view of the action presently being undertaken by the Denmark Soil Conservation Committee.

CARRIED



27 November 2012 - Attachment 8.1.1 (g)

SCALE 1:200



OWNER:
DENMARK CO-OPERATIVE
CO. LTD.

PLAN DATE:
14 NOVEMBER 2012

LOT 2
SOUTH COAST HIGHWAY
DENMARK
WA 6053

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3 MAY 2012 3 MAY 2012

View from Car Park at Rear of Civic Centre into Denmark Co-op/Makit Hardware Showing Current Vehicular & Pedestrian Access Arrangements

