

Shire of Denmark

Special Council Meeting MINUTES

29 January 2019



TO BE HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,
DENMARK ON TUESDAY, 29 JANUARY 2019, COMMENCING AT 4.00PM.



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Strategic Community Plan (snapshot)

E1.0

Our Economy

We are an attractive location to live, invest, study, visit and work

- E1.1 To have a locally supported resilient, stable and innovative business community that embraces creativity, resourcefulness and originality
- E1.2 To be a vibrant and unique tourist destination, that celebrates our natural and historical assets
- E1.3 To have diverse education and employment opportunities
- E1.4 To recognise the importance of agriculture in our local economy and protect prime agricultural land

N2.0

Our Natural Environment

Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future

- N2.1 To preserve and protect the natural environment
- N2.2 To promote and encourage responsible development
- N2.3 To reduce human impact on natural resources, reduce waste and utilise renewable energy
- N2.4 To acknowledge and adapt to climate change

B3.0

Our Built Environment

We have a functional built environment that reflects our rural and village character and supports a connected, creative and active community

- B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community
- B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users
- B3.3 To have a planning framework that is visionary, supports connectivity and enables participation
- B3.4 To manage assets in a consistent and sustainable manner
- B3.5 To have diverse and affordable housing, building and accommodation options

C4.0

Our Community

We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit

- C4.1 To have services that foster a happy, healthy, vibrant and safe community
- C4.2 To have services that are inclusive, promote cohesiveness and reflect our creative nature
- C4.3 To create a community that nurtures and integrates natural, cultural and historical values
- C4.4 To recognise and respect our local heritage and Aboriginal history

L5.0

Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government

- L5.1 To be high functioning, open, transparent, ethical and responsive
- L5.2 To have meaningful, respectful and proactive collaboration with the community
- L5.3 To be decisive and to make consistent and well considered decisions
- L5.4 To be fiscally responsible
- L5.5 To embrace change, apply technological advancement and pursue regional partnerships that drive business efficiency

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DISCLAIMER

These minutes and resolutions are subject to confirmation by Council and therefore prior to relying on them, one should refer to the subsequent meeting of Council with respect to their accuracy.

No responsibility whatsoever is implied or accepted by the Shire of Denmark for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff.

The Shire of Denmark disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a license, any statement or limitation or approval made by a member or officer of the Shire of Denmark during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Denmark. The Shire of Denmark warns that anyone who has an application lodged with the Shire of Denmark must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Denmark in respect of the application.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.00pm – The Shire President, Cr Gearon, declared the meeting open.

Cr Gearon acknowledged the land on which the meeting was being held and the traditional custodians of the land, the Bibbulman and Minang people.

Cr Gearon stated that she would also like to show her respect for elders past, present and emerging.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

MEMBERS:

Cr Ceinwen Gearon (Shire President)
Cr Peter Caron (Deputy Shire President)
Cr Mark Allen
Cr Kingsley Gibson
Cr Jan Lewis
Cr Ian Osborne
Cr Janine Phillips
Cr Roger Seeney
Cr Rob Whooley

STAFF:

Mr Bill Parker (Chief Executive Officer)
Ms Jasmine Tothill (Senior Town Planner)
Ms Noni Entwisle (Assistant Accountant)

APOLOGIES:

Mr Cary Green (Director Corporate and Community Services)

ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 5
Members of the media in attendance at the commencement of the meeting: Nil

DECLARATIONS OF INTEREST:

Nil

3. ANNOUNCEMENT BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

4.1 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council.

For a Special Meeting of Council, such as this, they must however relate to the item(s) on the Agenda.

Questions from the public are invited and welcomed at this point of the Agenda.

Should you wish to address Council please note that the Presiding Person (the Shire President) may have to limit the time of individual speakers in order to allow sufficient time for all speakers present at the meeting to address Council. The rules of this process and the time allocated will be determined by the Presiding Person at the Meeting dependent upon the indicative number of speakers.

Questions from the Public

4.1.1 Mrs Jasmine McDonald (Item 5.1 – Amendment to Development Approval – Proposed Single House – No. 3 (Lot 214) Ratcliff View, Ocean Beach

Mrs McDonald said that as adjoining neighbours they had some concerns about privacy, sandblasting and drainage relating to the site and referred to their submission which had been provided to Councillors, outlining the reasons for their concerns. Mrs McDonald asked if the Council could require the proponent to erect an extended privacy screen at the time of build, tarp the sand batter touching their fence and an install an appropriate drain at the base of sand batter to address any water crossing their boundary.

4.1.2 Mr John Maxwell (Item 5.1 – Amendment to Development Approval – Proposed Single House – No. 3 (Lot 214) Ratcliff View, Ocean Beach

Mr Maxwell said that the movement of sand and drainage would be addressed in time and that a privacy screen would be planted near the carport.

The Shire President asked what the proponent considered “in time”.

Mr Maxwell responded that it would be addressed towards the end of the build.

5. REPORTS OF OFFICERS

5.1 AMENDMENT TO DEVELOPMENT APPROVAL - PROPOSED SINGLE HOUSE – NO. 3 (LOT 214) RATCLIFF VIEW, OCEAN BEACH

File Ref:	A5357 (2018/110A)
Applicant / Proponent:	Maxwell Designs on behalf of J & A Schoombee
Subject Land / Locality:	No. 3 (Lot 214) Ratcliff View, Ocean Beach
Disclosure of Officer Interest:	Nil
Date:	21 January 2019
Author:	Jasmine Tothill, Senior Town Planner
Authorising Officer:	Bill Parker, Chief Executive Officer
Attachments:	5.1a – Approved Development Application 5.1b – Amended Development Application Plans dated 21 January 2019 5.1c – Modified Plan with respect to Amended Officer Recommendation

Summary:

A Development Application to construct a single house at No. 3 (Lot 214) Ratcliff View, Ocean Beach was approved at the Ordinary Council meeting of 18 September 2018 (refer Attachment 5.1a).

An application to amend the Development Approval has been lodged that seeks to modify the approved timber frame suspended floor construction to provide a concrete pad on fill. This has resulted in consequential changes to site levels, fill and retaining treatments. Other amendments are proposed to the internal floor layout resulting in a minor reduction in the building footprint, adjustment in the driveway configuration/ levels, window placement and removal of the subfloor water tanks (Attachment 5.1b).

Having regard to the siting of the building, which remains unchanged from the Shire’s previous approval, and given that the scope of proposed modifications are compliant with the Deemed to Comply provisions of the Residential Design Codes (R-Codes) it is recommended that the Amended Plans be approved.

Background:

At the Ordinary Council Meeting of 18 September 2018 Council granted development approval to construct a Single House within the subject property. The application was presented to Council having regard to the requirements of Delegation D100601: Implementation of Town Planning Scheme, noting objections that had been received associated with a variation in the Deemed to Comply rear setback (3 metres proposed in lieu of 6 metres) under the R-Codes.

It has come to the attention of Planning Services that works have commenced on the property following issuance of a Building Permit that does not accord with the Development Approval as granted by Council. The Amended Development application seeks to rectify this anomaly, and to accommodate further plan adjustments to reduce the finished floor level and building height. An amendment to the Building Permit will be required in the event that approval is granted.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework as well as the requirements of Town Planning Scheme No.3 (TPS No.3), Schedule 2, Part 8, Clause 64 of *the Planning and Development (Local Planning Schemes) Regulations 2015*.

Adjoining landowner consultation has not been undertaken noting that:

- (i) The amendments do not seek to vary the siting of the building or the 3 metre minimum rear setback previously approved by Council;
- (ii) The rear setback has been increased in part noting minor modifications to the floor plan and internal layout;
- (iii) The finished floor level and overall building height have been reduced; and
- (iv) Other modifications associated with fill and retaining required to accommodate a slab on ground construction and window placement have been assessed as compliant with the Deemed to Comply provisions of the Residential Design Codes.

Notwithstanding the above, those adjoining landowners who had raised objection to the original application have been informed of the amendments and that the proposal will subject to consideration at the special meeting of Council.

Statutory Obligations:

The application to amend the development approval is to be determined in accordance with Schedule 2, Part 9, Clause 77 of *the Planning and Development (Local Planning Schemes) Regulations 2015* on the basis that it is not considered to substantially change the development as approved. In this regard the Council may determine the application by-

- (a) Approving the application without conditions; or
- (b) Approving the application with conditions; or
- (c) Refusing the application.

TPS No. 3 and the Residential Design Codes (R-Codes) specify the pertinent planning provisions for the proposal.

Should Council refuse this Development Application, as per the provisions of the *Planning and Development Act 2005* the applicant can apply to the State Administrative Tribunal for a Right of Review.

Policy Implications:

TPS Policy No.40 – Rainwater Tanks & Greywater Re-use Systems applies to the development. The amended application seeks to replace two rainwater tanks proposed to be located beneath the dwelling with a 9000L poly tank at the rear of the store room. In this regard the proposal remains compliant with Policy 40.

Budget / Financial Implications:

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Plan Aspirations and Objectives in the following specific ways:

Denmark 2027**B3.0 Our Built Environment:**

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L5.3 To be decisive and to make consistent and well considered decisions.

Sustainability Implications:**➤ Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ Environmental:

There are no known significant environmental considerations relating to the report or officer recommendation.

➤ Economic:

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

➤ Social:

There are no known significant social considerations relating to the report or officer recommendation.

➤ Risk:

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council's decision was to refuse the proposal or to impose conditions on the approval that the applicant is aggrieved by.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer recommendation as the decision is based on sound planning grounds. If a decision is made to refuse the application, Council is to provide sound reasoning to support solid defence at the State Administrative Tribunal should the applicant.

Comment/Conclusion:

The amended plans primarily seek to modify the form of construction from a timber frame suspended floor to a concrete pad on fill, removing extensive retaining in place of additional fill and earth batters. Other notable amendments include:

- A reduction in the finished floor level/ building height by 0.35 metres;
- Reconfiguration of the internal layout (removal of study and relocation of WC) resulting in a minor reduction in the building footprint;
- Removal of a study window, storeroom window and WC window on the northern elevation;
- Introduction of a new WC window (obscure glazing) on the west elevation;
- Relocation of Bedroom 4 window on the east elevation;
- The vehicle turning area adjacent to the eastern property boundary being relocated to the west of the driveway and associated fill levels increased by approximately 1.1 metres;
- Removal of underfloor rainwater tanks in place of a 7000L above ground tank at the rear of the store.

The amendments are not considered to impact upon those matters that were subject to the Council's original determination relative to the reduced rear setback or screening requirements as detailed in the Officer's report at the time. Planning Services has assessed the amended plans, including the revised site levels and fill and determined that the amendments are compliant with the Deemed to Comply provisions of the R-Codes and relevant Town Planning Scheme Policies.

Having regard to the Council's prior determination and assessment of the proposal in line with the objectives of TPS No.3 and the R-Codes, it is recommended that the Amended Plans be approved.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION**ITEM 5.1**

That with respect to the amended development application for the Proposed Single House at No. 3 (Lot 214) Ratcliff View, Ocean Beach, Council:

1. Grants consent to the Amended Plans dated 21 January 2019;
2. Amends Condition (a) of Development Approval 2018/110 to read:
(a) Development to be in accordance with the attached stamped approved plans dated 21 January 2019;
3. Amends Advice Note (i) of Development Approval 2018/110 to read:
(i) From a preliminary review of the information provided, the Shire's Principal Building Surveyor advises that in addition to the standard Building Permit application documentation structural details of the amended footings are required;
4. Advises the applicant that:
 - (i) All other conditions provided for on Development Approval 2018/110 dated 25 September 2018 remain the same; and
 - (ii) Prior to the commencement of works associated with this amended Development Approval, an amendment to Building Permit 8557 is also required. With regard to this matter, you should contact the Shire's Principal Building Surveyor on (08) 9848 0312.

Officer Comment:

The following Amended Officer Recommendation has been provided for Council's consideration following receipt of a submission from an adjoining landowner. The site plan has been amended to reflect an additional condition. Refer Attachment 5.1c.

COUNCIL RESOLUTION & AMENDED OFFICER RECOMMENDATION

ITEM 5.1

MOVED: CR CARON

SECONDED: CR GIBSON

That with respect to the amended development application for the Proposed Single House at No. 3 (Lot 214) Ratcliff View, Ocean Beach, Council:

1. Grants consent to the Amended Plans dated 21 January 2019;
2. Amends Condition (a) of Development Approval 2018/110 to read:
(a) Development to be in accordance with the attached stamped approved plans dated 21 January 2019;
3. Amends Condition (h) of Development Approval 2018/110 to read:
(h) Prior to issuance of an amended Building Permit a drainage plan to address on-site stormwater management from all roofed and impervious areas (including overflow from rainwater tanks) and the treatment of overland flow must be submitted to and approved by the Shire of Denmark (Infrastructure Services) and thereafter implemented.
4. Adds a new Condition (i) as follows:
(i) Prior to occupancy of the development, a landscaping plan shall be submitted to and approved by the Shire of Denmark to provide for planting of screening vegetation in the area as highlighted in green on the approved site plan. Such landscaping is to be implemented within sixty (60) days of occupancy and thereafter maintained to the satisfaction of the Shire of Denmark (Planning & Sustainability Services).
5. Amends Advice Note i. of Development Approval 2018/110 to read:
i. From a preliminary review of the information provided, the Shire's Principal Building Surveyor advises that in addition to the standard Building Permit application documentation structural details of the amended footings are required;
6. Advises the applicant that:
 - (i) All other conditions provided for on Development Approval 2018/110 dated 25 September 2018 remain the same; and
 - (ii) Prior to the commencement of works associated with this amended Development Approval, an amendment to Building Permit 8557 is also required. With regard to this matter, you should contact the Shire's Principal Building Surveyor on (08) 9848 0312.

CARRIED UNANIMOUSLY: 9/0

Res: 010119

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

MOVED: CR LEWIS

SECONDED: CR PHILLIPS

That pursuant to Section 5.23 (2) (b) of the Local Government Act 1995 and Clause 3.7 of the Shire of Denmark Standing Orders Local Law, Council move behind closed doors for the consideration of Item 5.2 to deal with a matter relating to the personal affairs of a person.

CARRIED UNANIMOUSLY: 9/0

Res: 020119

COUNCIL RESOLUTION

MOVED: CR LEWIS

SECONDED: CR PHILLIPS

That Standing Orders be suspended to enable discussion on Item 5.2, the time being 4.18pm.

CARRIED UNANIMOUSLY: 9/0

Res: 030119

COUNCIL RESOLUTION

Moved: CR SEENEY

Seconded: CR LEWIS

That Standing Orders be resumed, the time being 4.30pm.

CARRIED UNANIMOUSLY: 9/0

Res: 040119

5.2 SENIOR OFFICER – PROPOSED OFFER OF CONTRACT OF EMPLOYMENT

File Ref:	Personal File
Applicant / Proponent:	Bill Parker, Chief Executive Officer
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	22 January 2019
Author:	Bill Parker, Chief Executive Officer
Authorising Officer:	Bill Parker, Chief Executive Officer
Attachments:	10.2 – Confidential – Report and copy of Curriculum Vitae (CV) provided to Councillors under separate cover

The report and associated attachments were confidential and were provided to Councillors under separate confidential cover.

OFFICER RECOMMENDATION

ITEM 10.1

That in relation to the advertised position of Director Assets and Sustainable Development, Council;

1. Accept the CEO's recommendation to employ Mr David King in the position, commencing 4th March 2019.
2. Endorse the proposed employment contract that reflects a term of five (5) years, with the conditions and entitlements reflecting the budget parameters and terms advertised.
3. Authorise the Shire President and Chief Executive Officer to execute the employment contract.

Officer Comment:

The following Amended Officer Recommendation has been provided for Council's consideration following advice from Mr King that he would be unable to commence until the 6th March 2019 and a request to change the first "the" in part 2 to "a".

COUNCIL RESOLUTION & AMENDED OFFICER RECOMMENDATION	ITEM 10.1
MOVED: CR SEENEY	SECONDED: GIBSON
That in relation to the advertised position of Director Assets and Sustainable Development, Council;	
<ol style="list-style-type: none"> 1. Accept the CEO's recommendation to employ Mr David King in the position, commencing 6th March 2019. 2. Endorse a proposed employment contract that reflects a term of five (5) years, with the conditions and entitlements reflecting the budget parameters and terms advertised. 3. Authorise the Shire President and Chief Executive Officer to execute the employment contract. 	
CARRIED UNANIMOUSLY: 9/0	Res: 050119

COUNCIL RESOLUTION	
MOVED: CR GEARON	SECONDED: CR CARON
That Council come out from behind closed doors and proceed in public.	
CARRIED UNANIMOUSLY: 9/0	Res: 060119

There were no members of the public who returned to the room and therefore the Shire President did not need to read out the resolution.

6. CLOSURE OF MEETING

4.38pm – There being no further business to discuss the Shire President, Cr Gearon, declared the meeting closed.

The Chief Executive Officer recommends the endorsement of these minutes at the next meeting.

Signed: _____

Bill Parker – Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

Signed: _____

(Presiding Person at the meeting at which the minutes were confirmed.)