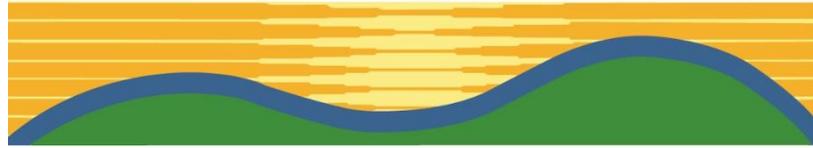


MITCHELL SHIRE COUNCIL



**COMMUNITY QUESTIONS
AND HEARINGS COMMITTEE
MINUTES**

MONDAY 13 AUGUST 2018

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**MINUTES OF THE COMMUNITY QUESTIONS AND
HEARINGS COMMITTEE OF THE MITCHELL SHIRE
COUNCIL HELD AT MITCHELL CIVIC CENTRE, 113 HIGH
ST, BROADFORD ON
13 AUGUST 2018**

THE MEETING OPENED: 7.00pm

COUNCILLORS PRESENT:

Cr Annie Goble Central Ward
Cr David Atkinson Central Ward
Cr Bob Humm Central Ward

Cr Bill Chisholm North Ward
Cr Rhonda Sanderson North Ward (Chairperson)
Cr Fiona Stevens North Ward

Cr David Lowe South Ward

OFFICERS PRESENT:

Mr David Turnbull Chief Executive Officer
Mr Laurie Ellis Director Governance and Corporate Performance
Ms Mary Agostino Director Advocacy and Community Services
Mr Mike McIntosh Director Development and Infrastructure
Ms Lidia Harding Governance and Corporate Accountability Coordinator

1 WELCOME AND GOVERNANCE DECLARATION

The Mayor formally opens the meeting with an acknowledgement of country and welcomes all present.

The Mayor acknowledges the traditional owners of the Taungurung Nation and pay her respect to their Elders past and present, and its emerging and future leaders.

The declaration was read by Cr D. Lowe

2 APOLOGIES AND LEAVE OF ABSENCE

COMMITTEE RECOMMENDATION

MOVED: CR. A. GOBLE

SECONDED: CR. B. HUMM

GOBLE/HUMM

THAT the apology for this meeting received from Cr R. Eldridge and Cr B. Cornish be accepted.

CARRIED UNANIMOUSLY

3 DISCLOSURE OF CONFLICTS OF INTEREST

In accordance with Section 79 of the Local Government Act 1989.

Nil

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

In accordance with Clause 66 of Local Law No. 4 – Meeting Procedures.

COMMITTEE RECOMMENDATION

MOVED: CR. F. STEVENS

SECONDED: CR. B. CHISHOLM

THAT the Minutes of the Community Questions and Hearings Committee held 9 July 2018, as circulated, be confirmed.

CARRIED UNANIMOUSLY

5 DEVELOPMENT AND INFRASTRUCTURE

5.1 PLANNING PERMIT APPLICATION P307018/12.04 FOR USE AND DEVELOPMENT OF A RESTRICTED RECREATION FACILITY (OUTDOOR PISTOL RANGE) AT 420 STRATH CREEK ROAD, BROADFORD

Author: Mathew Mertuszka - Principal Planner

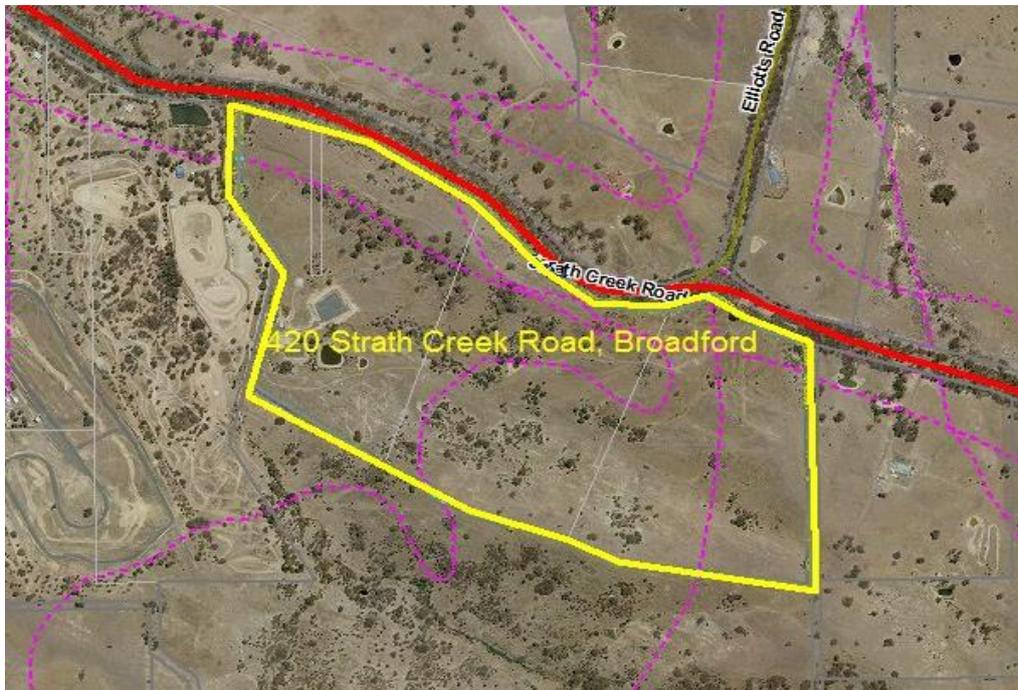
File No: P307018/12

Attachments: Nil

Property No.:	115911
Title Details:	Lot 3 on LP122486
Applicant:	Bowden Planning
Zoning:	Farming Zone
Overlays:	Development Plan Overlay – Schedule 6 Erosion Management Overlay (part) Vegetation Protection Overlay – Schedule 1 (part)
Objections Received:	Yes, one submission has been received
Cultural Heritage Management Plan Required:	No, Not within an area of Aboriginal Cultural Heritage Significance
Officer Declaration of Conflict of Interest:	No officers involved in the preparation of this report have any direct or indirect interest in this matter

PLANNING PERMIT APPLICATION P307018/12.04 FOR USE AND DEVELOPMENT OF A RESTRICTED RECREATION FACILITY (OUTDOOR PISTOL RANGE) AT 420 STRATH CREEK ROAD, BROADFORD (CONT.)

SITE MAP



SUMMARY

The application is seeking approval to amend the existing permit which applies to the land, under Section 72 of the Planning and Environment Act, to increase the permitted shoot times by 3 hours on a Sunday morning on four occasions in a calendar year.

The application was informally notified to all adjoining owners and occupiers affected by the Development Plan Overlay – Schedule 6, concerning the State Motorcycle Complex.

One submission was received following the 2-week notification period by an adjoining property owner who raised concerns regarding the lack of consultation of future events by the pistol club and noncompliance with EPA guidelines.

COMMITTEE RECOMMENDATION

MOVED: CR. B. CHISHOLM

SECONDED: CR. A. GOBLE

THAT Council Officers provide a report to Council in relation to Amended Planning Application P307018/12.04 for the Use and Development of a Restricted Recreation Facility (Outdoor Pistol Range) at 420 Strath Creek Road, Broadford.

CARRIED UNANIMOUSLY

6 SUBMISSIONS

7 QUESTION TIME

LANCE MARKE

Will Mitchell Shire Council now accept the strongly held views of the Marke family and that there is no justification for its proposed 'Long Term Employment Land Opportunity' on productive land and find other less productive land for such proposal?

Thank you for the question.

The identification of the subject land as well as other land in the Structure Plan as a long-term employment opportunity remains the formally adopted position of Council. One of the key elements of the plan is to facilitate future employment growth within and around the Seymour township. Importantly, as distinct from the Bendigo decision cited in the questions preamble, there is no intention by Council to compulsory acquire land.

We acknowledge the vast majority of the intended outcomes identified within the structure plan may not be achieved immediately however, the plan identifies what types of changes are required to strategically position Seymour in the region over the next 10 to 20 years. Key to achieving some of the intended outcomes is to ensure there is well located and accessible land to accommodate future employment opportunities for the future Seymour community.

Why does Mitchell Shire Council, having obtained its own independent assessment absolutely verifying that the Marke's 'Nalinga' property is 'productive agricultural land'; continue with its intended proposal to destroy productive farming land to make way for 'Long Term Employment Land Opportunity' and what does this terminology actually mean or foresee?

Thank you for the question.

Whilst Council acknowledges the agricultural improvements that have occurred on the property over a number of years, the independent assessment and field survey that was commissioned by Council concluded that the agricultural capability of the site is categorised as Class 3. Agricultural capability class one (1) represents land with essentially no physical limitations to agriculture whilst a class five (5) indicates a very low agricultural capability. These are the standard agricultural capability classes and definitions used across Australia.

Council is now progressing with preparing the Planning Scheme Amendment which will give effect to the plan within the Mitchell Planning Scheme. Once this is prepared, the formal Planning Scheme Amendment process will commence, which will include an additional component of public consultation. Once this is completed, and if there are any unresolved submissions, these issues can be considered by an

independent Planning Panel who will provide its own recommendations to Council for consideration.

NEVILLE REHN

Thank you for your questions which raise a number of questions relating to Planning and Rating concerns. In response to your questions Council was not able to provide just a yes or no response so will provide you with a more detailed response. I should add that a full copy of your questions have been provided to Councillors.

Question 1 – Native vegetation planted in a landscape setting (ongoing since 1987) is exempt from all (not just particular provisions/clause 52.17;) and including regrowth from non-indigenous species (planted) as a result of the 2009 bushfires?

A number of Clauses of the Mitchell Planning Scheme deal with vegetation removal, including as applies to the property at 60 Hibberds Lane, Clause 52.17 (dealing with the removal of native vegetation) and also the Bushfire Management Overlay.

Both parts of the scheme contain various permit triggers but also exemptions for the removal of vegetation. The best way to determine if a planning permit is required would be to call the Statutory Planning Department and organise a meeting to determine the exact nature of works proposed and if they require a planning permit. There is a planner available Monday to Friday to discuss such matters on phone or on the front counter of the Wallan office between the hours of 9am and 5pm.

Question 2 – What qualifications do Council town planner have in regards to identification of vegetation i.e.: exotic, weed, non-indigenous or indigenous?

As with many matters planners are required to assess applications and they do have general knowledge but rely upon the expert input of others. In applications for removal of native vegetation applications, the town planners would rely upon the input of internal departments and external expertise to aid in making a decision. This would include Council Environment Team and Arborist and externally the Department of Environment, Land, Water and Planning. Council does have access to qualified arborists.

Question 3 – I first bought this property (two individually titled 1 acre each blocks, one lot contains a small dwelling, the other vacant, bar a shed, and is two thirds covered by a landscaped garden) in 1987. The Council rates category has always been residential or rural residential; since purchased in 1987; the previous owner purchased it in 1945, and used it as a lifestyle weekend retreat. It's never been farmed as before that it was a general store (one of two). It is the last standing structure from the gold mining days: the surrounding road contains residential dwellings, vacant blocks, 1 acre to 3 acres/ About 2008, Mitchell Shire rezoned the immediate area to farm zone: in a planning/vcat application councils planning department claimed that any residential development on these vacant small blocks is contradictory to the zone and would remove permanently, state significantly productive agricultural land:

The question is how does the rezoning of rural residential land to Farm Zone make it productive agricultural land?

Previously the subject land was zoned Rural Zone. It was not zoned for residential purposes.

Amendment C48 to the Mitchell Planning Scheme was gazetted on 2 August 2007. This change to the planning scheme was initiated by State Government and it introduced the Rural Conservation and Farming Zones. This amendment rezoned all land in the Environmental Rural Zone to the Rural Conservation Zone and all land in the Rural Zone to the Farming Zone.

A core objective of the Farming Zone is to avoid fragmentation of land holdings that may have a detrimental impact upon productive agricultural land. The rezoning in itself did not reclassify the land as productive agricultural land. This is a determination that would have been made as part of a planning permit application. A new application can be made at any time with information to the contrary and can be discussed at any time with the planning department.

Question 4 – Confirm that Waterford Park is located in the Clonbinane area?

Waterford Park is identified as its own settlement, surrounding by the much larger geographical area of Clonbinane.

Question 5 – Can you confirm that Mitchell Shire Council has to adhere to the State Governments description of Lands Act 1989, that relates to land uses, and setting of Council rates on these prescribed land uses: under the Act, land that falls under the “general rate” category, is no larger than 4ha in area, is coterminous with other land (ownership) is further described as residential land:

- Occupied for the principle purpose of physically accommodating person;
- Vacant land is all rateable land less than 4 ha in area and undeveloped in character

This is confirmed by Council’s Revenue Coordinator in Attachment 1. I have had legal advice on the matter, his advice was the land falls under residential; categories and is further reinforced by Council’s residential rates category. This is further reinforced by the higher property valuation to that of agricultural land. The Local Government Ministers office also states the land falls under the residential property classification. They confirm the revenue coordinator is correct in his assessment. They do note that on pg. 13 of Councils submission to VCAT they admit recognition of residential lot.

Designation of land for rates purposes does not relate to planning zones or controls. References made in the letter of 4 February 2011 by Mr Alan Wise (Attachment 1) are correct for rating matters but this does not relate to a presentation to VCAT on planning matters

A decision on a planning permit application will be made based upon the planning merit of the proposal, the planning controls of the land and other relevant policies and considerations of the planning scheme.

Question 6 – Is it normal practise for Council’s town planners to on an appeal to vcat, rewrite the original delegates report tendered to Council?

At a VCAT Hearings a submission is normally written and presented outlining how the Council decision was made and the circumstances of the application. However, the original determination of Council (agenda and minutes) must also be provided to the tribunal.

A full written response to your letter will be provided to you within 10 working days.

8 COMMUNITY PRESENTATIONS

Nil

9 DATE OF NEXT MEETING

The next Community Questions and Hearings Committee meeting is scheduled to be held on 10 September 2018 at the Mitchell Civic Centre, 113 High St, Broadford, commencing at 7.00pm.

10 CLOSURE OF MEETING

The meeting was declared closed at 7.45pm.

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Chairperson
Mayor, Cr Rhonda Sanderson