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Justine Linley – Chief Executive Officer

**CITY OF  
BALLARAT**



**Planning Special Committee Meeting**

**16 October 2019**

Trench Room, Town Hall, Ballarat City Council

**AGENDA**

**NOTICE IS HEREBY GIVEN THAT A PLANNING SPECIAL COMMITTEE MEETING WILL BE HELD IN THE TRENCH ROOM, TOWN HALL, BALLARAT CITY COUNCIL ON 16 OCTOBER 2019 AT 7:00PM.**

<h1>AGENDA</h1>
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## **1. OPENING DECLARATION**

**Councillors:** *"We, the Councillors of the City of Ballarat, declare that we will carry out our duties in the best interests of the community, and through collective leadership will maintain the highest standards of good governance."*

**Mayor:** *"I respectfully acknowledge the Wadawurrung and Dja Dja Wurrung People, the traditional custodians of the land, and I would like to welcome members of the public in the gallery."*

## **2. APOLOGIES FOR ABSENCE**

## **3. DECLARATION OF CONFLICT OF INTERESTS**

## **4. CONFIRMATION OF MINUTES**

## **5. OFFICER BRIEFING**

## 6. PLANNING SPECIAL COMMITTEE REPORTS

### 6.1. DOWLING FOREST PRECINCT PLANNING CONTROLS REVIEW

**Division:** Development and Planning  
**Director:** Angelique Lush  
**Author/Position:** Virginia McLeod / Senior Strategic Planner  
Lisa Kendal / Manager Strategic Planning

#### OFFICER RECOMMENDATION

In accordance with the delegation to the Planning Special Committee, Council resolves to:

1. **Seek authorization from the Minister for Planning to prepare Planning Scheme Amendment C220ball, pursuant to Section 8A of the *Planning and Environment Act 1987*, to implement the recommended changes to the Dowling Forest Equine Precinct Planning controls in line with the recommendations of the Dowling Forest Precinct Planning Controls Review, Final Report and Recommendations (Sept 2019).**
2. **Place Amendment C220ball on exhibition pursuant to Section 19 of the *Planning and Environment Act 1987*.**
3. **Review the planning controls of land to the immediate south and south-west of the precinct at such time that Council commits to and commences detailed planning for any future northern growth area.**

#### EXECUTIVE SUMMARY

Planning controls to create the Dowling Forest Equine Precinct (the Precinct) were introduced into the Ballarat Planning Scheme in 2012. Council committed to review the controls to assess their impact and suitability for the present and future needs of the Precinct (see Attachment 1 – Dowling Forest Precinct Planning Controls Review, Final Report and Recommendations).

A range of issues were identified through consultation with community and stakeholders including:

- Lack of explicit purpose of the precinct with any existing policy documents;
- Confusion and compounding stigma associated with Special Use Zone 13 (SUZ13);
- Use of four different planning controls in the precinct;
- Land supply and demand and justification of the precinct boundary;
- Exclusivity and restrictiveness, in particular of other types of equine activities and application of Section 173 agreements;
- Land prices, financing and saleability;
- Perceived bias for Ballarat Turf Club interests;
- Rural living pressure; and
- Roads, access and safety.

It is recommended that Council undertake planning scheme amendment C220ball to make the following changes to the planning controls to address issues and improve the operation of the Precinct:

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- Improve and refine the local planning policy to continue to support the Precinct for thoroughbred training, but acknowledge other complementary equine uses, and confirm the precinct boundary;
- Redefine where the SUZ13 applies, resulting in some properties being rezoned to Farming Zone C, and retaining these within the Precinct;
- Include six new properties in the SUZ13, that meet the specified criteria; and
- Include land to the north abutting the Racecourse within the Precinct but retaining the conventional Farming Zone.

See maps of the proposed changes at Attachment 2.

The review considered the land supply implications of removing land from the SUZ13. Due to the initial over-supply of land in SUZ13 and poor take-up, the review has developed and is proposing new criteria for strategic application of the SUZ13. Land within the Farming Zone will be suitable for thoroughbred training should demand expand.

Other actions recommended outside of the changes to the Ballarat Planning Scheme include:

- Educate and promote the Precinct purpose and planning controls to stakeholders and landowners;
- Review Section 173 agreements made redundant by rezoning land from SUZ13 to Farming Zone;
- Commit to reviewing the planning controls for land south and south-west of the Precinct once growth area planning has been considered by Council; and
- Improve safety for road users and consider establishing public access to the Racecourse through the eastern part of the Precinct.

## **RATIONALE**

The planning controls for the Precinct were designed to recognise the significance of the facilities and provide land for the purposes of thoroughbred training. Since 2012 there has been poor take-up of freehold land in SUZ13 for thoroughbred training.

Council committed to reviewing the planning controls, including both the requirements of the SUZ13 and its application to land in the Precinct. The review was undertaken by a consultant and was focused on reviewing the current controls, rather than removing the controls and undertaking a new assessment of the planning needs for the Precinct.

Investigation has shown that there is a demonstrated oversupply of land strictly allocated to thoroughbred training via the SUZ13, and that the current controls have led to adverse impacts for existing landowners through restrictions on uses and constructions of and extensions to dwellings.

## **Submissions**

For an overview of the consultation process and findings please see Attachment 3.

In response to the Issues and Options Paper, twelve submissions were received to the *Issues and Options Paper* and were considered in the formulation of the recommendations below. Submitters were generally supportive of modifying the planning controls to improve the operation of the Precinct and allow a range of complementary equine uses, improve the local policy and connection to the Miners Rest Township Plan, and retain the existing minimum subdivision sizes through the schedule to the Farming Zone.

### Submission received from SUZ13 Action Group

This submission raised the following issues:

- Clarifying the definition of 'direct access to the Racecourse' that has been used to determine application of SUZ13. The SUZ13 Action Group submitted that the definition should be amended to acknowledge access needs to be quick, smooth and safe and note that access to the Racecourse reserve is not the same as access to the Racecourse itself;
- Unsuitability of proposed inclusion of land at the western end of Branchline Road in the SUZ13 based on the above access considerations;
- Need to amend the local policy to support equine uses more generally rather than focusing on thoroughbred horses; and.
- Consideration of the equine land uses existing on land to the south of the Precinct and suitability of this land for inclusion in the Precinct (see further information below).

### Rural residential subdivision

Two submissions requesting changes to minimum lot sizes to allow rural residential subdivision without associated equine uses.

### Land south of the Precinct

Three submissions were received concerning land located south of the existing Precinct in the conventional Farming Zone, including from the SUZ13 Action Group. The submissions requested addition of land in this area into the Precinct and within the dedicated Farming Zone area associated with the Precinct (refer Figure 1).

Landowners requested that the planning controls within the Precinct better reflect the use and subdivision patterns in the area, and the location of the land as a form of buffer between the core of the equine precinct and the northern growth area of the Ballarat, and the connection of the area to Miners Rest.

### Land south-west of the Precinct

One submission was received concerning land located to the south-west of the precinct, south of the Miners Rest Wetlands (refer Figure 1). This submission objected to the lack of development proposed for the area given its location in relation to the Miners Rest Township, Dowling Forest and potential future northern growth area. The submission requests rezoning of land from Farming Zone to Neighbourhood Residential Zone.

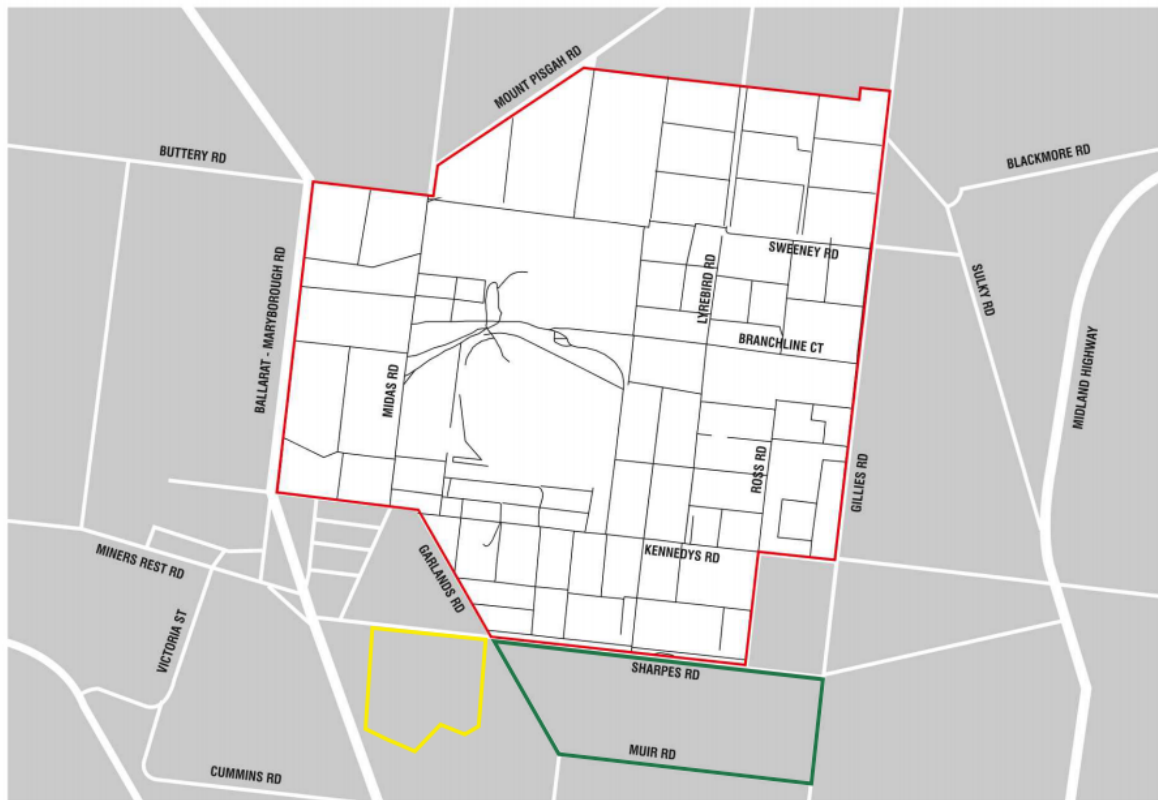


Figure 1 – Precinct boundary (red), land south of Dowling Forest Equine Precinct (green), land south-west of the Precinct (yellow)

## Recommendations

The main changes recommended through the Review include:

- Define the Dowling Forest Equine Precinct with a purpose and location;
- Amend the existing local policy to broaden the direction and purpose of the Dowling Forest Equine Precinct;
- Establishment of criteria to determine where the SUZ13 should apply;
- Reduction in the area to which SUZ13 applies;
- Introduction of FZ Area C to where SUZ13 previously applied;
- Clearer use of wording and terminologies in zone and policy provisions; and
- Where existing s173 Agreements are no longer relevant, these may be removed through the statutory process within Ballarat City Council.

### Local Policy

It is recommended that the local policy in the Ballarat Planning Scheme (Clause 21.07-6) continues to identify the primary purpose of the Precinct for training thoroughbred horses, but also supports other compatible equine uses within the Precinct. The policy will be updated to reflect the outcomes of the review and the objectives of the equine Precinct.

### Special Use Zone 13 (SUZ13) and creation of a Farming Zone – Area C

The key recommendation to improve the operation of planning controls is to reapply the SUZ13 within the Precinct. The SUZ13 was deemed to be the most problematic of the controls as it is applied too extensively, its application has caused significant confusion and it restricts otherwise compatible equine activities from many properties within the Precinct.

In reapplying the SUZ13, new criteria have been developed to ensure strategically valuable land is within the most restrictive zone and protected for thoroughbred training. The suggested criteria, of which two must be met, are:

- Land directly adjoins or is close to the Racecourse;
- Direct access to the Racecourse, or the opportunity to gain access;
- Has a formal access arrangement with the Ballarat Turf Club; and
- Has significant opportunity for the intensification of use and development in accordance with the purposes of the SUZ13.

Once applied, the criteria results in the reduction of 28 land parcels from the SUZ13 and inclusion of seven land parcels formerly in the Farming Zone.

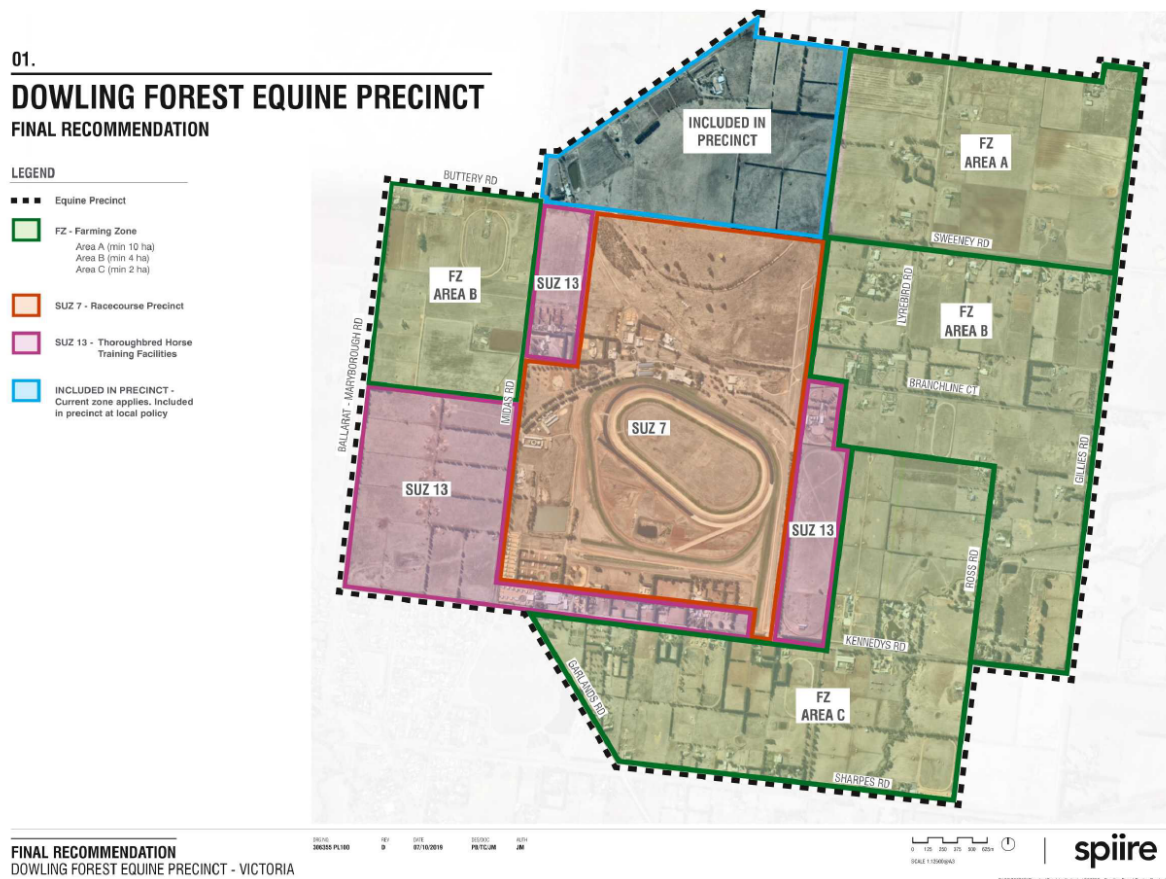


Figure 2 – Recommended precinct boundary and zoning changes

Land removed from the SUZ13 is recommended to be rezoned to Farming Zone – Area C which retains the same minimum lot size for subdivision (2 hectares) as in SUZ13. Land in the Farming Zone – Area C remains within the Precinct, but removes the requirement for land to be used for horse training, and for dwellings to be occupied by trainers.

It is also recommended to increase the size of extensions to dwellings before a permit is required within the SUZ13 and Farming Zone to allow landowners to make reasonable modifications to existing dwellings.

The review considered the land supply implications of removing land from the SUZ13. Due to the initial over-supply of land in SUZ13 and poor take-up, there is no requirement to expand the Precinct and suitable land will remain in SUZ13 to ensure any future demand can be met. There is no recommendation to reduce the amount of land within the wider Precinct, therefore land within the Farming Zone will be suitable for thoroughbred training should demand expand.

#### Land at 69,147 and 168 Mount Pisgah Road

In accordance with the revised criteria for inclusion within the SUZ13, these properties (refer Figure 2) are recommended for inclusion within the Precinct due to the direct interface and existing agreements for access to the Racecourse. It is recommended that the current zoning of the land is unchanged (Farming Zone). Any future planning applications made for these properties will need to demonstrate consistency with the planning policy for the Precinct and the land will continue to provide a buffer to the Racecourse.

#### Future consideration of land to the south and south-west of the Precinct

It is recommended that Council commit to a strategic review of the current Farming Zone land located to the south of the Precinct (as identified in Figure 1). It is acknowledged that land in this area is functioning as a de facto buffer between the Precinct and the Northern Greenfield Investigation Area.

It would be premature to recommend rezoning this area through planning scheme amendment C220ball due to the current process of completing the Miners Rest Township Plan and the future consideration by Council of a potential northern growth area. Any decision to rezone this area should be considered in the context of, and when there is certainty about, the growth of the immediate and surrounding areas. Rezoning this land could have implications for both above planning processes and could prejudice outcomes in these areas.

In addition, land within this area has development constraints from the Burrumbeet Creek, and required assessments of the environmental, social and economic implications of a rezoning or change in planning controls has not been undertaken. Until such time that the Miners Rest Township Plan and the local policy amendment to the Greenfields Investigation Area are complete, landowners can continue to use land for a range of equine purposes within the Farming Zone and construct associated buildings and carry out works.

Recommendations in relation to this land will be included in the Miners Rest Township Plan, which will be presented to Council for adoption in late 2019.

#### Other actions

The following actions beyond the scope of the planning scheme are recommended:

- Information and promotion for landowners and stakeholders through industry workshops and promotional material;
- Invite landowners with existing Section 173 agreements on land within the current SUZ13 that is proposed to be rezoned to Farming Zone to have relevant agreements ended;
- Discuss with Ballarat Turf Club the opportunity to establish public road connections through Lyrebird Court and Branchline Court directly to the Racecourse. This would allow land within the eastern part of the Precinct to be developed for thoroughbred training with access to the Racecourse; and
- Encourage the Ballarat Turf Club to establish legal rights of access into the Racecourse along Midas Road to improve safety for road uses and horses.

### **LEGISLATION, COUNCIL PLAN, STRATEGIES AND POLICY IMPACTS**

- *Charter of Human Rights and Responsibilities Act 2006*
- City of Ballarat Council Plan 2017 – 2021
- The Ballarat Strategy, 2015

**REPORTING AND COMPLIANCE STATEMENTS**

Implications	Considered in Report?	Implications Identified?
<b>Human Rights</b>	No	No
<b>Social/Cultural</b>	Yes	Yes
<b>Environmental/Sustainability</b>	Yes	No
<b>Economic</b>	Yes	Yes
<b>Financial/Resources</b>	Yes	Yes
<b>Risk Management</b>	No	No
<b>Implementation and Marketing</b>	Yes	Yes
<b>Evaluation and Review</b>	Yes	Yes

**Human Rights** – It is considered that this report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

**Social/Cultural** – The review considers the social and cultural impacts through the extensive consultation approach to landowner engagement within the Precinct and with key stakeholders. The engagement program was designed to ensure the values and issues of the community and stakeholders were understood and considered.

**Environmental/Sustainability** – Recommended changes to the planning controls do not have environmental implications as the existing subdivision controls and planning overlays are proposed to be maintained.

**Economic** – The recommendations of the review have been designed to support the economic activity of the Precinct and the ongoing operations of the Ballarat Turf Club, recognising the importance to the regional and state economy of the racing industry. Retaining the SUZ13 on selected lots ensures there is suitable land in proximity to the racecourse to support demand from the thoroughbred training industry. Previous land supply studies have demonstrated that there is an oversupply of land strictly allocated to thoroughbred training via the SUZ13. Rezoning several lots from the SUZ13 to Farming Zone with a schedule tied to the Precinct, is an important step to support the wider equine industry and allow for land use and development compatible with the Precinct and racing industry.

**Financial/Resources** – It is recommended that Council commit to reviewing legal agreements affecting land that will be rezoned as part of this process, at the request of landowners. As these agreements vary in content and form, Council will need to consider the process for terminating agreements on a case-by-case basis.

There are two pathways to end these agreements, one via agreement between Council and the landowner, and the second using provisions of the *Planning and Environment Act 1987*. Both processes would incur a small legal cost that it is suggested Council meet to remove the agreement from the land title. Additional to legal costs, Council would need to administer the process of contacting landowners and arranging the removal of agreements.

**Risk Management** – It is considered that the report does not directly impact on active risk management plans and considerations for City of Ballarat.

**Implementation and Marketing** – The recommendations contained in this report will largely be implemented through planning scheme amendment C220ball that will make changes to the local planning policy framework and application of zones within the Precinct. It is recommended additional promotional actions for the SUZ13 are conducted with key

stakeholders, including landholders and real estate agents, to disseminate accurate information about the requirements of the zone and the results of the review.

**Evaluation and Review** – A thorough review has been undertaken in order to justify the recommendations contained in this report. The approach used by the consultant in arriving at the recommendations is considered sound and reasonable.

## **CONSULTATION**

Three stages of consultation were undertaken to inform the review and its recommendations. These involved engagements directly with landholders within and immediately outside the precinct, and a range of stakeholders including representatives of the Special Use Zone 13 Action Group, Ballarat Turf Club and Committee for Miners Rest.

There was a high level of engagement with landholders and stakeholders throughout the process, with between 45 – 65 people attending each of the three workshops and twelve submissions.

Stage one consultation in March 2019 was designed to scope the issues and encourage engagement in the review. Residents, stakeholders and other community members were asked to consider what they valued about the Precinct and what they envisioned for the future. A series of one-on-one meetings were conducted with key stakeholders, and a facilitated community session was held at the Miners Rest Community Hall.

Stage two consultation in May 2019 was designed to discuss the key issues with the Precinct, and consider potential options and methods to improve the Precinct and the planning controls.

Stage three consultation involved release of an issues and options paper summarised resulted of the consultation and provided detailed options for the future of the Precinct. Twelve written submissions were received, and a series of one-on-one meetings conducted to discuss the options and issues paper with key stakeholders.

For an overview of the consultation process and findings please see Attachment 3 – Engagement and Conversation Report.

## **OFFICERS DECLARATIONS OF INTEREST**

Council Officers affirm that no direct or indirect interests need to be declared in relation to the matter of this Report.

## **REFERENCE DOCUMENTS**

### **ATTACHMENTS**

1. Attachment 1 - Dowling Forest Precinct Planning Controls Review, Final report and recommendations [6.1.1 - 45 pages]
2. Attachment 2 - Dowling Forest Equine Precinct maps [6.1.2 - 4 pages]
3. Attachment 3 - Engagement and Conversation Report [6.1.3 - 11 pages]





# DOWLING FOREST PRECINCT REVIEW

FINAL REPORT

October 2019

Prepared for City of Ballarat by Spiire







This report has been prepared by the office of Spiire  
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<b>Issue Date</b>	<b>Rev No</b>	<b>Authors</b>	<b>Checked</b>	<b>Approved</b>
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13 Sept 2019	B	TC	JM	
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Authors: Tess Coates and Jane Macey Spiire Australia Pty Ltd. Project Number 306355

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## 1. EXECUTIVE SUMMARY

Spiire was engaged by the City of Ballarat to review the current town planning controls and policies of the Dowling Forest Precinct to assess their impacts and suitability for the present and future needs of the Precinct, including the Dowling Forest Racecourse and associated industry.

The Dowling Forest Racecourse is one of Victoria's premier thoroughbred racing and training facilities, used to train more than 500 horses, with increasing number of trainers based at the Racecourse. The Racecourse supports a strong thoroughbred racing industry in Ballarat which has a significant economic impact on a local and regional scale.

Since the introduction of the current planning controls to land surrounding the Racecourse, development of training facilities by trainers has almost exclusively occurred on the Racecourse, as opposed to the land previously zoned to facilitate training facilities. This has left many of the surrounding landowners questioning why the contents of the controls are so restrictive and also so exclusive of other types of equine activities. The controls have not facilitated an uptake of land for thoroughbred training purposes as the restrictiveness of the provisions is not attractive or viable for trainers looking to establish a new facility. Many landowners have expressed concerns about these planning controls and the associated inability to develop or sell their properties.

Spiire has undertaken a thorough review of previous reports and analysis of the area, of the planning controls and of the justification to introduce the current planning controls. Along with this review, consultation with the various stakeholders was extensive. A variety of engagement techniques were used for community workshops, stakeholder meetings and landowner discussions to inform the review and the final recommendations. The consultation program was continuous, with opportunity for input and comment at many stages during the project.

The final recommendations include changes to the planning controls which should meet the needs and expectations of the relevant project stakeholders. For the Dowling Forest Racecourse, the recommendations provide both certainty for and protection of the Racecourse facilities and activities. For the wider Equine Precinct, certain properties will see a relaxing of the overly restrictive planning controls and the ability to accommodate a wider range of complementary equine activities. For the City of Ballarat, the recommendations provide a clear definition of the location and purpose of the Equine Precinct, supported by decision guidelines and planning policy.

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## 2. INTRODUCTION

Spiire has been engaged by the City of Ballarat to review the current town planning controls and policies of the Dowling Forest Precinct to assess their impacts and suitability for the present and future needs of the Precinct, including the Dowling Forest Racecourse and associated industry.

This Report summarises the process and outcomes of the Review, and details recommendations which respond to the findings of the Review.

This Report is structured in three sections which reflect the three stages of the Review:

- ▶ *Stage One: Understanding the Precinct and Issues*
- ▶ *Stage Two: Determining the Future of the Precinct*
- ▶ *Stage Three: Recommendations*

This Report should be read in conjunction with the *Issues and Options Paper* and the *Engagement and Conversation Report* prepared as part of previous stages of the Review.

### 3. GLOSSARY

The following terms are used throughout this Report and associated materials.

▶ **Agriculture:** (As per Clause 73.03 of Ballarat Planning Scheme)

*Land used to:*

- *propagate, cultivate or harvest plants, including cereals, flowers, fruit, seeds, trees, turf, and vegetables;*
- *keep, breed, board, or train animals, including livestock, and birds; or*
- *propagate, cultivate, rear, or harvest living resources of the sea or inland waters.*

▶ **Animal husbandry:** (As per Clause 73.03 of Ballarat Planning Scheme)

*Land used to keep, breed, board, or train animals, including birds.*

▶ **Dowling Forest Equine Precinct:**

*Land generally contained within the current planning controls (SUZ7, SUZ13, FZ Area A & B) associated with the Dowling Forest Racecourse as shown at Section 4.2.2 of this Report.*

▶ **Racecourse:**

*Land contained within SUZ7 which is located at one property within single ownership and includes the Racecourse proper, training facilities, stables and other infrastructure identified as part of the Dowling Forest Racecourse.*

## 4. STAGE ONE: UNDERSTANDING THE PRECINCT AND ITS ISSUES

### 4.1 CONTEXT OF THE PRECINCT

#### 4.1.1 EXISTING CONDITIONS AND FEATURES

The Dowling Forest Precinct is located on the northern edge of the Miners Rest Township, near Ballarat. Miners Rest is a small village with a rural, open character and basic local services, developed with a mix of established and developing residential areas. The Precinct's location in a broader sense provides good access to Melbourne and other thoroughbred racing facilities in Victoria.

For the purposes of this Review, the Precinct is defined as land where specific planning zones associated with the Dowling Forest Racecourse apply. The current boundary is determined by the extent of these zones.

Most lots within the Precinct are developed with dwellings, and many are used for thoroughbred training or other equine purposes. Larger racehorse trainers are predominantly based on the Racecourse proper, in stables leased from the Ballarat Turf Club (BTC) or on land directly abutting the Racecourse. Smaller trainers are dispersed throughout the Precinct and beyond.

Land is most densely developed with equine infrastructure adjacent to the Racecourse and along Kennedys Road, with land in the north and east less densely developed and containing far more rural lifestyle dwellings and properties not necessarily associated with equine activities.

The Precinct is surrounded by farmland to the west, north and east which is used primarily for grazing, cropping and equine activities, with some scattered dwellings. Land to the south of the Precinct is primarily used for residential purposes with an array of rural residential, low density and more conventional urban residential development to the immediate south.

Details	
<b>Land Area</b>	667 hectares
<b>Proximity to Major Centre</b>	Ballarat - 10.5 kilometres south-west
<b>Natural Features</b>	<ul style="list-style-type: none"> <li>- Mostly flat, cleared and low-lying</li> <li>- Mt Pisgah in the north</li> <li>- Burrumbeet Creek runs north-south</li> <li>- Some areas subject to inundation</li> <li>- Limited vegetation (mostly introduced species)</li> </ul>
<b>Property Sizes</b>	0.7 hectares – 50.9 hectares (excluding Racecourse)
<b>Land Uses</b>	<ul style="list-style-type: none"> <li>- Thoroughbred horse training</li> <li>- Recreational horse keeping</li> <li>- Grazing</li> <li>- Dwellings</li> <li>- Agistment</li> <li>- Veterinary Practice</li> </ul>
<b>Major Roads</b>	<ul style="list-style-type: none"> <li>- Kennedys Road</li> <li>- Midas Road</li> <li>- Gillies Road (to Midland Highway and the Western Freeway)</li> </ul>
<b>Planning Zones</b>	<ul style="list-style-type: none"> <li>- Special Use Zone Schedule 7</li> <li>- Special Use Zone Schedule 13</li> <li>- Farming Zone Area A &amp; Area B</li> </ul>



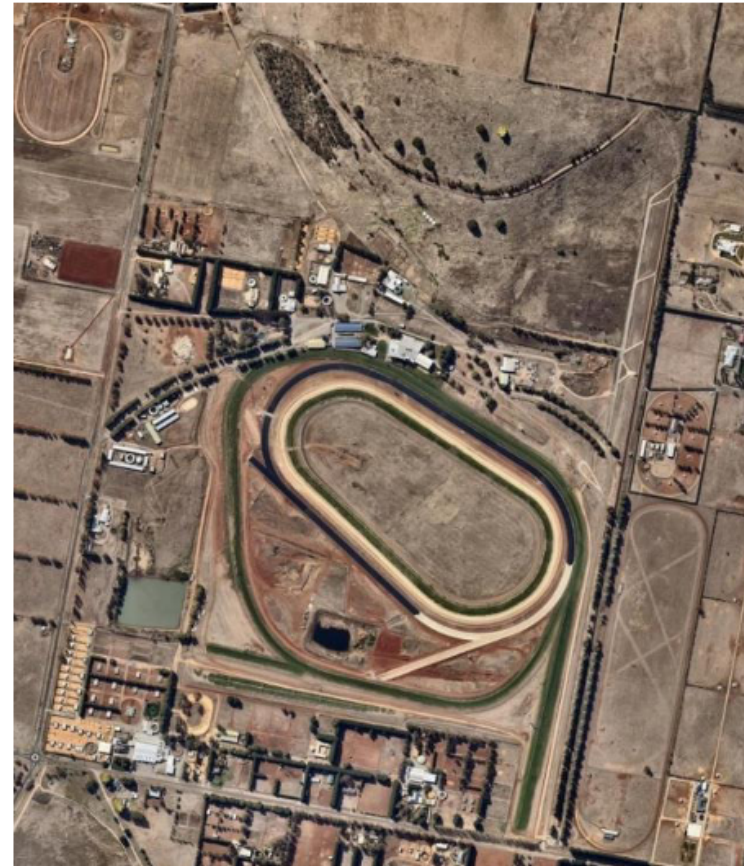
#### 4.1.2 DOWLING FOREST RACECOURSE

The Dowling Forest Racecourse is one of Victoria's premier thoroughbred racing and training facilities. The Racecourse supports a strong thoroughbred racing industry in Ballarat which has a significant economic impact on a local and regional scale. The Racecourse has been identified for significant growth and expansion by Racing Victoria, which has already been experienced in recent years. The training facilities are used to train more than 500 horses by an increasing number of trainers based on the Racecourse, within the Precinct or up to 50 kilometres away. Since the introduction of the current planning controls, development of training facilities by trainers has almost exclusively occurred on the Racecourse, where land supply for further development is extremely limited.

As per the BTC requirements, all horses must be floated to the Racecourse. Horses are not permitted to be walked via surrounding roads due to the associated safety issues. However, properties which directly adjoin the racecourse land and have formal access arrangements with BTC, are permitted to walk horses onto the Racecourse.

##### Details

<b>Land Area</b>	130 hectares
<b>Main Entry Point</b>	Midas Road
<b>Operated by</b>	Ballarat Turf Club (BTC)
<b>Horses Trained Onsite</b>	Approximately 550 (as at March 2019)
<b>Race Meetings</b>	Approximately 30 per year
<b>Major Facilities</b>	<ul style="list-style-type: none"> <li>- Racecourse proper</li> <li>- Uphill synthetic track</li> <li>- Various tracks - sand and grass</li> <li>- Undercover horse walker</li> <li>- Horse pool</li> <li>- Trainer Stables</li> </ul>





## 4.2 PLANNING CONTEXT

### 4.2.1 STRATEGIC AND BACKGROUND CONTEXT

#### **Draft Miners Rest Township Plan**

The Draft Miners Rest Township Plan is a strategic document which provides a long-term planning and design vision for Miners Rest. It sets a strategic framework to manage and guide future development through to 2040. The plan has been developed in consultation with the community and stakeholders over the past 2 years, and will be considered for adoption by Council in late 2019.

The Township Plan identifies the need to protect land in the Precinct for the growth of the Dowling Forest Racecourse and recognises its economic and historical significance to Miners Rest and the wider Region. The Township Plan seeks other equine and associated activities within proximity of the Precinct and encourages the use of Precinct as a buffer to encroaching urban development.

#### **Previous Work**

The current planning controls are a product of more than a decade of discussion, research and planning efforts to establish a land use and development Precinct in association with the Dowling Forest Racecourse. Along with other supporting documents, the following relevant reports were reviewed:

- ▶ Ballarat Rural Land Use Strategy 2010
- ▶ Dowling Forest Precinct Master Plan 2011 – Coffey Commercial Advisory
- ▶ Implementation of Dowling Forest Precinct Master Plan, Ballarat Planning Scheme April 2011 – Keaney Planning
- ▶ Amendment C149 Planning Panel Report
- ▶ Property Market Review And Options Analysis – HillPDA Consulting

All previous work recognised the importance of the Dowling Forest Racecourse, for its value to employment, the economy, entertainment, the community and recreation in the local and regional area. The reports identify the opportunity Dowling Forest presents over other racecourses but did not anticipate or provide adequate weight to many of the issues which have since caused significant problems, namely the lack of demand for trainers to take up free-hold land.

Amendment C149 introduced the current controls and was guided by the Dowling Forest Precinct Master Plan 2011 and Implementation Plan. The SUZ13 in particular was based on those introduced into the Cardinia Planning Scheme to address the relocated Pakenham course. The Master Plan identified the minimum lot size of 2 hectares and the use of the Special Use Zone or Rural Activity Zone with schedules as the most appropriate tools for the Precinct. The SUZ was eventually selected as the most suitable zone as it provided the greatest ability to tailor the provisions to respond to the strategic intent for the Precinct and provides a clear link between the Racecourse and the anticipated training facilities. Determining the extent of the Precinct was a consistent point of contention throughout all materials. The determination of the current Precinct boundary was based on a demand of 15-60 hectares for thoroughbred training purposes, the inclusion of land which has a direct functional relationship with the Racecourse and land which is within walking proximity to the Racecourse (maximum walkable distance of 2 kilometres).

Amendment C149 was the second attempt to renew planning controls in the Dowling Forest Precinct following the abandoned Amendment C148. The Panel Report found the previous planning controls in the Dowling Forest Precinct had failed to prevent rural residential type development and could be accommodated elsewhere in the municipality. Other equine uses were not supported in the Precinct as they were considered to have no connection at all with the Racecourse and could be accommodated elsewhere in the Farming Zone. The Amendment Panel Report acknowledged many of the issues within the Precinct were associated with planning enforcement and recognised the proposed planning controls were very strict, particularly the requirements related to licensed trainers. However, the Panel considered the strategic reasons for the introduction of the controls to be valid.

#### 4.2.2 CURRENT PLANNING CONTROLS

##### **Special Use Zone Schedule 7 (SUZ7)**

The Special Use Zone 7 applies to the Dowling Forest Racecourse and only permits activities associated with the Racecourse. The SUZ7 is currently operating with no issues and in the manner it was intended, therefore it is not targeted as part of this Review.

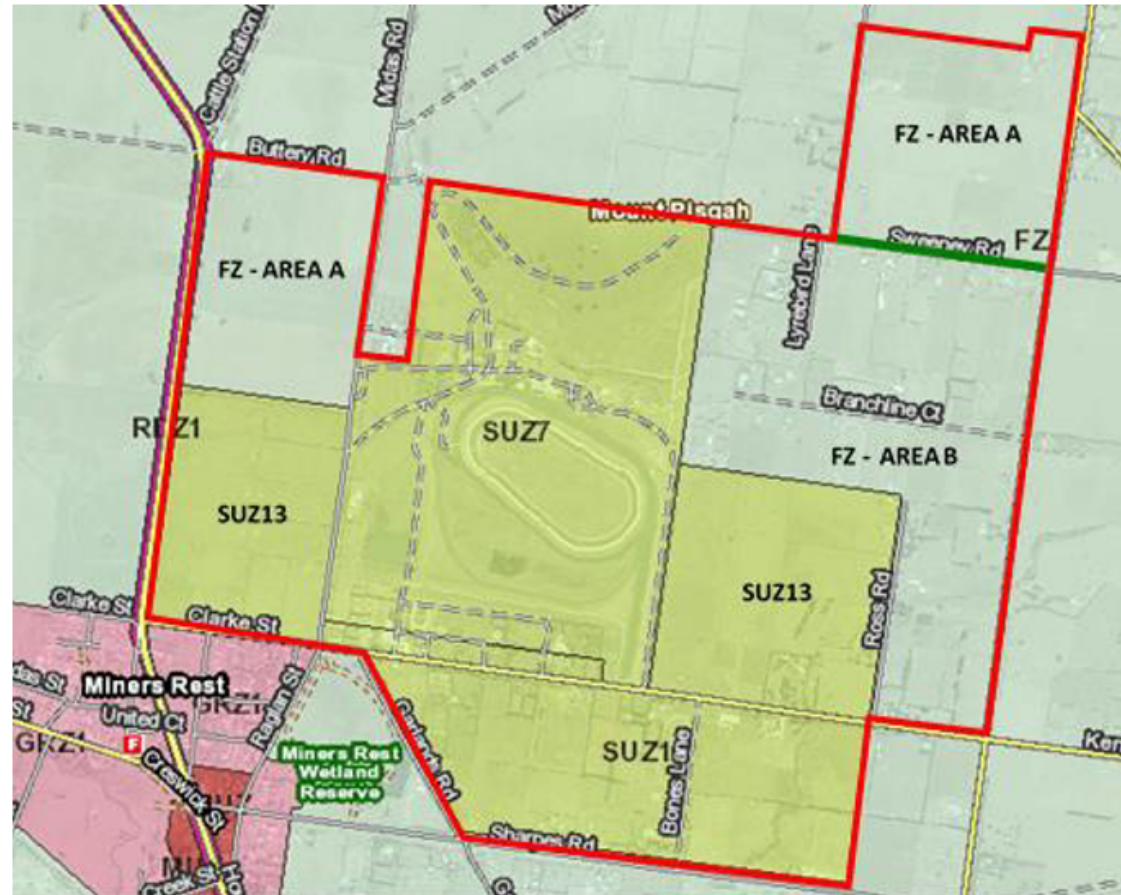
##### **Special Use Zone Schedule 13 (SUZ13)**

The Special Use Zone 13 applies to land immediately west, south and east of the Racecourse and contains more requirements for use, subdivision and development than the SUZ7. The SUZ13 is intended to facilitate thoroughbred horse training activities in association with the Dowling Forest Racecourse. It includes a minimum subdivision size of 2 hectares. The SUZ13 is the main focus of this Review as it contains some contentious requirements for use, subdivision and development, in particular:

*"A permit is required to use land for a dwelling. A permit can be issued subject to a condition requiring the landowner to enter into an agreement under Section 173 of the Planning and Environment Act 1987 that requires that the dwelling is occupied by a licensed horse trainer within the meaning of the Australian Rules of Racing or an employee of a licensed horse trainer, including their domestic partners and dependants."*

**Farming Zone Area A & Area B  
(FZ Area A, FZ Area B)**

Farming Zone Area A and Area B apply to land in the northern and outer portions of the Precinct. These controls are essentially the same as the standard Farming Zone provisions, except where land is used for Animal Husbandry (thoroughbred horse training). In this circumstance, minimum lot sizes of 4 hectares in Area A and 10 hectares in Area B are allowed.



Current Dowling Forest Precinct Zone Map - Source: VicMap

**Table 1: Summary of Current Zoning provisions within the Precinct**

	Special Use Zone Schedule 7	Special Use Zone Schedule 13	Farming Zone Area A	Farming Zone Area B
<b>Zoned Land</b>	180ha	216ha	129ha	142ha
<b>Minimum Subdivision Size</b>	None	2ha*	40ha or 4ha*	40ha or 10ha*
<b>Subdivision</b>	Permit required for subdivision. Intended outcome must have strategic link to the overall operation of the racecourse.	Permit required for subdivision. *Must enter into Sec. 173 agreement that requires the land must be used for the purposes of horse training and horse stables.	Permit required for subdivision. Smaller lots permitted if subdivision is to create a lot for an existing dwelling or for re-subdivision where no additional lots are created. *Permitted where land is used for Animal husbandry (thoroughbred horse training).	
<b>Minimum Lot Size Dwelling</b>	None	2ha* (except lots which existed as a separate title on 1 January 2011).	70ha or 4ha*	70ha or 10ha*
<b>Dwellings</b>	Permit required for caretaker's house. All other accommodation prohibited.	Permit required for new dwellings. * Must be the only dwelling on the lot, must be 'in conjunction with' horse stables or animal training facilities conducted on the lot. Must be occupied by a licensed horse trainer or employee of licensed horse trainer, provide 'Integrated Land Management Plan, enter into Sec. 173 agreement and other requirements.	No permit required for new dwellings on lots which meet the minimum lot size. *Must be used in association with lot established for Animal husbandry (thoroughbred horse training). Permit required for dwellings on lots less than minimum lot size.	
<b>Other Uses</b>	Permit required for equestrian supplies and most other equine related uses.	Permit required for group accommodation, rural industry, rural store, store and veterinary centre.	Permit not required for agriculture, rural industry, rural store, home-based business. Permit required for veterinary centre.	
<b>Buildings and works</b>	Permit required for all buildings and works.	Permit required for buildings and works associated with Section 2 Use or within particular setbacks. No permit required for building and works less than 50sqm if associated with existing dwelling or less than 100sqm if associated with existing agricultural building.	Permit required for buildings and works associated with Section 2 Use or within particular setbacks. No permit required for building and works less than 100sqm if associated with an existing dwelling or less than 200sqm if used for agriculture.	

### **Overlays and Other Controls**

The Precinct is affected in part by the Land Subject to Inundation Overlay, Floodway Overlay and the Environmental Significance Overlay. While overlays influence the development of land, these controls will not be reviewed as they operate independently of the Zones within the Precinct.

### **Local Planning Policy**

Clause 21.07-6 *Racing Industry* supports the Zones within the Precinct stating:

*The thoroughbred horse racing industry is based at Dowling Forest Racecourse, harness racing at the Bray Raceway in Redan and greyhound racing at Morshead Park in Redan. Each site is an important cultural, economic and sporting centre for Ballarat.*

*Council has identified an area surrounding the Dowling Forest Racecourse for the development of a thoroughbred horse training precinct. The primary purpose of the land in the precinct is for the training of thoroughbred racehorses. Any 'accommodation' associated with horse training must be ancillary to that primary purpose. Council does not encourage any urban or rural residential outcomes on the land that it has identified for thoroughbred horse training facilities.*

The objective of this policy is:

- ▶ *To create prosperity through the development of the thoroughbred, harness and greyhound racing industries.*

The policy includes the following strategies relevant to the Dowling Forest Precinct:

- ▶ *10.1 Discourage land use and development within the vicinity of Dowling Forest Racecourse that will restrict its use and development for thoroughbred racing and training purposes.*
- ▶ *10.2 Encourage the establishment of land uses associated with the thoroughbred horse racing and training industry within proximity to Dowling Forest Racecourse.*
- ▶ *10.3 Discourage urban or rural residential outcomes surrounding Dowling Forest Racecourse that are unrelated to the thoroughbred horse racing and training industry.*

This policy expands very little from the purposes of the zones and does not supply any specific decision guidelines or criteria for the consideration of planning permit applications. This policy applies to land beyond the Dowling Forest Precinct, yet does not define the extent of the Racecourse's vicinity or the Dowling Forest Precinct. For these reasons, it is considered appropriate to review this policy.



#### 4.3 CURRENT PURPOSE OF THE PRECINCT

An explicit purpose for the whole Precinct is not outlined in any existing documents but is inferred from the commonalities in the purposes of the relevant planning controls, as follows:

##### **Clause 21.07-6 Racing Industry**

- ▶ *To create prosperity through the development of the thoroughbred, harness and greyhound racing industries.*

##### **Farming Zone Area A and Farming Zone Area B**

- ▶ *To provide for the use of land for agriculture.*
- ▶ *To encourage the retention of productive agricultural land.*
- ▶ *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- ▶ *To encourage the retention of employment and population to support rural communities.*
- ▶ *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- ▶ *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

##### **Special Use Zone 7**

- ▶ *To provide for the use of land for the purpose of a racecourse.*

##### **Special Use Zone 13**

- ▶ *To encourage the use and development of thoroughbred horse training facilities in association with the Dowling Forest Racecourse.*
- ▶ *To provide for subdivision of land for use and development as thoroughbred horse training facilities.*
- ▶ *To facilitate on-site accommodation for horse trainers and their employees in conjunction with the thoroughbred horse training facilities.*
- ▶ *To ensure that thoroughbred horse training facilities are established in a manner which is consistent with surrounding land uses.*

Despite some differences, the current planning controls present a shared purpose for the Precinct which can be expressed as such:

- ▶ *To encourage and facilitate the development and prosperity of the Dowling Forest Racecourse, thoroughbred horse training and the associated industry.*

#### **4.4 CONSULTATION**

Stakeholder consultation was central to the Review and provided an understanding of the day-to-day effect of the planning controls on the operation of the Precinct, by allowing the opportunity for all affected parties to be involved and informed. Opportunities for consultation were provided via public information sessions, one-on-one meetings and written submissions. The following stakeholders were engaged throughout the Review:

- ▶ Ballarat North Ward Councillor – Cllr .Grant Tillet
- ▶ Ballarat Turf Club (BTC)
- ▶ SUZ13 Action Group
- ▶ Landowners within the Precinct
- ▶ Landowners from beyond the Precinct (Stage 2 and 3)

Consultation was conducted in three stages, generally in accordance with the three stages of the Review.

- ▶ Stage One sought to build upon preliminary research to establish a solid basis for the Review. This stage found the SUZ13 is too restrictive, too complicated. This stage produced the eight *Key Issues* for the Precinct which guided the following stages of the Review.
- ▶ Stage Two explored the potential options for action and intervention. This stage confirmed the desired outcomes of all stakeholders and guided the approach to developing preliminary recommendations.
- ▶ Stage Three was the formalised exhibition period of the Review and provided highly detailed discussion and feedback on preliminary recommendations.

Please refer to the Engagement and Conversation Report for further detail.



Consultation Stage 1: Landowner Workshop

02.  
**DOWLING FOREST EQUINE PRECINCT**  
 ZONING PROVISIONS

LEGEND

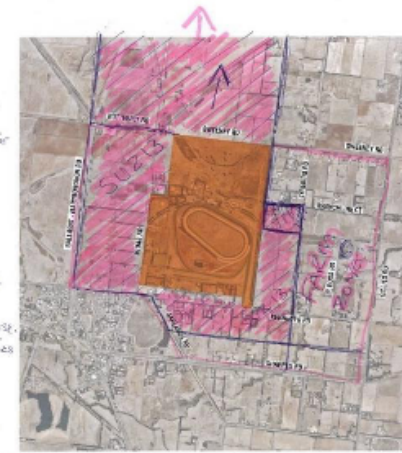


QUESTIONS

- 1 What type/scale of development should be allowed in the Precinct without a planning permit? Drafting that allows land owners to utilise properties for their business or improve their lifestyle.
- 2 How can we ensure new dwellings or development will not impact upon thoroughbred training or the equine role of the Precinct?  
 Case by case assessment by Council within a specific precinct use zone?
- 3 What is an appropriate minimum subdivision size within the Precinct?  
 2-4 ha
- 4 Which land should / should not be included in the Precinct?  
 Existing CEM and should be included and its use of horses etc should be included.
- 5 What rule should be used to determine the location of the Precinct Boundary?  
 Current zoning and what is being used for horse training with close access to the race course.
- 6 What should be included in the Local Planning Policy for the Precinct?  
 Allow owners flexibility to improve their properties + other horse activities.
- 7 How should we inform people about the changes to the Precinct?  
 Mail, email, these events.
- 8 Additional Comments?  
 I don't want to be restricted for special use in our current CEM zone (eg. EMB).

DRAFT

ZONING PROVISIONS  
 MINDIS REST - VICTORIA





#### 4.5 KEY ISSUES

All issues identified throughout the Review can be grouped and summarised into eight Key Issues. All of the Key Issues are interconnected with one-another, however not all issues were directly related to planning controls.

##### **Confusion and Compounding Stigma Associated with SUZ13**

A stigma towards the SUZ13 existed prior to the implementation of Amendment C149 and continues to the present day. This stigma is rooted in the initial resistance to the implementation of the SUZ13, but is now largely due to confusion and misinformation regarding the content of the provisions and to a lesser extent, the prioritisation of thoroughbred activities.

The factors contributing to this confusion were not deeply investigated as part of this Review, however they seem to be associated with incorrect and inconsistent interpretations of the provisions, complexity and differences in the controls and a lack of understanding of the planning process. This stigma has significantly tarnished perceptions among the community of not just the SUZ13, but the SUZ in general.

##### **Use of Four Different Planning Controls**

The use of four separate but similar planning controls was an underlying issue throughout the Review. Land on or directly adjacent to the Racecourse is the only land which has a distinct function or significant advantage in the Precinct. Particularly since the banning of access to the Racecourse by foot, there is no effective difference with other land in the Precinct.

##### **Land Supply and Demand**

The amount of land contained within and the location of the Precinct boundaries was an underlying issue throughout the Review. Although previous research and strategic work indicated the Precinct contained an oversupply or very-long term land supply of land, there has been no take-up of free-hold properties by trainers to date, leaving many questioning the need for the planning controls to cover such a large area.

Justification for the Precinct's boundary was initially based on conditions which have since changed and demand assumptions which have proved to be significantly over-estimated. This issue is closely tied to industry and property market trends, the restrictiveness of the controls (perceived or actual) and activities on the Racecourse, including the growth of facilities or access arrangements.

##### **Exclusivity and Restrictiveness**

Although the purpose of the Precinct is to protect and facilitate the use and development of land for thoroughbred racing, there were frequent questions surrounding why the contents of the controls are so restrictive and exclusive of other types of equine activities. The controls have not facilitated an uptake of land for thoroughbred training purposes as the restrictiveness of the provisions is not attractive or viable for trainers looking to establish a new facility. Previous research saw little exploration into why the specification of "thoroughbred" was required and whether this may be too restrictive.

Non-thoroughbred properties have also seen a lack of development or property movement due to the restrictive controls which are perceived as confusing and unfair, particularly for use and

development which is not generally considered to be harmful to thoroughbred training activities. The actual issue in this case seems to be a combination of both the perceived and actual restrictions of the planning controls and their impact on property rights.

#### **Land Prices, Financing and Saleability**

As a result of the confusion, misinformation and stigma surrounding the Precinct, the current planning controls have had real impacts on current and potential land owners and occupiers. Many residents attributed difficulties selling or financing properties in the SUZ13, particularly the requirements associated with holding and/or obtaining a thoroughbred trainer's license for operating a business, and the resultant financial requirements of lending institutions. While it is not clear whether the planning controls have caused these issues directly, the establishment of this Precinct has clearly contributed to issues with land prices, financing and saleability. This is mostly due to widespread misconceptions surrounding the role of planning and the effect of the controls over property movement and rights within the Precinct.

#### **Perceived Bias for BTC Interests**

There was strong criticism that the planning controls do not facilitate fair use or development opportunities and that they are used as a tool for the exclusive benefit of BTC. The existence of the Precinct is founded on the presence and significance of the Dowling Forest Racecourse, as well as a desire to prioritise and exclude particular activities. However, the planning controls seek to facilitate the growth of the thoroughbred racing industry as a whole rather than for the commercial benefit of the BTC, as demonstrated in the provisions of the planning controls and local policy.

#### **Rural Living Pressure**

It was evident from the consultation there is still significant pressure on the land to become a rural residential area. This pressure is in part due to previous failures of planning provisions which have allowed the establishment of many rural residential properties which continue to be used as such today. Rural living outcomes could reduce the amount of useable land for agricultural/ thoroughbred/ equine purposes where they can cause amenity impacts on dwellings which may not align with the expectations of residents.

#### **Roads, Access and Safety**

Issues associated with traffic, safety and Racecourse access were frequently mentioned and were a significant point of concern for many stakeholders. Recent changes to traffic conditions such as the banning of walking access to the track and a supposed increase in vehicle activity due to new developments in the surrounding area have further exacerbated these issues.

While these issues are relevant and an important consideration for this Review, this issue cannot be addressed via the planning controls. Planning controls must be independent from infrastructure solutions and by separating these issues, changes to traffic conditions will not have such a significant impact on planning controls.

## 5. STAGE TWO: DETERMINING THE FUTURE OF THE PRECINCT

### 5.1 POTENTIAL OPTIONS

With a thorough understanding of the context, issues and desired outcomes of the Precinct, highly detailed and specific options can be explored. It is recognised that some issues in the Precinct are beyond the realm of planning control and so, these options seek only to address the statutory planning and policy related issues. However, it is likely these options will have flow-on effects to non-planning issues.

#### Option A: Do Nothing

No change to the content, application or method of communication for the planning controls and no further research or strategic work undertaken.

- ▶ Pro: Could ensure thoroughbred activities continue to be prioritised within the Precinct, particularly for established larger trainers.
- ▶ Con: Would not address many of the peripheral issues or concerns of stakeholders and has limited capacity to adapt to any future changes. Confusion and frustration with the planning controls would not be addressed and issues with the use, development and sale of land would likely continue.

#### Option B: Relax the Planning Controls

Maintain the current planning controls and their application but with amended provisions to make the controls less restrictive and exclusive. This may involve allowing more use and development which is not detrimental to equine activities without a planning permit, broadening the Precinct's purpose to include other equine-related uses and the establishment of a new trainer test.

- ▶ Pro: Could simplify the planning controls which would improve the perception of the planning controls and potentially increase the sale and development of properties.
- ▶ Con: Poses risks such as the potential for the expansion of rural residential development and land becoming compromised for equine-activities.

#### Option C: Change the Planning Controls

Overhaul the Precinct with different or new planning controls and changes to where or how they are applied. This could be utilised to varying degrees to 'wipe the slate clean' and directly address many of the issues raised by stakeholders.

- ▶ Pro: Could improve the consistency of the controls and ensure the Precinct can be more adaptable or specific where it needs to be. A new, simplified zone could also help address the stigma and confusion around the current planning controls.
- ▶ Con: The SUZ has already been established as the most appropriate Zone for the Precinct and a whole new set of planning controls could see the rise of new, unforeseen issues.

### Option D: Remove the Planning Controls

Removal of all the Precinct specific controls and revert land to a standard zone. This would facilitate very similar use and development as the present controls but would not distinguish between equine activity and other agricultural outcomes.

- ▶ Pro: Would allow market forces to prevail and equine activity to occur with relatively little restriction.
- ▶ Con: Due to the broad nature and previous failures of the Farming Zone, it is unlikely that this option would ensure thoroughbred/equine activities are prioritised.

**Table 2: Could the Potential Option address the Key Issues?**

KEY ISSUES	OPTION			
	A	B	C	D
Confusion and Compounding Stigma SUZ13	✗	?	✓	✓
Land Supply and Demand	✗	✓	✓	✗
Exclusivity and Restrictiveness	✗	✓	✓	✓
Land Prices, Financing and Saleability	✗	?	?	✗
Use of Four Different Planning Controls	✗	✗	✓	✓
Perceived bias for BTC interests	✗	✗	✓	✓
Rural Living Pressure	✗	?	✓	✗
Roads, Access and Safety	✗	✗	?	✗

### Spiire's Suggestion

- ▶ Option B & C

Spiire recommends a combination of Option B and Option C. This would see both the relaxation of planning controls and the amendment of the requirements and their application to land. This suggested course of action is considered most appropriate as it is likely to produce the best possible outcome for all stakeholders through providing the ability to address most of the issues with the current planning controls whilst ensuring the purpose of the Precinct is maintained.

In order for any changes to be successful, details and planning provisions must be balanced, adaptable and context appropriate.

### Stage Two Consultation

Stage Two of the stakeholder consultation explored potential options, identified the processes required to achieve them and linked desired outcomes for the Precinct with potential planning interventions. This stage of consultation provided meaningful information which directed the development of the final recommendations.

This stage identified the desired outcome for the review of most landowners as such:

- ▶ Any development which allows landowners to improve their property, run their business or improve their lifestyle, should not require planning permission if it is not detrimental to equine use, particularly for shedding, housing and stables.



## 5.2 DISCUSSION

The following section provides discussion on the major topics which dominated conversation throughout the review process. This section provides an insight into the interaction between different influences in the precinct and outlines the basis for the Recommendations.

### Purpose of the Precinct

All recommendations presented as part of the Final Report must directly contribute to the realisation of the Purpose of the Precinct:

- ▶ *To encourage and facilitate the development and prosperity of the Dowling Forest Racecourse, thoroughbred horse training and the associated industry.*

As the review has progressed, the Purpose of the Precinct has slipped from focus. Going beyond the original scope of the Review could introduce additional variables and complexity thereby increasing the chance of conflicts and oversight. Therefore, requests or changes which are not related to the aim cannot be considered.

### Defining the Precinct

In this Review, the Dowling Forest Equine Precinct refers to the land which is affected by the planning controls associated with the Dowling Forest Racecourse. The presence of the Precinct is only inferred throughout the existing planning controls, referring to the land in the “vicinity” of the Dowling Forest Racecourse and the application of specialised zones. Given land used in association with the Dowling Forest Precinct extends far beyond the land affected by the planning controls, there was no general understanding of the intended extent of the Precinct by the community, which further contributed to confusion. For these reasons, it is necessary to explicitly define the Precinct to ensure consistency.

Additionally, there is no definitive purpose laid out for the Precinct. While each zone contains a purpose somewhat related to the Dowling Forest Racecourse, none refer to the intended function of the entire Precinct. Supporting the re-establishment of a Precinct as an alternative to the highly restrictive SUZ13 would require a strong purpose statement which demonstrates a clear outcome for the area. This would help to reduce the potential for discretion and conflict, yet be less prescriptive than the SUZ13 and could be achieved via local policy and the establishment of a Precinct map.

### Size and Expansion of the Precinct

When considering the findings of the HillPDA Report and the lack of demand for or establishment of training properties on private land since the introduction of the SUZ13, there is a demonstrated oversupply of land strictly allocated for thoroughbred training via the SUZ13. Given there is significantly more land beyond the SUZ13 where thoroughbred activities can establish, expansion of the Precinct is not required to satisfy the purpose of the Review. Farming Zone Areas A, B and C retain additional land beyond the SUZ13 for race horse training in the event of unanticipated growth, without placing unreasonable restrictions on landowners and encouraging complementary activities in the interim. Therefore, with the exception of three equine properties to the immediate north of the Precinct, the expansion of the Precinct to the east, west or south is not required for a buffer to the Racecourse as this is already provided within the Precinct Boundary.

### **Miners Rest Township Plan**

The Miners Rest Township Plan and this Review are closely linked; therefore, it is important the Recommendations are consistent with the outcome and objectives of the Plan. Since the research stage of this Review, the Final Plan has been released which contains additional findings and strategy related to the Dowling Forest Precinct and surrounding area to be considered by Council for adoption in late 2019.

### **Terminology**

Terminology used throughout the Review uses the common meaning of terms where possible. In some instances, it has been necessary to use Planning Scheme terms which may have a different interpretation to their common meaning. Submissions have demonstrated improvements are needed in the use of equine industry terms to ensure there is no unintentional discrimination through language. It is also necessary to ensure the use of terms is consistent throughout all materials produced as part of this Review to maintain clarity and reduce confusion surrounding the planning controls.

### **Thoroughbred or Equine**

The use of the term thoroughbred was considered to be discriminatory, however this was merely used as shorthand to specify the type of equine activities which are directly associated the Racecourse. Although non-thoroughbred training activities are currently discouraged in the Precinct, no strong evidence has been provided which demonstrates these activities cause conflicts which would be detrimental to the Racecourse or thoroughbred training. Considering there is low demand for private properties for thoroughbred training at present, and there are large numbers of non-thoroughbred equine properties already in operation, equine activities more generally seems to be a more appropriate land use description.

### **Buffers**

Throughout the Review, there was frequent mention of the need to provide a buffer between encroaching residential and urban development from Miners Rest. This is recognised as a potential threat to the Precinct, however does not automatically award the need to expand the Precinct boundaries. Buffers do not need to consist of large physical distances; they can be provided via design controls and other means. It is the racecourse land and that which is immediately adjacent which is most valuable. The buffer for these features is provided within the Precinct, with the inclusion of three properties to the north, through specialised FZ Areas A, B and C and the local policy.

### **The Special Use Zone - Schedule 13**

The SUZ13 is highly restrictive so as to serve a very specific function - to protect land for the development of thoroughbred training facilities. The requirements were based on zones implemented around other racecourses in Victoria, however unlike this Precinct, land was within single ownership, in a largely undeveloped area and being developed by the Racecourse.

The SUZ13 has in some ways been extremely effective in achieving its purpose, however its implementation has had unintended consequences on existing landowners. While there are some minor issues associated with the requirements of the SUZ13, the real problem in this circumstance is its perception, interpretation and application to land. The absence of change within the Precinct, lack of uptake by new trainers and application of the zone to properties where further development is severely restricted demonstrates the inappropriate application and oversupply of SUZ13.

Through only applying the SUZ13 to strategically valuable land and improving communication about the operation of the SUZ13, current issues can be resolved. The establishment of a criteria for the

application of the SUZ13, which is independent of potentially variable influences could ensure any changes to the Precinct do not see a repeat of the current issues.

### **The Farming Zone**

Despite containing some special provisions relevant to the Precinct, FZ Areas A and B maintain the purpose of the standard FZ. The existing minimum subdivision sizes within FZ Area A and B are predominantly a product of historical planning controls and should only be applied where there is confidence such lot sizes would be appropriate for the Precinct. The lot sizes permitted by FZ Areas A and B are not "as of right" lot sizes for dwellings; currently they are permitted in support of the establishment of race horse training facilities and equine uses in association with the Dowling Forest Precinct.

Furthermore, a desire to legitimise existing subdivision sizes or more accurately recognise land use activities is not sufficient reason to amend planning controls. Although the minimum subdivision sizes may suggest greater flexibility, inclusion in the Dowling Forest Equine Precinct in fact places additional restrictions on land than the standard FZ, as it prioritises a particular type of agriculture (equine) over others.

### **Subdivision**

The review did not suggest there was a demand to provide for additional lots or smaller subdivision sizes for equine purposes within the Precinct. Subdivision sizes should not be determined without thorough analysis of land capability, land supply/demand, flooding and environmental conditions. Since no additional land is required for the Equine Precinct, it would be beyond the scope of the Review to consider the subdivision capacity of land beyond the existing Precinct.

Findings of the Review suggest equine industry trends are leaning towards larger property sizes than the Precinct's previously established

2 hectare lot sizes. Additionally, the majority of this land is already used for equine purposes and/or cannot be further subdivided. Therefore, the provision of a significant amount of land capable of 2 hectare subdivision is not required to meet the anticipated needs of the equine industry and therefore, the Precinct.

### **Rural Living**

Some submitters considered rural living to be compatible with the Precinct. As stated in earlier stages of the Review, rural living outcomes have the potential to cause significant conflicts within agricultural areas, including equine activity areas. Additionally, some submissions requesting the extension of FZ Areas A, B, C to land beyond the Precinct are explicitly motivated by desires for rural residential development. Despite special provisions allowing smaller lot sizes in particular circumstances, the primary purpose of the FZ Area A, B, C is for agriculture, with a particular emphasis on equine activities. It is therefore inappropriate to utilise these FZ provisions when seeking residential outcomes.

### **Existing Section 173 Agreements**

Section 173 Agreements on land established from previous planning controls which no longer apply are able to be removed via the standard statutory process between landowners and Council.

### **Traffic and Road Safety**

Planning and road safety controls operate almost exclusively of one another, despite being highly influential over a property. For this reason, any changes should not be implemented on the basis of any current road conditions or measures which could likely change, as seen with the present controls.

### 5.3 DESIRED OUTCOMES

As concluded through research and feedback throughout the Review, any Recommendations need to achieve the following outcomes:

- ▶ Address the *Key Issues*.
- ▶ Support the Precinct for equine purposes more broadly, not just thoroughbred training.
- ▶ Provide a clear definition of the Precinct's purpose and location.
- ▶ Be adaptable to potential physical, legal or operational changes at the Racecourse or within the Precinct.
- ▶ Address the practical impact of any changes to planning controls.
- ▶ Manage any direct interfaces with urban land.
- ▶ Ensure landowners can improve their property, operate their business or improve their lifestyle in a manner consistent with the purpose of the Precinct.
- ▶ Ensure the planning controls do not require further review until the long term future or in the event of extreme contextual change.



## 6. STAGE THREE: RECOMMENDATIONS

### 6.1 SUMMARY OF MAIN RECOMMENDATIONS

Following from the above discussion and description of the desired outcomes, below is a summary of the main changes recommended through this Review:

- ▶ Define the Dowling Forest Equine Precinct with a purpose and location.
- ▶ Amend the existing local policy to broaden the direction and purpose of the Dowling Forest Equine Precinct.
- ▶ Establishment of criteria to determine where the SUZ13 should apply.
- ▶ Reduction in the area to which SUZ13 applies.
- ▶ Introduction of FZ Area C to where SUZ13 previously applied.
- ▶ Clearer use of wording and terminologies in zone and policy provisions.
- ▶ Where existing s173 Agreements are no longer relevant, these may be removed through the statutory process with Ballarat City Council.

Further details on these and other recommended changes are provided below.

### 6.2 DEFINING THE EQUINE PRECINCT

Resulting from this Review process, the following role/purpose is recommended for the Dowling Forest Equine Precinct:

1. To protect the operations and function of the Dowling Forest Racecourse, in recognition of its prominence in the thoroughbred horse training industry, and associated net benefits this facility creates for the local region.
2. To provide land off the Dowling Forest Racecourse land for thoroughbred racing training purposes. The designation of this land is based on certain criteria and is included in the SUZ13.

3. To provide land upon which equine activities are preferred, encouraged and facilitated, as long as these do not prejudice the operation and functioning of the Dowling Forest Racecourse. This land is designated within the Farming Zone and Farming Zone Areas A, B and C.
4. To provide a buffer between the Dowling Forest Racecourse and surrounding residential and agricultural land uses. The separation of land uses incompatible with horse racing and training, such as residential dwellings and other types of agriculture can be an effective way to minimise land use conflict and enable the Racecourse to better operate with fewer constraints. Such separation also plays a key role in biosecurity and in managing any impacts of noise, early morning starts and traffic, including such impacts on race/event days.
5. To future proof the function and operations of the Dowling Forest Racecourse. Farming Zone Areas A, B and C retain additional land beyond the SUZ13 for race horse training in the event of unanticipated growth, without placing unreasonable restrictions on landowners and encouraging complementary activities in the interim.

This Review also provides the following recommendation on the boundary or location of the Dowling Forest Equine Precinct:

- ▶ Retention of all areas currently within the Precinct. Particularly in light of the buffer role as described above, the Review did not find a sound planning basis to remove any of the properties from the Precinct.
- ▶ Addition of 6 parcels adjacent to the Racecourse along Midas Road and properties at 69, 147 and 168 Mount Pispah Road, Miners Rest. These properties currently interface directly with the Dowling Forest Racecourse, have an agreement in place with the Ballarat Turf Club to directly access the racecourse, and/or are currently used for horse training or other equine purposes. Whilst the topography of Mount Pispah provides some separation between the racecourse and agricultural areas to the north of Mount Pispah Road, the inclusion of these properties in the Equine Precinct provides an additional “on the ground” buffer for the racecourse and retains additional land beyond the SUZ13 for race horse training if the need arises.

### 6.3 LOCAL PLANNING POLICY

Clause 21.07-6 Racing Industry currently exists in the Ballarat Planning Scheme in recognition of the thoroughbred horse racing industry at Dowling Forest, the harness racing industry at Bray Raceway and greyhound racing at Morshead Park. The policy provides justification for the application of the SUZ13 around the Dowling Forest Racecourse and states the primary purpose for the Precinct is for the training of thoroughbred racehorses. Whilst this remains one of the purposes of the Dowling Forest Equine Precinct, it is recommended the Policy be amended to reflect the outcomes of this Review and include the purposes of the Equine Precinct as outlined above with new strategies to reflect this broadened purpose.

## 6.4 LAND USES WITHIN THE EQUINE PRECINCT

Following from the purpose and location of the Precinct as per Section 6.2 above, it is recommended the following land uses are provided for within the Dowling Forest Equine Precinct:

### 6.4.1 DOWLING FOREST RACECOURSE - SPECIAL USE ZONE 7

The Dowling Forest Racecourse, as currently administered by the Ballarat Turf Club, was not the subject of this Review. As stated previously in this Report, the Racecourse appears to be operating without issue, and therefore, from a land use planning perspective, it is not proposed to amend the current planning provisions of the Special Use Zone 7 which apply to this land.

### 6.4.2 THOROUGHBRED HORSE TRAINING - SPECIAL USE ZONE 13

The training of thoroughbred race horses remains the focus of the Dowling Forest Racecourse and the Ballarat Turf Club. Nothing throughout this Review has questioned the role the Racecourse plays in this regard and the importance of this facility at a State wide level. However, as discussed extensively during the consultation and in this Report, the application of the SUZ13 to the area it currently applies has resulted in significant angst and confusion to the landowners. The Review has found widespread support for reducing the area to which the SUZ13 applies, including support from the BTC, and the following criteria has been recommended to determine how the SUZ13 is allocated:

Apply the Special Use Zone 13 to land which meets at least two of the following criteria:

- ▶ Directly adjoins the Racecourse.
- ▶ Is within close proximity to the Racecourse.
- ▶ Can gain direct access to the Racecourse, or has an opportunity to do so.
  - Direct access is defined as “*The ability to move safely and efficiently between a private property and the Racecourse proper and/or associated training infrastructure, without the need to pass through separate land, or in a manner approved by BTC*”.
- ▶ Has a formal access arrangement with the Ballarat Turf Club.
- ▶ Has significant opportunity for the intensification of use and development in accordance with the purposes of the SUZ13.

As shown on the plan in Appendix A, the application of this criteria reduces the area to which the SUZ13 applies.

It is recommended to include land removed from SUZ13 into FZ Area C. The Farming Zone is the most appropriate designation for this land given the similarities it shares with the SUZ13 and the additional freedoms it can provide to existing landowners. With the support of the recommended local policy, the Farming Zone Area C will ensure the current minimum subdivision sizes are maintained whilst recognising the equine role of the land and ensuring it continues to act as a buffer to SUZ13 and SUZ7 land.

This Review does not recommend any changes to the provisions of the SUZ13, other than allowing extensions to existing dwellings and outbuildings associated with existing outbuildings up to 100 square metres without a planning permit. Currently the size limit is 50 square metres.

#### 6.4.3 EQUINE ACTIVITIES - FARMING ZONE AND FARMING ZONE AREAS A, B AND C

Land within the Equine Precinct which is not SUZ7 (Dowling Forest Racecourse) or SUZ13 (Thoroughbred Horse Training) will be included in the Farming Zone. The current minimum lot sizes for subdivision or for which no permit is required to use land for a dwelling of 2 hectares, 4 hectares and 10 hectares will remain, however an amended schedule to the Farming Zone will require subdivision and use of land for a dwelling to be consistent with the provisions as recommended for the amended Clause 21.07-6 Racing Industry.

This Review recommends the Farming Zone be applied as follows:

- ▶ The Farming Zone will apply as it currently does to the properties at 69, 147 and 168 Mount Pisgah Road, Miners Rest proposed to be included in the Dowling Forest Equine Precinct. Whilst these properties are proposed to be included in the Precinct, this Review does not recommend any change to the provisions of the Farming Zone as they apply to these properties, including the minimum lot sizes.
- ▶ Farming Zone Area A will apply to the former Farming Zone Area B and retain the minimum lot size of 10 hectares.
- ▶ Farming Zone Area B will apply to the former Farming Zone Area A and retain the minimum lot size of 4 hectares
- ▶ Farming Zone Area C will apply to the former SUZ13 areas and retain the minimum lot size of 2 hectares. When the requirements and conditions relating to thoroughbred horse training were removed from the SUZ13 there was little differentiating these provisions from those in the Farming Zone. As such, and to be consistent with the balance of the Precinct, it is recommended the former SUZ13 land be included in the FZ Area C.

## 6.5 RECOMMENDED CHANGES TO THE BALLARAT PLANNING SCHEME

Feature	Recommended Change	Justification	Desired Outcome
<b>Special Use Zone 7</b>	No change.	The SUZ7 was not the subject of contention discussion at any stage of the Review.	Continue existing use and operations at the Racecourse.
<b>Special Use Zone 13</b>	Amend Clause 4.0 of Schedule 13 to the SUZ according to Appendix D to allow extensions to existing dwellings and outbuildings associated with existing outbuildings up to 100 square metres without a planning permit.	The current allowance of 50 square metres is considered too small within a rural context to likely generate any potential impacts on adjoining land.	Allow greater flexibility to existing landowners and occupants whom are not licensed trainers to maintain and improve their property.
<b>Farming Zone Schedule</b>	Replace the current minimum subdivision provisions and minimum area for which no permit is required to use land for a dwelling provisions for Area A and Area B with new recommended provisions (Appendix B) which require subdivision and use of land for a dwelling to be consistent with recommended Clause 21.07-6 Racing Industry as opposed to the use and development of land for Animal Husbandry.	The majority of landholdings are already subdivided to the existing minimum lot sizes which were based on suitable areas for equine and thoroughbred activities. As these areas will remain within the Equine Precinct there is no need to amend the minimum subdivision size. Achievement of the minimum lot size is recommended to be dependent upon achieving intended outcomes of an amended Clause 21.07-6.	Small lot subdivision will be dependent on achieving strategies of Clause 21.07-6, noting that there is not much scope for further subdivision in the Equine Precinct.
	Replace the current Farming Zone Schedule Map with a recommended Map (at Appendix C) which identifies land in Area A, B, C.	This will maintain the current subdivision sizes of these areas, but reflects the change from SUZ13 to FZ Area C.	Ensure landowners can improve their property, run their business or improve their lifestyle where it will not adversely impact upon the Dowling Forest Racecourse or equine activities in the Equine Precinct.
<b>Clause 21.07-6 – Racing Industry</b>	Replace existing Clause 21.07-6 with recommended local policy (at Appendix E)	Existing Policy needed to be strengthened to better define the location and purpose of the Dowling Forest Equine Precinct, and provide strategies and decision guidelines	Better definition and awareness of the location and purpose of the Precinct. Greater focus on equine activities, as

Feature	Recommended Change	Justification	Desired Outcome
	which refers to the Precinct as "Dowling Forest Equine Precinct"	for the assessment of planning permit application within the Precinct.	opposed to just the thoroughbred training industry.
<b>Zone Mapping</b>	Remove parcels from the SUZ13 and include in Farming Zone Area C as shown on the Map at Appendix G.	<p>As stated in this Report, and throughout the Review, it has been found the application of the SUZ13 to some areas of the Precinct has resulted in angst and confusion, and has not resulted in the take up of land for thoroughbred horse training. Land sales have stagnated and with the restrictions contained with the SUZ13, landowners are unable to develop or improve their properties.</p> <p>All land removed from SUZ13 is to be transferred to the FZ as there is little difference between these zones if the provisions relating to thoroughbred training are removed from the SUZ13.</p>	Landowners will be able to sell, develop or improve their property, operate their business or improve their lifestyle where it will not adversely impact upon the Dowling Forest Racecourse or equine activities in the Equine Precinct
	Include additional parcels in the SUZ13 as shown on the Map at Appendix A.	These parcels meet the criteria established for the inclusion in the SUZ13, which are outlined in Section 6.4.2 above. The inclusion of these areas in the SUZ13 provides opportunity for future development and/or expansion of thoroughbred racehorse training facilities on land with safe and convenient access to the Racecourse.	Ensure strategically located land is protected from inappropriate development and is maintained for current/future use in direct support of the Racecourse.



**6.6 WHAT WILL THESE CHANGES LOOK LIKE IN REALITY?**

	<b>Special Use Zone 7</b>	<b>Special Use Zone 13</b>	<b>Farming Zone and Farming Zone A, B and C</b>
<b>What is required for the use and development of land for a new dwelling?</b>	Same as current requirements.	Same as current requirements.	Applications must meet the minimum subdivision size specified in the schedule to the FZ and demonstrate consistency with Clause 21.07-6.
<b>Can non-thoroughbred racehorse trainers or non-employees of trainers occupy/purchase a dwelling/property?</b>	Same as current requirements.	Same as current requirements.	Yes.
<b>What changes can be made to existing buildings without a permit?</b>	Same as current requirements.	Up to 100sqm extension to an existing dwelling.  Up to 100sqm extension to an existing outbuilding.	Up to 100sqm extension to an existing dwelling.  Up to 100sqm extension to an existing outbuilding.
<b>What uses do/ do not require a planning permit?</b>	Same as current requirements.	Same as current requirements.	Same as standard FZ.
<b>What is the minimum subdivision size and under what conditions do these apply?</b>	Same as current requirements.	Same as current requirements.	- 10 ha in Area A*, - 4 ha in Area B*, - 2 ha in Area C*;  *where land is used in accordance with Clause 21.07-6.  All other instances - 40ha same as current requirements.
<b>How does the local policy at Clause 21.07-6 influence applications?</b>	All planning permit applications must be consistent with the objective and strategies in this clause.		

## 6.7 OTHER SUGGESTED CHANGES

The following suggestions cannot be implemented via a planning scheme amendment but are considered important follow-up actions which are relevant to the Dowling Forest Equine Precinct:

- ▶ Inform all relevant stakeholders of the changes the Precinct via:
  - Relaunching the Precinct through marketing which emphasises renewed purpose and outcomes for the Precinct.
  - Property Industry Workshops
  - Publicly available brochures and other materials which clearly and simply explain the operation and effect of the planning controls.
- ▶ Advise landowners on how to seek removal of redundant Section 173 Agreements with City of Ballarat via the existing statutory process.
- ▶ Suggest a strategic review of land south of Sharpes Road to determine and designate a future land use outcome for the area following the outcomes of the Growth Corridors Study and the Miners Rest Township Strategy.
- ▶ Encourage the BTC to establish legal rights of access into the Racecourse along Midas Road to ensure horses can access the facilities safely and efficiently, and there be no safety risk posed to the users of Midas Road.
- ▶ Discuss with the BTC the suggested opportunity to establish public road connections through Lyrebird Court and Branchline Court directly to the Racecourse.

## 6.8 NEXT STEPS

- Council to determine its position on the recommended changes to the Dowling Forest Equine Precinct
- Depending on the changes adopted, proceed with a Planning Scheme Amendment.

## 7. APPENDICIES

### 7.1 APPENDIX A: FINAL RECOMMENDATION

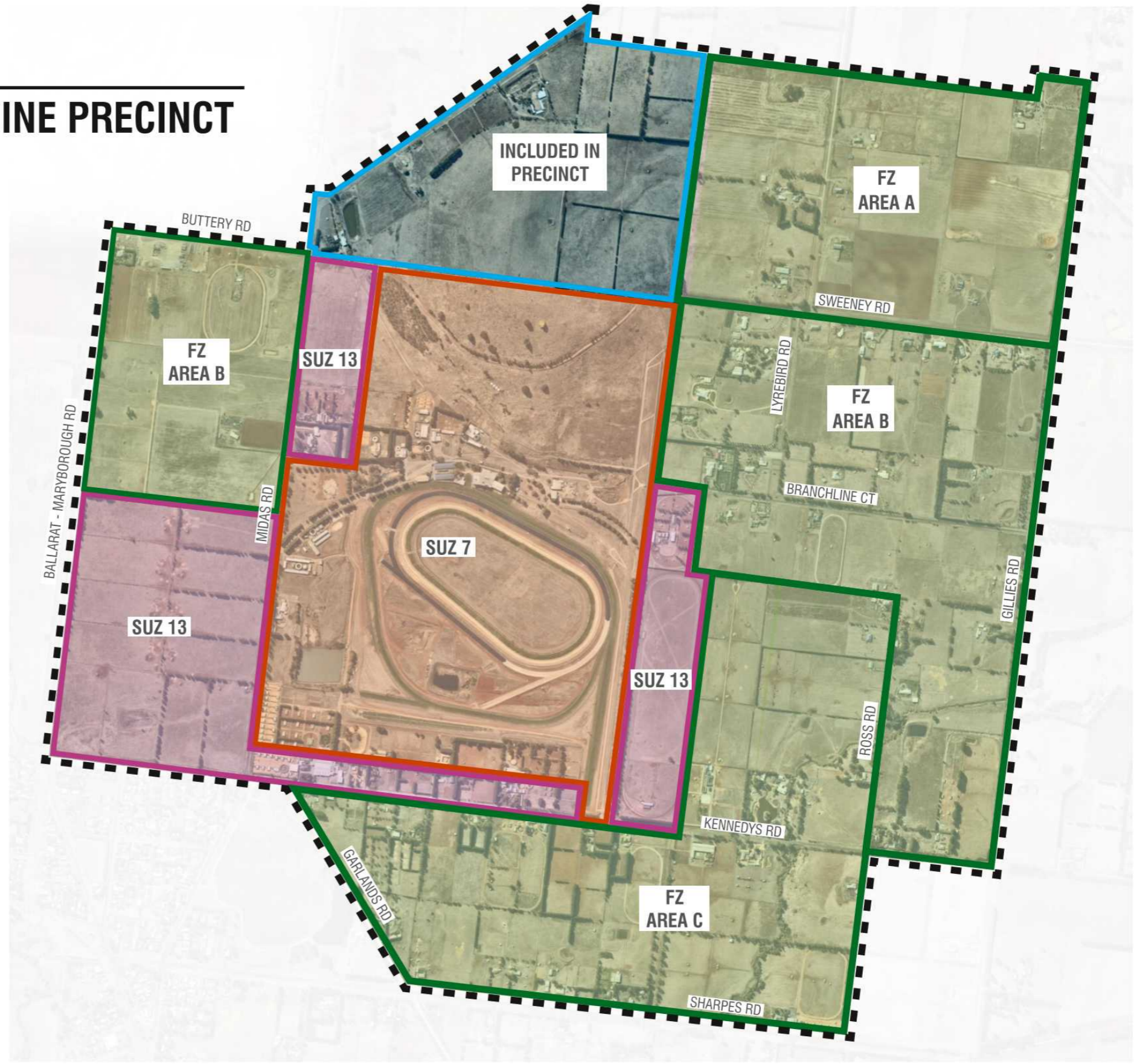
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# DOWLING FOREST EQUINE PRECINCT

## FINAL RECOMMENDATION

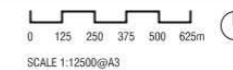
### LEGEND

- ■ ■ Equine Precinct
- FZ - Farming Zone
  - Area A (min 10 ha)
  - Area B (min 4 ha)
  - Area C (min 2 ha)
- SUZ 7 - Racecourse Precinct
- SUZ 13 - Thoroughbred Horse Training Facilities
- INCLUDED IN PRECINCT - Current zone applies. Included in precinct at local policy



**FINAL RECOMMENDATION**  
DOWLING FOREST EQUINE PRECINCT - VICTORIA

DRG NO. 306355 PL100    REV D    DATE 07/10/2019    DES/DOC PB/TC/JM    AUTH JM



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**7.2 APPENDIX B: RECOMMENDED AMENDED CLAUSE 35.07 SCHEDULE TO FARMING ZONE**

	<b>Land</b>	<b>Area/Dimensions/Distance</b>
Minimum subdivision area (hectares).	Land shown as "Area A" on the map attached to this schedule where the land is used in accordance with Clause 21.07-6.	10 hectares
	Land shown as "Area B" on the map attached to this schedule where the land is used in accordance with Clause 21.07-6.	4 hectares
	Land shown as "Area C" on the map attached to this schedule where the land is used in accordance with Clause 21.07-6.	2 hectares
	All other land	40 hectares
Minimum area for which no permit is required to use land for a dwelling (hectares).	Land shown as "Area A" on the map attached to this schedule where the land is used in accordance with Clause 21.07-6.	10 hectares
	Land shown as "Area B" on the map attached to this schedule where the land is used in accordance with Clause 21.07-6.	4 hectares
	Land shown as "Area C" on the map attached to this schedule where the land is used in accordance with Clause 21.07-6.	2 hectares
	All other land	70 hectares

**7.3 APPENDIX C: RECOMENDED SCHEDULE TO FARMING ZONE - MAP**



01.

# DOWLING FOREST EQUINE PRECINCT

## RECOMMENDED SCHEDULE TO THE FARMING ZONE

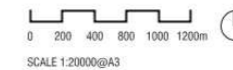
### LEGEND

-  FZ - AREA A
-  FZ - AREA B
-  FZ - AREA C



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## 7.4 APPENDIX D: AMENDED SCHEDULE TO SPECIAL USE ZONE 13

### 4.0 Buildings and works

A permit is required to construct or carry out any of the following:

- A building or works associated with a use in Section 2. This does not apply to:
  - An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is not more than 100 square metres.
  - An out-building associated with an existing dwelling provided the floor area of the out-building is not more than 100 square metres.
  - An alteration or extension to an existing building used for agriculture provided the floor area of the alteration or extension is not more than 100 square metres.
  - A rainwater tank.
- A building which is within any of the following setbacks:
  - The setback from a Road Zone Category 1 or land in a Public Acquisition Overlay of 50 metres.
  - The setback from any other road of 20 metres.
  - The setback from any boundary of 5 metres.
  - The setback from a dwelling not in the same ownership of 5 metres.
  - 100 metres from a waterway, wetlands or designated flood plain.

## 7.5 APPENDIX E: RECOMMENDED AMENDED CLAUSE 21.07-6 RACING INDUSTRY

### 21.07-6 Racing Industry

The thoroughbred horse racing industry is based at Dowling Forest Racecourse, harness racing at the Bray Raceway in Redan and greyhound racing at Morshead Park in Redan. Each site is an important cultural, economic and sporting centre for Ballarat.

Council has identified an area surrounding the Dowling Forest Racecourse for the development of a thoroughbred horse training precinct. The primary purpose of the land in the precinct is for the training of thoroughbred racehorses. Any 'accommodation' associated with horse training must be ancillary to that primary purpose. Council does not encourage any urban or rural residential outcomes on the land that it has identified for thoroughbred horse training facilities.

#### Objective 10

To create prosperity through the development of the harness and greyhound racing industries.

#### Strategies

10.1 Encourage the growth and development of the harness and greyhound industries.

10.2 Discourage activities that will restrict the use and development of the Redan harness and greyhound facilities.

#### Objective 11

To protect the value and function of the Dowling Forest Racecourse through the establishment of the Dowling Forest Equine Precinct.

#### Strategies

11.1 Discourage activities that will restrict the operation and growth of the Dowling Forest Racecourse.

11.2 Encourage land use and development associated with the Dowling Forest Racecourse.

11.3 Encourage equine activities that will not restrict thoroughbred training activities.

11.4 Discourage land use and development that will compromise the ability of land to be used for thoroughbred training purposes in the future.

11.5 Discourage urban or rural residential outcomes that are unrelated to the equine industry.

*\*Amendment also required to the objective and strategy numbers at Clause 21.07-7 as a flow on effect from insertion of additional provisions.*

**7.6 APPENDIX F: EQUINE PRECINCT BOUNDARY – RECOMMENDED AT CLAUSE 21.07-6 RACING INDUSTRY**

01.

# DOWLING FOREST EQUINE PRECINCT

## EQUINE PRECINCT BOUNDARY

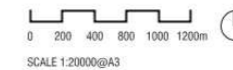
### LEGEND

-  Dowling Forest Equine Precinct



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**7.7 APPENDIX G: CHANGES FROM EXISTING ZONES**



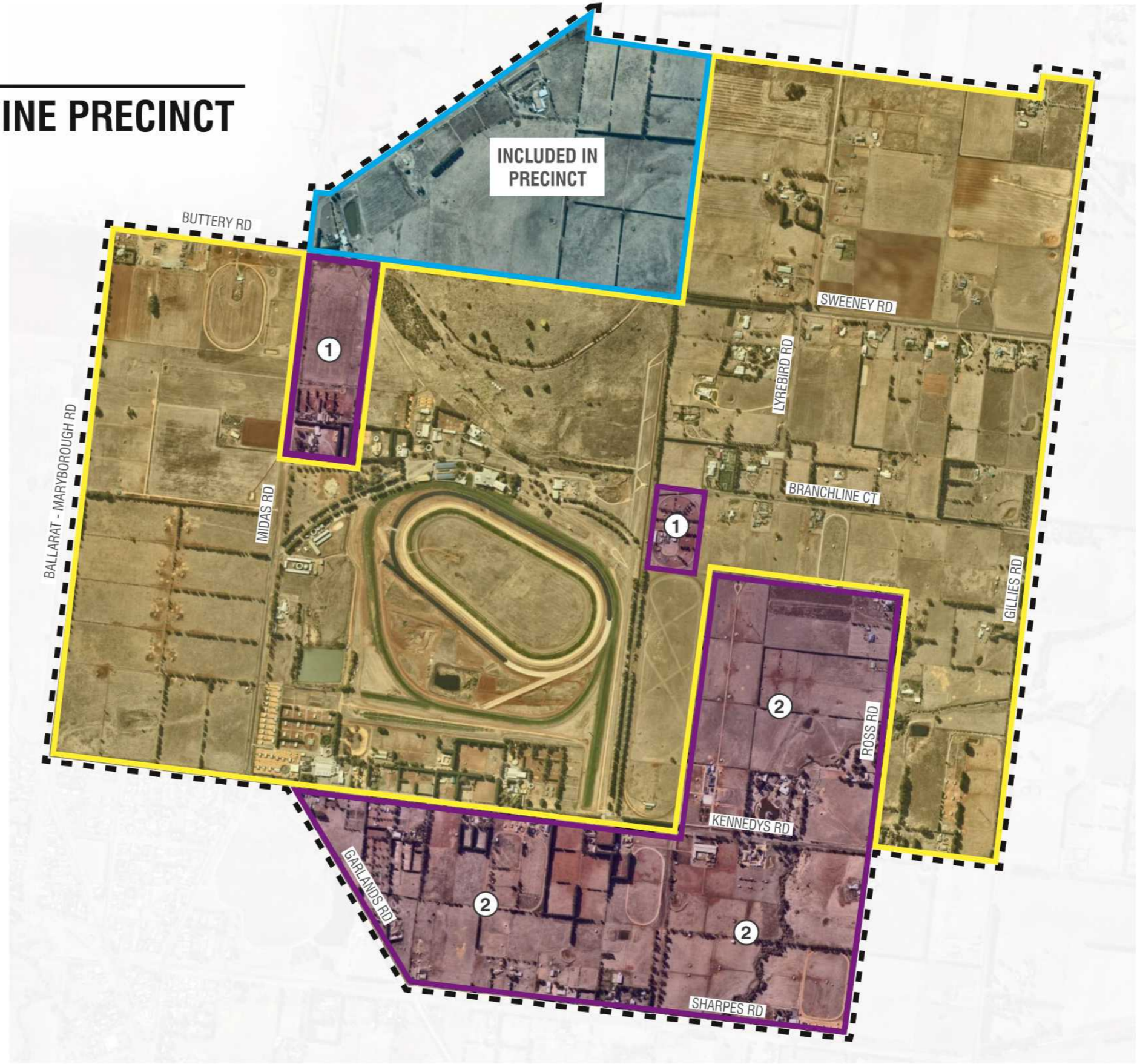
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# DOWLING FOREST EQUINE PRECINCT

## CHANGES FROM EXISTING ZONES

### LEGEND

- ■ ■ Equine Precinct
- No Change
- Change
  - ① FZ - SUZ 13
  - ② SUZ13 - FZ AREA C
- INCLUDED IN PRECINCT - Current zone applies. Included in precinct at local policy







ALBURY | BENDIGO | CANBERRA | GEELONG | MELBOURNE | SHEPPARTON

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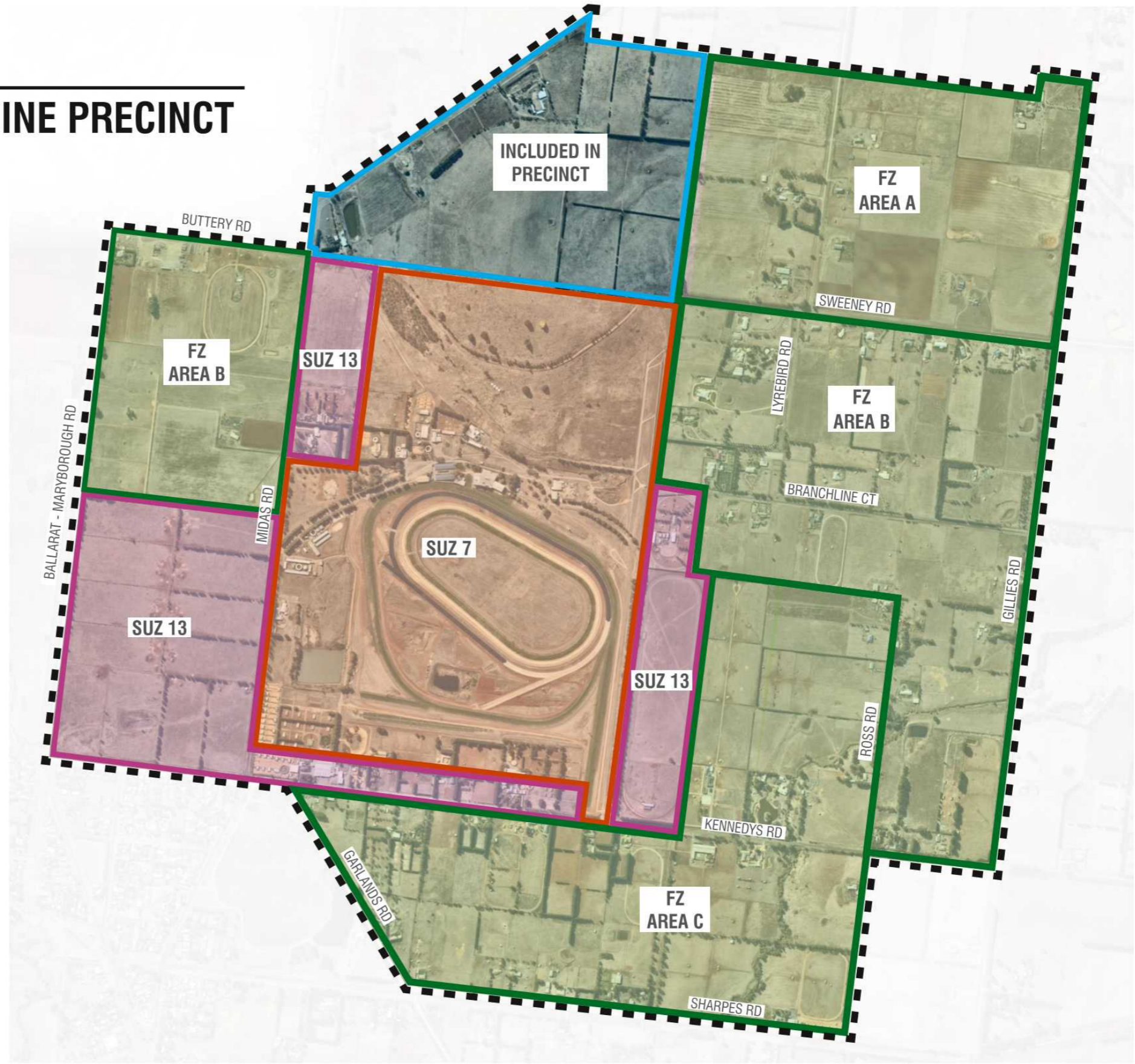
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# DOWLING FOREST EQUINE PRECINCT

## FINAL RECOMMENDATION

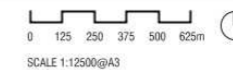
### LEGEND

- ■ ■ Equine Precinct
- FZ - Farming Zone
  - Area A (min 10 ha)
  - Area B (min 4 ha)
  - Area C (min 2 ha)
- SUZ 7 - Racecourse Precinct
- SUZ 13 - Thoroughbred Horse Training Facilities
- INCLUDED IN PRECINCT - Current zone applies. Included in precinct at local policy



**FINAL RECOMMENDATION**  
DOWLING FOREST EQUINE PRECINCT - VICTORIA

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# DOWLING FOREST EQUINE PRECINCT

## EQUINE PRECINCT BOUNDARY

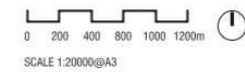
### LEGEND

— Dowling Forest  
Equine Precinct



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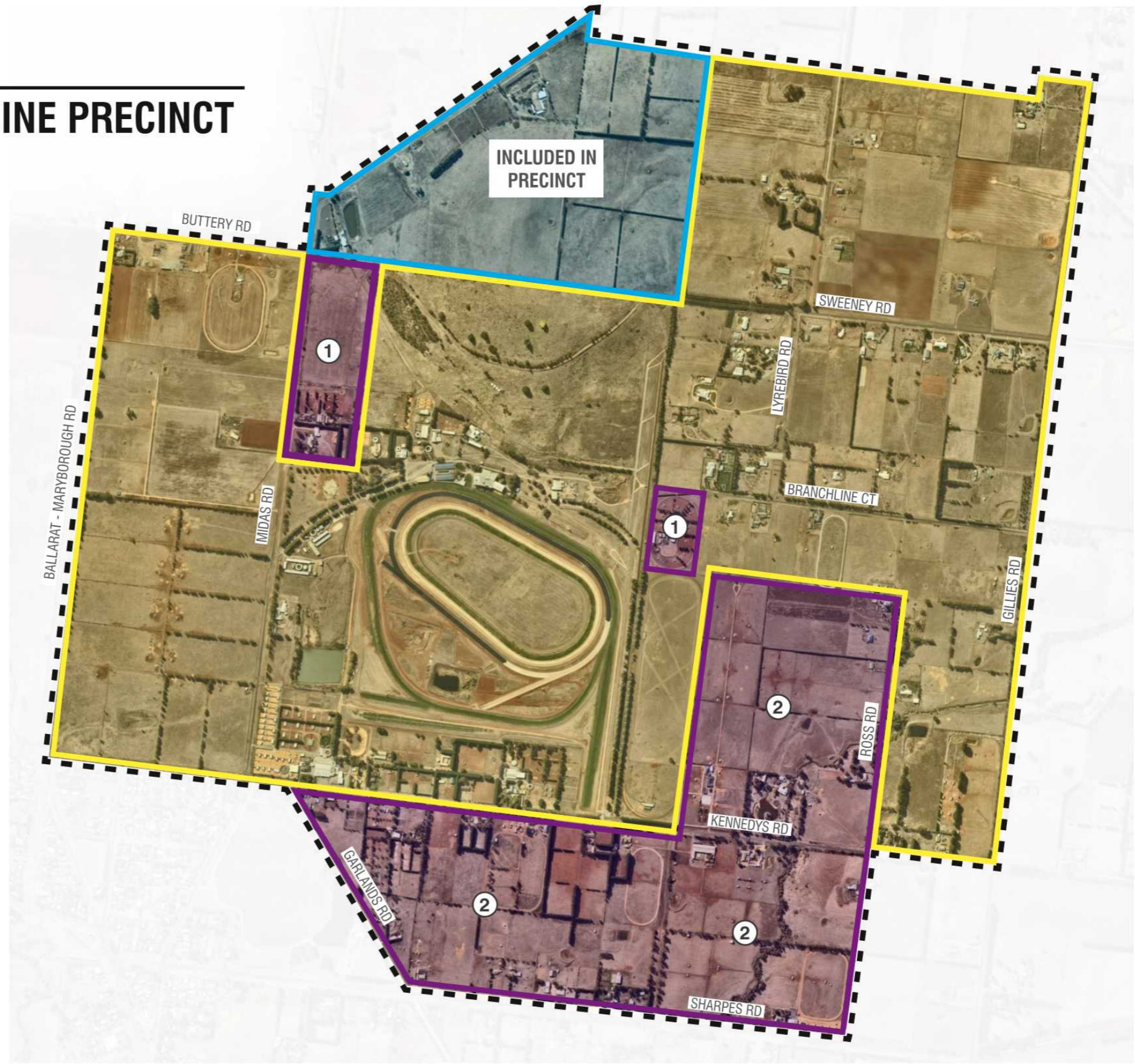
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# DOWLING FOREST EQUINE PRECINCT

## CHANGES FROM EXISTING ZONES

### LEGEND

- ■ ■ Equine Precinct
- No Change
- Change
  - ① FZ - SUZ 13
  - ② SUZ13 - FZ AREA C
- INCLUDED IN PRECINCT - Current zone applies. Included in precinct at local policy





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# DOWLING FOREST EQUINE PRECINCT

## RECOMMENDED SCHEDULE TO THE FARMING ZONE

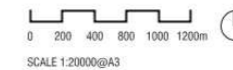
### LEGEND

-  FZ - AREA A
-  FZ - AREA B
-  FZ - AREA C



ZONING PROVISIONS  
MINERS REST - VICTORIA

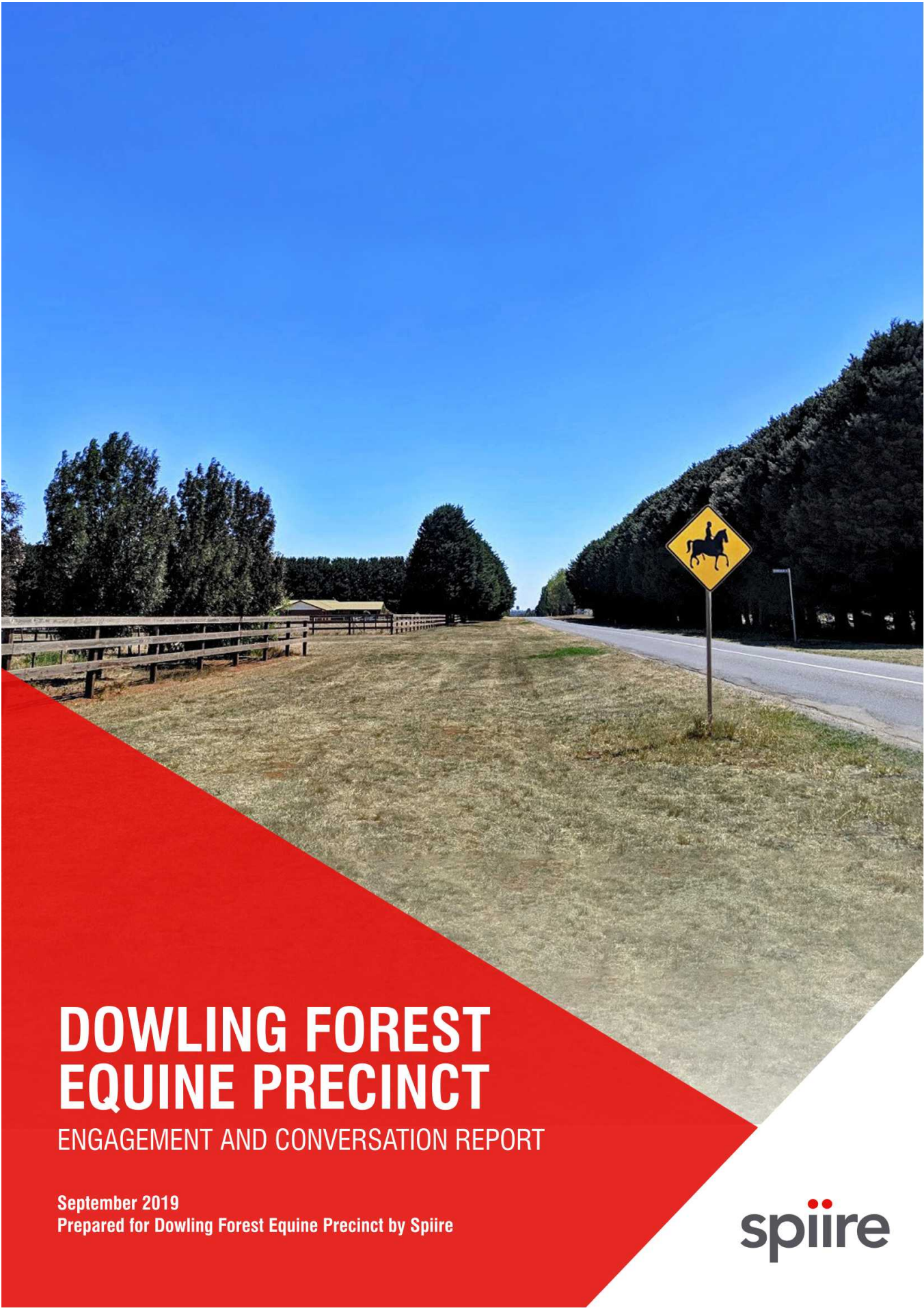
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# DOWLING FOREST EQUINE PRECINCT

ENGAGEMENT AND CONVERSATION REPORT

September 2019  
Prepared for Dowling Forest Equine Precinct by Spiire



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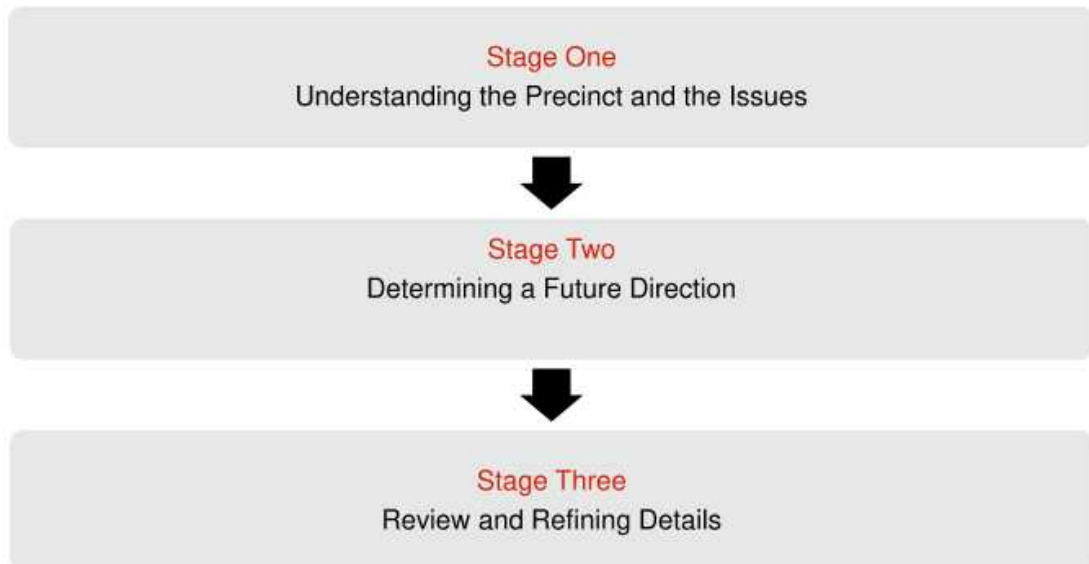
## Engagement and Conversation Report

### OVERVIEW

This report outlines the Stakeholder Engagement and Public Consultation period of the Dowling Forest Precinct Planning Controls Review.

Thorough, meaningful stakeholder engagement is imperative to developing successful outcomes from this Review given the Precinct's complicated history with planning interventions, community participation and Planning Scheme Amendments. Stakeholder engagement was undertaken to better understand the day-to-day effect of the planning controls on the operation of the Precinct and to allow the opportunity for all affected parties to be involved and informed during the Review process. Opportunities for consultation were provided via public information sessions, one-on-one meetings and written submissions.

Stakeholder Engagement involved three stages:



Ultimately, engagement as part of this Review sought to ensure all affected stakeholders had the opportunity to participate in the process and provide a wide range of information and perspectives to guide the recommendations towards an outcome which will satisfy the current issues and the wider purpose of the Precinct.



## Engagement and Conversation Report

### STAGE ONE: UNDERSTANDING THE PRECINCT AND THE ISSUES

#### Goal

Build upon preliminary research into the history of the controls and the current conditions of the Precinct to establish a widely and thoroughly informed basis for the Review.

- ▶ Understand the everyday experiences in the Precinct
- ▶ Break down the issues of the current planning controls
- ▶ Identify focus points for the Review

#### Approach

To attain unbiased feedback and uncover the roots of the issues and concerns of stakeholders, Stage one was designed and conducted to initiate sincere and open discussion. Engagement for this stage was undertaken in a single day (5th March 2019) to ensure all issues and information raised was front of mind in each discussion.

Private, face-to-face discussions were held with the following stakeholders:

- ▶ Ballarat North Ward Councillor - Grant Tillett
- ▶ Ballarat Turf Club
- ▶ SUZ13 Action Group

A community workshop was held for all residents, land owners and those with other interests in the Precinct at the Miners Rest Community Hall. The workshop was structured around four questions:

- ▶ *What does it mean to live in this Precinct?*
- ▶ *What are the biggest issues facing the Precinct?*
- ▶ *Where do you want to be as a collective in 10 years?*
- ▶ *How will we get there?*

#### Feedback

This stage provided insight into the past and present context of the Dowling Forest Precinct planning controls and identified the source of much of the tensions surrounding the Precinct. Landowners provided the following insights into their feelings and desires about the Precinct:

- ▶ *"Enjoy rural atmosphere and living around horse activity"*
- ▶ *"Confusion on what can/ can't be done. Difficulty selling or can't sell. Differences between zones. SUZ13 not being used for purpose (except adjacent to racecourse)."*
- ▶ *"Area remains rural vibe with a vibrant racing community but not at the cost of over development. However existing residents are able to appropriately develop own properties."*
- ▶ *"Transparent activities from council. Good communication. Invest in the already existing training facilities."*

Most stakeholders were confused and frustrated by the SUZ13, particularly with regard to the effect on existing dwellings. The SUZ13 was not ultimately supported in its current form. Feedback was concentrated around the following points:

## Engagement and Conversation Report

- ▶ The SUZ13 is too restrictive due to:
  - Significantly lower than anticipated demand for the establishment of race-horse training properties on private land
  - Bias for the commercial interests of the BTC
  - Allegedly limiting saleability and financing for land in the Precinct
  - Discriminating against non-thoroughbred equine activities
- ▶ The SUZ13 is too complicated due to:
  - Use of 4 separate, yet similar controls
  - Highly specific requirements for use and development which is considered to be standard for rural properties or commonly understood to be compatible with equine activity.
- ▶ There is significant traffic, safety and access issues, particularly at Kennedys Road.

Into the future, landowners and occupiers envisioned the maintenance of the current nature and scale of activities in the Precinct, with requests for more support for all types of equine activities, not just thoroughbred racing. There was also a desire for explicit rural residential outcomes to be supported but these were in the minority. Other stakeholders wanted to see the protection of land from urban encroachment and substantial expansion of race-horse training activities. Stakeholders saw their ideal future scenarios achieved via planning and non-planning interventions.

*Stakeholders generally agreed there is a valid need to protect and recognise the Dowling Forest Racecourse and associated racing industry, however there was no consensus as to the level or method of protection required.*



Figure 1: Participant Feedback from Landowner Workshop

## STAGE TWO: DETERMINING A FUTURE DIRECTION

### Goal

Explore potential options for actions and interventions in the Precinct and confirm findings and conclusions to date.

- ▶ Review the conclusions and *Key Issues* from Stage One
- ▶ Discuss potential future options and identify the processes required to achieve them
- ▶ Link desired outcomes for the Precinct with potential planning interventions

### Approach

This stage functioned as a check-in session to keep stakeholders informed and ensure the Review was on track in addressing the *Key Issues*. This stage was predominantly informed by the Community Workshop held on Monday 6<sup>th</sup> May at the Miners Rest Community Hall. The Workshop involved small group discussions based around eight questions:

- ▶ *What type/scale of development should be allowed in the Precinct without a planning permit?*
- ▶ *How can we ensure new dwellings or development will not impact upon thoroughbred training or the equine role of the Precinct?*
- ▶ *What is an appropriate minimum subdivision size within the Precinct?*
- ▶ *Which land should/ should not be included in the Precinct?*
- ▶ *What rule should be used to determine the location of the Precinct Boundary?*
- ▶ *What should be included in the Local Planning Policy for the Precinct?*
- ▶ *How should we inform people about the changes to the Precinct?*
- ▶ *Additional Comments?*

### Feedback

This stage further contributed to developing an appreciation for the broader context and purpose of the Precinct, however only a few points could inform the procedural and planning specific outcomes as intended. This stage attracted further interest from beyond the direct Stakeholders of the Precinct with the attendance of more landowners from nearby properties.

Stakeholders requested the following considerations and outcomes:

- ▶ Development which is currently allowed within FZ Area A & B without a planning permit is suitable for most areas of the Precinct.
- ▶ More case by case assessment for discretionary activities.
- ▶ Reduction in SUZ area.
- ▶ Require written acknowledgement of the Precinct's purpose from new owners/occupiers.
- ▶ Paying more attention to the enforcement of restrictions.
- ▶ It is unsuitable to allow subdivision of land into parcels of less than 2 hectares (5 acres) in any part of the Precinct.
- ▶ Current minimum subdivision sizes should not change.
- ▶ Precinct boundaries should be determined via land's proximity to the Racecourse, or land only with direct access to the Racecourse.
- ▶ The Precinct boundaries should follow main roads.



Engagement and Conversation Report

- ▶ The Precinct should not expand, yet there were some requests for the Precinct to expand to the north to include land beyond Buttery Road and to the south to include land between Sharpes Road and Muir Road.
- ▶ Only the Racecourse land should be included within the Precinct.
- ▶ More flexibility in the planning controls to allow improvements to be made to properties so existing landowners/occupiers are not disadvantaged.
- ▶ Policy should encourage the use and development of land which is consistent with equine activities, yet is not restrictive to normal living.
- ▶ Clear, simple and consistent communication is integral to the successful implementation of the Review process and planning interventions.

Stage two confirmed the desired outcomes of all stakeholders and guided the approach for developing the preliminary recommendations.

*In general, landowners wished for any development which allows landowners to improve their property, run their business or improve their lifestyle, to not require planning permission if it is not detrimental to equine use, particularly for shedding, housing and stables.*

02.

**DOWLING FOREST EQUINE PRECINCT  
ZONING PROVISIONS**

LEGEND



QUESTIONS

1. What type/scale of development should be allowed in the Precinct without a planning permit?  
*Anything that allows land owners to improve property but their business or improve their lifestyle.*
2. How can we ensure new dwellings or development will not impact upon thoroughbred training or the equine role of the Precinct?  
*Case by case assessment by Council within a smaller special use zone.*
3. What is an appropriate minimum subdivision size within the Precinct?  
*2-4 ha*
4. Which land should / should not be included in the Precinct?  
*Existing farm not should be included land to west of Mains Rd should be included.*
5. What rule should be used to determine the location of the Precinct Boundary?  
*Current vacant land that is being used for horse training with close access to the race course.*
6. What should be included in the Local Planning Policy for the Precinct?  
*Allow owners flexibility to improve their properties + other horse activities.*
7. How should we inform people about the changes to the Precinct?  
*Mail, email, these events.*
8. Additional Comments?  
*I don't want to be restricted for special use in our current farm zone (eg to B).*

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ZONING PROVISIONS  
MINERS REST - VICTORIA

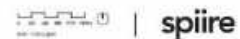


Figure 2: Community Workshop #2 Participant Worksheet

## Engagement and Conversation Report

### STAGE THREE: REVIEW AND REFINING DETAILS

#### Goal

Provide a formalised exhibition period for the *Issues and Options Paper* to finalise the Final Recommendations.

- ▶ Review and comment on *Issues and Options Paper*
- ▶ Provide a clear illustration of the final outcomes intended by the Recommendations
- ▶ Assess and determine the potential future options against the issues and needs of the precinct.

#### Approach

This stage was a formal exhibition period for the work carried out for the Review to-date, including a preliminary outline of the Final Recommendations. By this stage, the wants and needs of stakeholders, particularly landowners and residents, were clearly understood. Therefore, consultation focussed on explaining and refining the details of potential changes to the planning controls.

This stage spanned multiple weeks which provided the opportunity for comprehensive and considered assessment of feedback. Face-to-face meetings were held with the following stakeholders:

- ▶ Ballarat North Ward Councillor - Grant Tillett
- ▶ Ballarat Turf Club
- ▶ SUZ13 Action Group
- ▶ External Land-Owner Group (representing 16 lots between Sharpes Road and Muir Road)

A final community workshop was held on Friday 30<sup>th</sup> August at the Miners Rest Community Hall. This session demonstrated the status of the Review and how previous work, including consultation, has informed the Preliminary Recommendations. This workshop was facilitated to encourage small group and one-on-one discussion to answer more specific questions and provide more refined comments.

#### Feedback

By this stage, stakeholders supported the general option and intended outcomes of the review process to-date. The workshop was well-attended with many landowners returning from previous meetings. There was a sense that most issues had been adequately addressed, however a few matters for further consideration were introduced.

- ▶ Twelve formal written submissions were received, some on behalf of multiple landowners.
- ▶ Two submissions were formal objections to the *Issues and Options Paper*.
- ▶ A new stakeholder group, consisting of landowners beyond the existing Precinct Boundary, became involved during this stage.

The External Land-Owner Group requested further consideration of their land to facilitate rezoning in recognition of the existing equine/thoroughbred operations, growth pressures and urban-rural interface for the area. Specifically, this group requested the Dowling Forest Precinct be expanded through the application of the Farming Zone Area C or a new Farming Zone Area D to their land. These stakeholders wanted to see the planning controls better reflect existing land use, development and subdivision patterns, allow smaller subdivision sizes and provide more option for the future of their land.

## Engagement and Conversation Report

The majority of stakeholders *supported* the following outcomes:

- ▶ Reduction in the amount of land contained within SUZ13.
- ▶ Use of the standard Farming Zone for most land within the Precinct.
- ▶ Residents will be required to recognise the purpose of the Precinct and accept the presence of some equine-related amenity impacts via Local Policy.
- ▶ Needs to demonstrate a strong cohesion with the *Miners Rest Township Plan*.
- ▶ Use of clear, simple and fair controls which do not pose unreasonable restrictions on landowners and occupiers.
- ▶ Land owners/occupiers should be able to “live normally” within a rural context without compromising equine activity.
- ▶ Use of specific, accurate and clearly defined terms.
- ▶ Encouragement and support for all equine activities within Local Policy.
- ▶ Ensure the ultimate purpose of land in the Precinct is to support equine activity.
- ▶ Avoid basing decision-making on the type of applicant/ occupier/ landowner and the breed of horses at the land so as not to discriminate against particular groups.
- ▶ Promote the removal of redundant Section 173 Agreements in the Precinct.

Some stakeholders were still *concerned* about the following matters:

- ▶ How the new FZ Area A, B, C provisions will operate and how they will be enforced.
- ▶ How the removal of Section 173 Agreements will be supported.
- ▶ How the recommendations will affect the value and sale of land and the enjoyment, improvement and development of property.
- ▶ The recommended planning controls have not been applied in a manner which reflects the current use, development or subdivision pattern of land within or proximate to the Precinct.
- ▶ Additional buffer/ transition areas are needed between developing urban land and the Precinct.
- ▶ The paper has not provided adequate or clear justification as to why certain land has been included or excluded from the Precinct.
- ▶ Further consideration is needed with regard to the expansion of the Precinct, particularly to the north and south.
- ▶ Additional development controls may be needed for land in SUZ13 to ensure appropriate access and buffers are provided.
- ▶ The recommendations have not provided recommendations for all land requested for consideration in the Precinct, especially land to the south of Sharpes Road.
- ▶ The recommendations exclude appropriate land from the Precinct and award significant benefits to some land owners through different subdivision sizes.
- ▶ The report does not adequately consider the wider regional and state context of the Precinct.
- ▶ The recommendations are discriminatory as they specify and prioritise activities related to thoroughbred horses over other breeds.
- ▶ The recommendations are inconsistent with the *Miners Rest Township Plan*.
- ▶ The report needs to provide commentary on the role and interaction of the planning controls in addressing the traffic, safety and access issues in the Precinct.
- ▶ The report needs to consider the acquisition of land for access or public roads.



## IMPLICATIONS ON THE REVIEW

Consultation has directly informed the *Key Issues*, direction of the Review and approach to the *Final Recommendations and Report*.

### Key Issues

From Stage One, it was clear the planning controls and their effects are incredibly important to many owners, occupiers and users of land within the Precinct, demonstrating the interwoven nature of the issues with other strategic, economic and development influences.

The workshop identified common themes which informed the final *Key Issues* for the Precinct's operation. These issues have been used as a checking marker throughout the review.

- ▶ *Confusion and Compounding Stigma Associated with SUZ13*
- ▶ *Land Supply and Demand*
- ▶ *Exclusivity and Restrictiveness*
- ▶ *Land Prices, Financing and Saleability*
- ▶ *Use of Four Different Planning Controls*
- ▶ *Perceived Bias for BTC Interests*
- ▶ *Rural Living Pressure*
- ▶ *Roads, Access and Safety*

### Informing the Final Recommendations

The following section outlines how the information gathered during the entire consultation process will guide the Final Recommendations and the Final Report.

- ▶ Support the removal of redundant Section 173 Agreements on land previously within SUZ13 at local policy.
- ▶ Improve integration and consistency with the Miners Rest Township Plan and provide more analysis of its role in the Review.
- ▶ Provide more detailed assessment of land beyond the precinct boundary and discussion regarding the potential expansion of the Precinct.
- ▶ Consider providing direction for land within proximity to the precinct but beyond the boundary at local policy.
- ▶ Improve clarity and level of detail in:
  - Communication about the practical operation of the planning controls.
  - Justification of recommendations (particularly the determination of the Precinct Boundary and application of planning controls to particular properties).
  - Statement of Purpose for the Precinct and the Review.
- ▶ Establish a clear link between the findings of the Review and the Final Recommendations.
- ▶ Ensure terminology used in recommended planning controls and policy is consistent and accurate. Provide definitions for terms if necessary.
- ▶ Outline the role of and clearly define the "buffer" for the Precinct.
- ▶ Ensure detailed and strategic integration with the Miners Rest Township Plan in the final report.



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**7. GENERAL BUSINESS - MATTERS ARISING FROM THE AGENDA**

**8. CLOSE**