

City of Ballarat

Implementation of Dowling Forest Precinct Master Plan

Ballarat Planning Scheme
April 2011



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1 INTRODUCTION

Ballarat City Council commissioned 'Coffey Commercial Advisory' to prepare the *Dowling Forest Precinct Master Plan* in early 2010.

A Final Report was received by Council in February 2011.

The Final Report contained options and recommendations for implementing the outcomes of the report into the Ballarat Planning Scheme,

Keaney Planning has now been engaged by the City of Ballarat to review and implement (as appropriate) the recommendations of the *Dowling Forest Precinct Master Plan* into the Ballarat Planning Scheme.

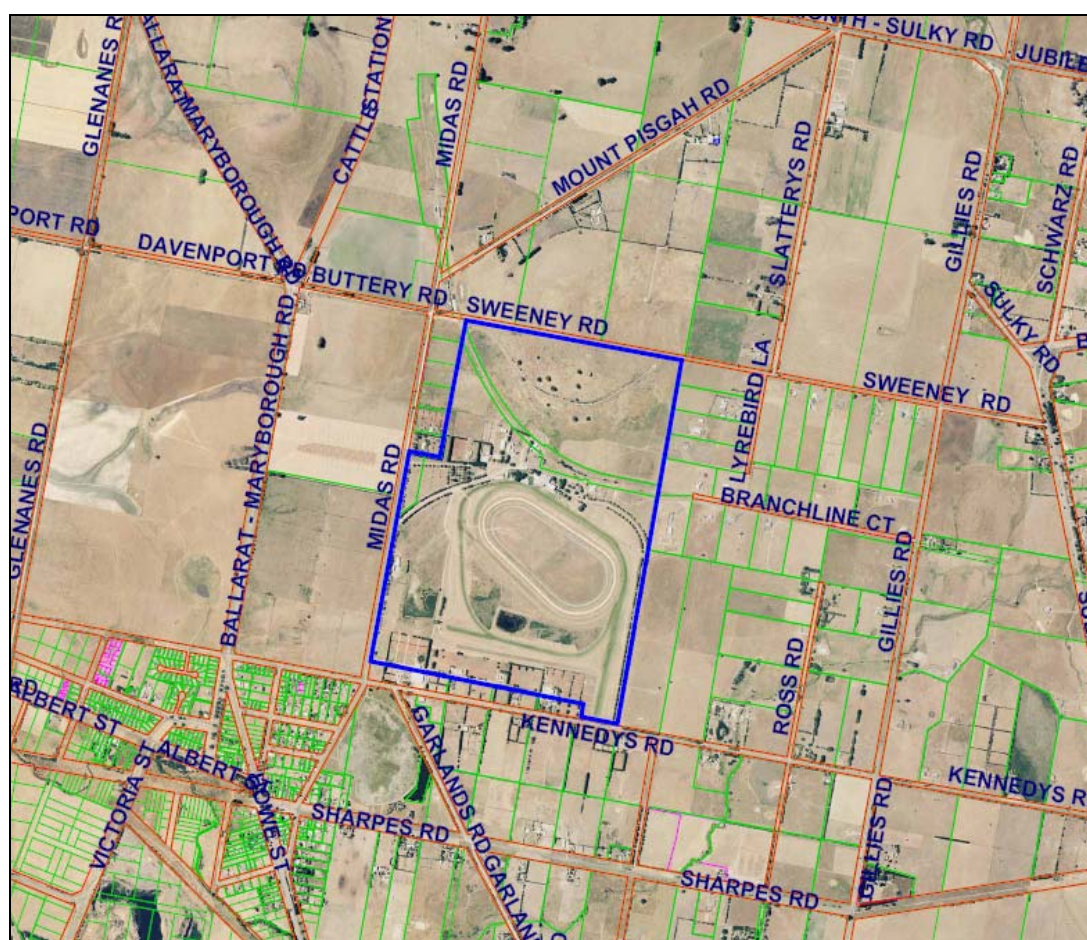


Figure 1: Dowling Forest Racecourse and surrounding area

2 PLANNING CONTEXT

2.1 Report of the New Format Planning Scheme Panel 1998

The land surrounding the Racecourse is within a Farming Zone (FZ) under the Ballarat Planning Scheme. A schedule to that zone allows for the land to be subdivided into lots of either 4ha (Map 1 to the schedule in the Ballarat Planning Scheme) or 10ha (Map 2 to the schedule in the Ballarat Planning Scheme).

The origins of the current FZ schedule and the differentiation between Map 1 and Map 2 on that schedule lies in the 1998 'New format planning scheme' Panel report. This report considered a number of submissions in and around the Ballarat Racecourse and noted (at pg 38) that a restructure of the racing industry across Victoria would see the closure of many country racecourses and that this will offer significant opportunities for the growth of the racing industry in Ballarat.

The Panel (and Council) acknowledged that if Ballarat was to take advantage of this opportunity then land must be made available for the establishment of stabling facilities near to the course. At that time, the best advice was that horse trainers needed lots of about 4 hectares in area in proximity to the racecourse. The exhibited Ballarat Planning Scheme included provision for the creation of such lots with 250 hectares of land to the south and east of the racecourse having a minimum lot size of 4 hectares. In addition to this, about 190 hectares of land west and north-east of the racecourse was identified with a minimum lot size of 10 hectares. These two precincts were identified on the exhibited FZ schedule as Map 1 and Map 2 respectively.

In considering the submissions from the Ballarat Turf Club and a number of trainers, the Panel proposed that about half of the land to the west of the racecourse proposed for a 10 hectare minimum lot size be included in the 4 hectare minimum lot size area as this land had the best access to the racecourse and was highly likely to be subdivided.

The Panel did not support extending these provisions further north and south as the area covered was already 350 hectares which they thought would be sufficient to meet the strategic objective of supporting the racing industry. The Panel noted that these areas did not have the same direct functional relationship with the racecourse and so did not justify application of the special subdivision provisions.

The Panel also did not support further subdivision potential in this area for the harness racing industry noting that the harness racing track was not in this location.

2.2 Existing Ballarat Planning Scheme

As a result of the Panel report, the 'New format' Ballarat Planning Scheme was gazetted on 26 November 1998.

The Ballarat Racecourse itself is wholly contained within a Special Use Zone.

All surrounding land is contained within the Farming Zone (FZ) with a schedule that identifies subdivision and dwelling potential varying from 4ha to 10ha to 40ha. This schedule is consistent with the findings of the 'new format' Panel report.

The existing planning controls are explored in greater detail at Section 3 of this report.

2.3 Ballarat Turf Club – Vision

The Ballarat Turf Club prepared a 'Vision' document in 2008.

The 'Vision' acknowledges that Racing Victoria Limited (RVL) has identified that there is a shift away from supporting a large number of training venues across the state. The future of the thoroughbred racing industry is on the rationalization and consolidation of venues. With increased pressures associated with metropolitan training venues at Flemington and especially Caulfield, that there is a limited lifespan left with large scale training facilities available at these venues.

The 'Vision' noted that the future constraints to training at Caulfield has resulted in an agreement with the local Council that horse training will continue at Caulfield Racecourse until such a time that the industry is ready to relocate training to a more suitable location.

In this context, the Ballarat Turf Club is in the ideal position to help relieve the pressure on Caulfield Racecourse for the training of thoroughbred horses.

The Ballarat Turf Club is also aware that many trainers operating at Caulfield and similar venues invest time and revenue without ever holding any tradeable assets. The significant amount of freehold land adjacent to Dowling

Forest provides an ideal opportunity for trainers with the option of purchasing freehold property.

While the present facilities at the Ballarat Turf Club accommodate for about 450 horses in training, the 'Vision' is that once the plans are realised for the training facilities, there will be the capacity to provide for 1500-3000 horses, which would represent between 8,000 to 14,000 starters per annum. Accordingly, the 'Vision' notes that:

The Ballarat Turf Club intends to establish itself as the pre-eminent thoroughbred racing centre of Victoria. With dedicated land located at Dowling Forest, and the capacity for future growth as the industry grows and prospers the Ballarat Turf Club, in conjunction with the City of Ballarat see the future of thoroughbred racing in Victoria as an industry which will continue to have increased significance and to engage the community as it does so.

The 'Vision' also notes the potential for a specially zoned region surrounding Dowling Forest to be used for the sole purpose of thoroughbred horses. Ballarat is considered to have a significantly lower cost of living than metropolitan areas, or regional areas such as Geelong, and would therefore reduce the overhead costs for each trainer, associated with day-to-day operations.

The 'Vision' finally notes that the State Government has recently demonstrated its commitment to ensuring the Ballarat Turf Club remains as one of Victoria's most significant venues by announcing a government grant for the upgrade of the following facilities:

- Existing hill track;
- Thoroughtrack works;
- Upgrading the track lighting.

The 'Vision' concludes by noting that:

With the collaborative agreement between the State Government, City of Ballarat and Racing Industry, the Ballarat Turf Club feels it is ensured longevity in the industry, and is dedicated to progressing the racing industry as a whole and developing the training and racing facilities at Dowling Forest.

2.4 Dowling Forest Precinct Master Plan - Overview

Coffey Commercial Advisory Pty. Ltd. ('Coffey') was engaged by the City of Ballarat to prepare the Dowling Forest Precinct Master Plan in 2010.

A Final Report was received by Council in February 2011.

The report noted that Ballarat Turf Club is located at 'Dowling Forest' approximately 13 kilometres northwest from Ballarat's central business district and less than five kilometres from the Western Highway.

The Racecourse is located north east of the Miners Rest township being to the north of Kennedys Road, east of Midas Road and at the foot of Mount Pisgah. The Racecourse occupies about 300 hectares.

The Racecourse includes a racetrack which is used for about 30 race meetings a year. It also hosts over 50 trainers with around 2,700 horses. While the racecourse itself is situated on Crown Land, it is entirely surrounded by freehold land. The Coffey report noted that 'Dowling Forest' is surrounded by undulating land and trails which provides an ideal location for thoroughbred trainers.

Apart from the racecourse itself, there are three training tracks currently available at Dowling Forest being:

- Grass track
- Sand track
- All weather track

A 1400m uphill all weather training track is currently under construction and is due for completion by the end of 2010 so that it is in operation from 2011 onwards.

According to the Ballarat Turf Club and Racing Victoria (RVL), key major projects planned for the Racecourse between July 2009 and July 2014 will result in over \$8 million capital investment and will include:

- drought proofing of the Racecourse;
- installation of plastic running rail;
- construction of a new uphill straight training track on the slopes of Mt Pisgah;
- reconstruction of the inside grass training track; and
- refurbishment of the sand training track.

The Coffey Report noted that Dowling Forest is the sixth largest thoroughbred training centre in Victoria and the third largest regional thoroughbred training centre based on the number of starters produced.

The Report notes that further development of the thoroughbred training precinct at Dowling Forest is supported by a range of policy initiatives at state and local government levels and by the racing industry. The report also makes it clear that Ballarat has a number of critical advantages over other training facilities around the state especially:

- Availability of private land around the racecourse for trainers to purchase and develop.
- Access to a straight uphill training track

A targeted approach to stakeholder consultation was adopted in the Coffey Report to ensure that the views of relevant parties were considered. A range of consultation processes were employed including numerous workshops, meetings and interviews.

The Coffey report notes that the 'space' needs of any trainer will vary enormously based on the number of horses in work, the need to be near the course, the need for specialist facilities like walkers, day yards, spelling paddocks etc.

An assessment of demand and need was undertaken and the report found that it was likely that the majority of trainers attracted to Ballarat will come from one of the metropolitan training centres or Geelong. Under a best case scenario (and assuming Ballarat attracts an additional 10 trainers with 300 – 400 horses in training) the total land area required was estimated by the 'Coffey Report' as likely to be in the range of 15 – 60 Ha.

Aside from ensuring that this amount of private land was available, other key initiatives proposed for inclusion with the Master Plan included:

- Development of short term stay accommodation for students of the Jockey School (subject to the Jockey School being relocated to Ballarat)
- Development of tunnels beneath Kennedy and Midas Roads to provide access to the track from properties to the west and south of Dowling Forest (subject to demand).
- Increase number of day yards as required to meet demand.
- Area for future extension of the veterinary clinic.
- Grey water storage area for capture and reuse on the course.
- Trainers complex to provide trainers with some amenity facilities such as toilets and a kitchen.
- Training tower for trainers to view their horses undertaking track work.
- Electronic timing system which can be used to measure each horse's performance over a set distance.

- Acquire access rights in perpetuity from the end of Branchline Court to the east of the course through to the racecourse



Dowling Forest Precinct Master Plan, February 2011

2.5 Miner's Rest Structure Plan – Amendment C127

Amendment C127 proposes to introduce the Miner's Rest Outline Development Plan into the Ballarat Planning Scheme.

Ballarat Turf Club (BTC) made a submission to the Amendment. At the Panel hearing into the amendment in 2010, BTC noted that it wished to work with Council and the community so as "...to establish a unique thoroughbred training and breeding precinct as Dowling Forest unequalled anywhere in Australia".

Amendment C127 proposes changes including new objectives and strategies such as:

- *Encourage and facilitate the growth of the agricultural business sector and the equine industry.*
- *Encourage the development of open space trails and equestrian pathway system as an interconnected network along the Burrumbeet Creek as part of new residential subdivisions.*
- *Review the existing planning controls within and around the Dowling Forest Racecourse precinct.*

The BTC submission to the Amendment C127 Panel outlined a number of considerations including:

- dedicating a sizeable area of land surrounding the Dowling Forest Racecourse as a 'Racing Precinct' specifically reserved for the purpose of thoroughbred horse racing and training only;
- placing restrictions within the precinct on road treatments, speed limits and tracks;
- placing covenants on land surrounding the Racecourse reserved for the purpose of thoroughbred racehorse training in relation to lot sizes, construction of buildings; and
- providing of housing and rental accommodation for people associated with racing.

In a submission to that same Amendment, the governing racing body in the state (Racing Victoria Limited – RVL) noted that the amendment must take proper account of the development needs of the Ballarat region's thoroughbred racing industry and the significant economic, employment and social value that the industry generates for Miners Rest and the broader region. RVL noted that:

Clearly there is a tremendous opportunity for the Miners Rest development plan to create a dedicated racing precinct that will stimulate investment in the local industry and allow training and racing activity at Dowling Forest to reach its full potential.

Ballarat Council advised the Panel that the Racecourse and training precinct were significant facilities noting that *".....Council has been a supporter of the thoroughbred racing industry for many years and it had recently commissioned the preparation of a Master Plan for the Dowling Forest Precinct"*.

A submission was also received to the Amendment on behalf thirteen landholders who own a total of 56.12 ha of land (with lots ranging from 0.7 – 6.2 ha) bounded by Sharpes, Kennedy, Bones and Garland Roads requesting that their land be considered for future horse stabling with a minimum lot size of 1 ha.

The C127 Panel noted that while Council claimed that the Amendment gave significant consideration to the racing industry and its relationship with Miners Rest, the Panel's assessment shows it to be '*...very cursory*' and without a critical evaluation of the needs of the racing industry. The Panel referred to recommendations from the 1994 Miner's Rest Outline Development Plan recommending further work which stated:

Establish guidelines in relation to lot sizes and development, specific buffer requirements from the creek, the wetland and residential development, the disposal of liquid and solid waste effluent and waste water and the management of the movement of horses, horse related traffic and other traffic in the area.

The establishment of a set of performance standards which could be applied to racing stables as permitted uses, including a buffer between such uses and residential development and specific controls to protect the wetland.

The C127 Panel found that:

It is disappointing that strategic work identified as necessary over 16 years ago has not been addressed as part of this Outline Development Plan, particularly given the importance of the racing industry locally, regionally and at a State level. We are aware that the Dowling Forest Racecourse Master Plan is currently being prepared and we understand that this work will address these issues.

In relation to specific requests to either rezone land or reduce the minimum subdivision size of land near the Racecourse, the Panel noted that a significant area had already been identified for smaller lots in order to facilitate the racing industry. On that basis, the Panel could see no strategic justification to provide more land at this time.

The Panel also added that:

Until such time as this further strategic work is completed, we believe that it would be premature to amend the planning scheme to allow any additional subdivision or development that could compromise the future development of the Racecourse.

Importantly, the Panel concluded that the Amendment should be strengthened to recognise the existence and importance of the Racecourse and to identify the need for additional strategic work recommending (among other things) that the MSS be strengthened to state:

Miners Rest is the home of the Dowling Forest Racecourse. The Racecourse is one of five major training centres in the state and is being developed by Racing Victoria. The Racecourse is a major opportunity for Miners Rest and has the ability to make a significant contribution to the town economically, socially and environmentally.

The Panel also recommended that Council investigate the needs of the racing industry in Miners Rest and review the existing planning controls within and around the Dowling Forest racecourse precinct.

2.6 Ballarat Rural Land Use Strategy

The Ballarat Rural Land Use Strategy (BRLUS), adopted by the City of Ballarat in December 2010, discusses the racecourse environs in some detail and notes that many trainers own property in the surrounding area. It notes that private stabling is preferable, as trainers are reluctant to invest in infrastructure on the racecourse itself as it is Crown land.

The strategy notes that based on RVL advice, the number of horses using the facility is expected to triple. Some of this growth is likely to come from the relocation of trainers from the metropolitan area, where horse training is becoming more difficult and where there is uncertainty surrounding the future of training at various metropolitan racecourses. In the last few years a number of successful, high profile trainers have relocated to Ballarat.

The strategy recognises that the racecourse facility contributes to the regional economy through the provision of employment and through attracting visitors to Ballarat. Country Racing Victoria (May 2006) estimates that racing contributes \$44.9m to the local economy. The strategy also acknowledges the opportunity to build upon the existing development, improve usage of existing facilities, support growth of the local training industry and contribute to the economic development of the region through supporting horse training in this area. The report notes that:

Promoting the use of land in the vicinity of the racecourse for horse training requires land of a suitable size and the ability to develop dwellings, stables, staff accommodation and other related infrastructure, potentially along with trails for moving horses through the area.

The ability to use land for supporting infrastructure such as feedstores, accommodation, education facilities and veterinary services would also be beneficial. The City of Ballarat is currently completing the Dowling Forest Precinct Master Plan, which is focusing on these issues.

BRLUS considers that of the available zones, it is the Rural Activity Zone (RAZ) or the Special Use Zone (SUZ) that provides the best opportunity to recognise this area as having a different role. The Rural Activity Zone provides for farming uses and uses such as tourism that are compatible with farming. By contrast, the Farming Zone does not recognise the more diverse function of the area and its focus on horse training. The function of the area includes a mixture of farming, horse training, education, tourism and veterinary services. The SUZ or RAZ would more clearly define its function and identify support for horse training related uses.

The report noted that while there are currently provisions in the schedule to the FZ to provide for smaller lot sizes suitable for equine related uses close to the racecourse, the actual result has been the development of many rural residential type properties that have little or no linkage to the industry or the racecourse.

Defining the extent of the area determined to be suitable and needed for horse facilities will require an assessment of existing development patterns, environmental constraints and other land use demands. The Strategy anticipates that the forthcoming Dowling Forest Precinct Master Plan will define a suitable precinct boundary and assess planning controls. According to the Strategy:

Determining the suitable minimum lot size must be based on an understanding of the size needed to support a training enterprise, as well as considerations about effluent disposal and water supply. Obviously one size will not suit all, as different sizes will be required for different sized enterprises. Presently, lot sizes around the racecourse are relatively large compared to other areas where training facilities are close to race tracks.....

Importantly, in promoting the RAZ or SUZ option, the strategy acknowledges that dwellings are / should be subject to planning approval within either zone, thereby providing the opportunity to require evidence that they are related to horse training.

The Strategy recommends that the existing scheduled controls relating to the Dowling Forest Racecourse be phased out and be replaced with more appropriate planning controls as a result of the Dowling Forest Precinct Master Plan.

The strategy also recommends that the RAZ or SUZ (SUZ would provide Council with more ability to tailor controls) be considered as an appropriate planning control and the extent of the application of this zone and development of the zone schedule should also be determined as part of the Dowling Forest Precinct Master Plan.

2.7 Commentary

All of the strategic analysis over the past two decades has supported the growth and development of the horse racing industry in and around Dowling Forest.

It is common ground that horse training facilities are actively encouraged by state and local government and by the industry and other stakeholders.

An analysis will now be undertaken of the current Ballarat Planning Scheme provisions to see if this common ground is properly implemented.

3 EXISTING PLANNING CONTROLS

3.1 State Planning Policy Framework

The Coffey Report analysed the development prospects of the Dowling Forest Racecourse and surrounds in the context of the State Planning Policy Framework in the Ballarat Planning Scheme.

Other than noting that the SSPF has been recently revised (albeit in a 'policy neutral' sense) it is not proposed to repeat that analysis in this implementation report.

3.2 Municipal Strategic Statement (MSS)

The Ballarat MSS (at Clause 21.04) acknowledges the long association between the racing industry and the City of Ballarat. The MSS notes the significant employment and leisure opportunities that are provided by the race club. Once again, the Coffey Report recited numerous extracts from the MSS. Of most relevance is that the MSS acknowledges that the racecourse is one of five major training centres in the state developed by Racing Victoria. Clause 21.04-11 specifies the following objective and strategies:

Objective 1

To create prosperity through the development of the racing industry.

Strategy 1.1

Discourage land use and development within the vicinity of Dowling Forest Racecourse that will restrict its use and development for racing purposes.

Strategy 1.2

Encourage the establishment of land uses associated with the horse racing industry within proximity to Dowling Forest Racecourse.

3.3 Zones

In terms of implementing this strategic direction, the Racecourse is included in a **Special Use Zone (SUZ)** with its own schedule (Schedule 7 – Racecourse). The purpose of the schedule is:

To provide for the use of land for the purpose of a racecourse

This schedule also specifies that a permit is required for any subdivision and that an *application must state the intended outcome of the proposed subdivision and its strategic impact on the overall operation of the racecourse.*

The land use term 'accommodation' (which includes a 'dwelling') is a prohibited use in the zone although, notably, a permit can be issued for a 'caretakers house'.

Importantly, all of the private land surrounding the racecourse is included in the **Farming Zone (FZ)**. A schedule to that Farming Zone expressly allows for land in the immediate area of the racecourse to be subdivided into small lots (of either 4ha or 10ha) so long as the land is to be used for the purpose of 'horse stables' (emphasis added). In the event that the land is not to be used for horse stables then the default minimum lot size of 40ha applies for a subdivision or for a dwelling.

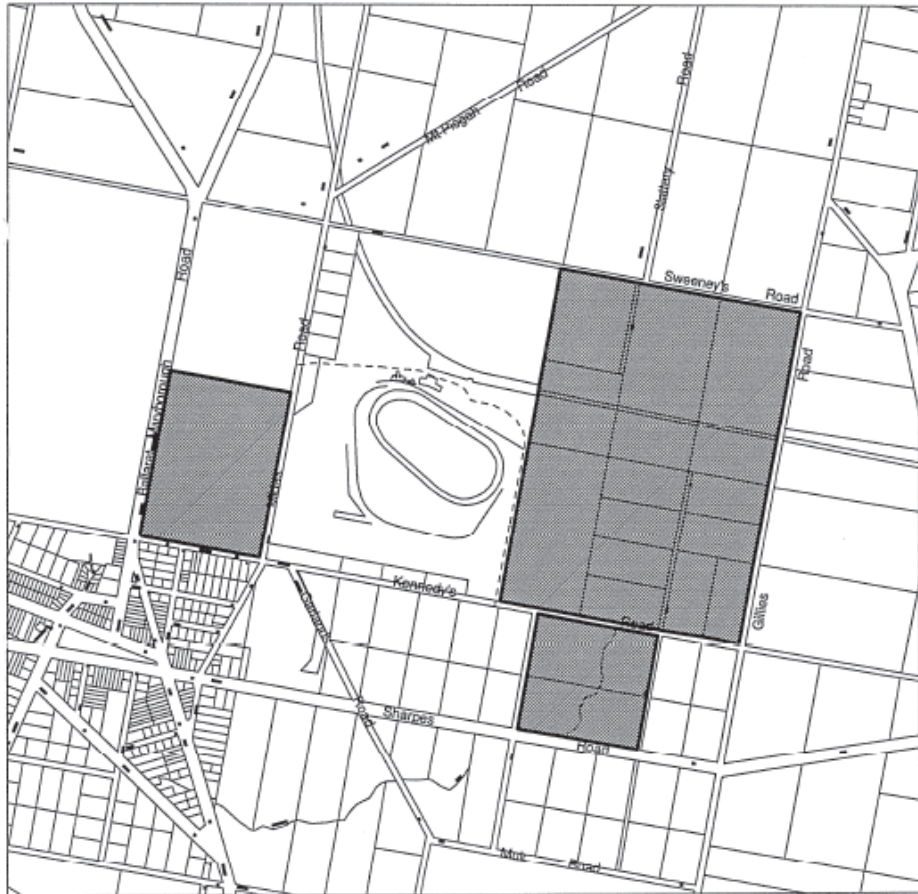
The FZ schedule detail is as follows;

Land shown on "Map 1 to the Schedule to Clause 35.07" attached to this schedule where it is proposed to use the land for the purpose of horse stables. (4 hectares)
Land shown on "Map 2 to the Schedule to Clause 35.07" attached to this schedule where it is proposed to use the land for the purpose of horse stables. (10 hectares)
All other land. (40 hectares)

The maps accompanying the schedule are as follows:

BALLARAT PLANNING SCHEME

Map 1 to the Schedule to Clause 35.07



Scale 1 : 25,000



Figure 2: Map 1 to the Farming Zone Schedule, Ballarat Planning Scheme

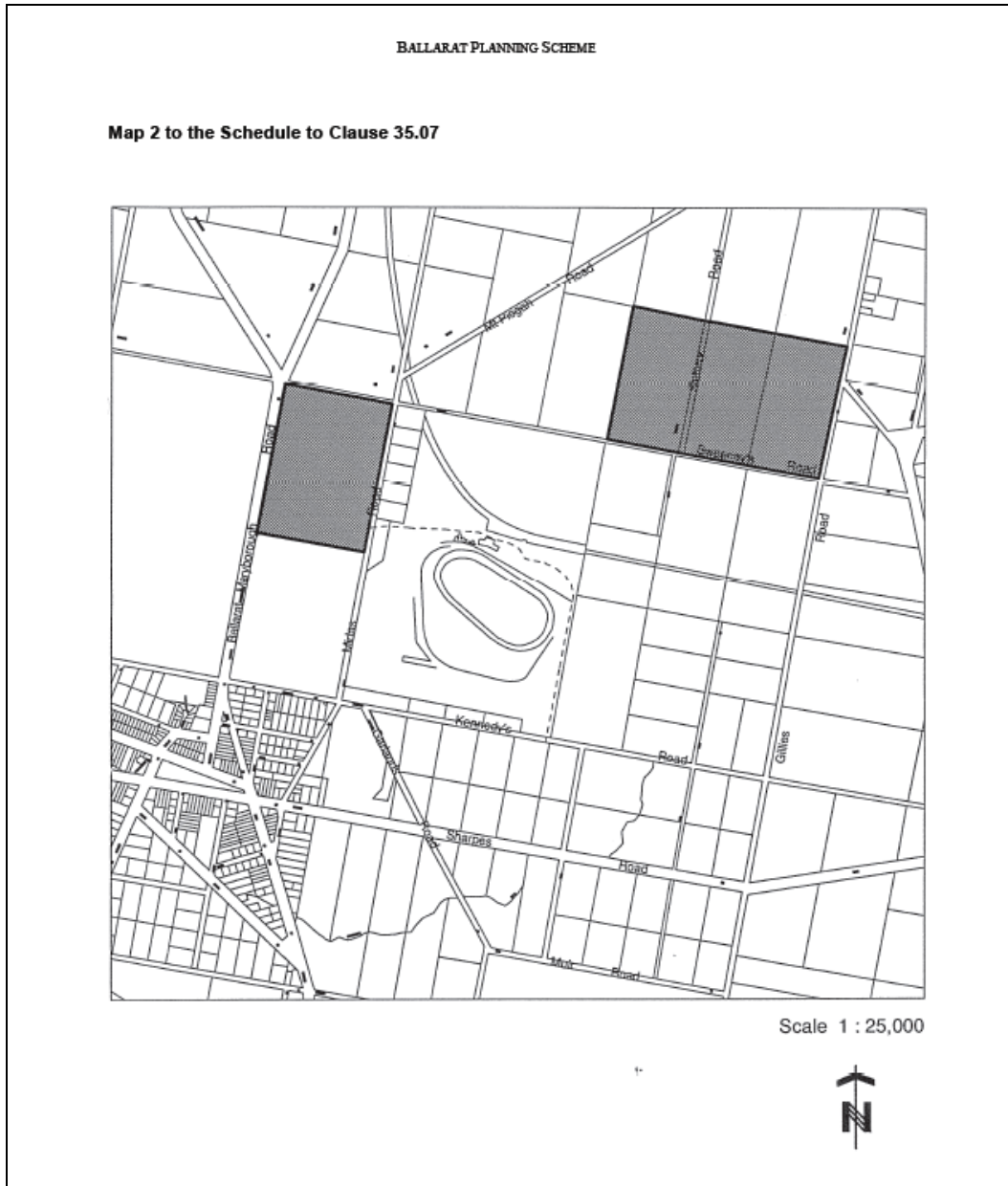


Figure 3: Map 2 to the Farming Zone Schedule, Ballarat Planning Scheme

It is also apparent that the same scheduled lot sizes apply for the purpose of ‘triggering’ the need for a planning permit for a dwelling. If the land is greater than 4ha on Map 1 (or 10ha in nominated areas on Map 2) then no permit will be required for a dwelling.

3.4 Overlays

Part of the land that is affected by Map 1 in the Schedule to the Farming Zone is also affected by the Erosion Management Overlay (EMO). This overlay more or less applies to an area that is 100m either side of the Burrumbeet Creek which runs south westwards towards the Miners Rest township.

Parts of the area have also been identified in the Coffey Report as being within areas of high cultural heritage sensitivity for which a Cultural Heritage Management Plan will be required for development of land.

The Miners Rest Wetland, to the south west of the course, west of Garlands Road provides for a habitat of a range of native flora and fauna and any further intensive subdivision of the land south of Kennedys Road would have to take this into account.

3.5 Planning Permit Analysis

Based on an analysis of Council records, and on discussions with Council staff, it is evident that the provisions in the FZ schedule have been easily circumvented by those simply seeking a 'rural residential' type outcome. It is estimated that over half of the new dwellings around the course (especially to the north east) having nothing to do with the racing industry.

A number of recent examples are relevant.

Application Nos. 2008/747 was made for the construction of a dwelling and outbuildings purportedly in association with horse stables. It was determined that no permit was required for the dwelling as the lot was included in Map 1 of the FZ Schedule and as it was 8ha in area it exceeded the threshold area for a permit for a dwelling. It remains unclear if this dwelling is used in association with horse training.

Application Nos. 2008/456 resulted in a permit being issued for a dwelling and 'intensive animal husbandry' on land south of the course on the south side of Kennedy's Road. Despite the land being 6ha in area, a permit was required in this case for the use and development as it was outside of Map 1 or Map 2 on the FZ Schedule and therefore was captured by the 'default' 40ha provisions. This dwelling was clearly related to horse training yet it needed a planning permit.

By contrast, **Application Nos. 2005/814** proposed a seven lot subdivision of land on Sweeneys Road which is covered by Map 2 on the FZ Schedule. The application was modified throughout the process so that all of the new lots exceeded 10ha thereby making a ‘dwelling’ a Section 1 (as of right) use. Two relevant conditions were applied to that permit being:

The plan of subdivision submitted for certification must include a creation of restriction on a separate sheet showing the effluent disposal envelopes in accordance with the endorsed plan.

Prior to the issue of a Statement of Compliance the owner shall enter into an agreement with the Responsible Authority pursuant to the provisions of Section 173 of the Planning and Environment Act 1987 in which it shall be covenanted that (among other things):

- (i) The land must be used for horse stables.*
- (ii)*

It is noted that the language in the schedule to the FZ refers to ‘horse stables’ which is not a defined use at Clause 74 of the planning scheme. At the very least this needs to be rectified so that the term ‘animal husbandry’ is referred to.

Further, and instead of simply requiring that the subdivision or dwelling be on land used for the purposes of horse stables, there is the need for a legal agreement to be specified in the schedule so as to enshrine this outcome especially as this has typically been Council’s practice anyway as is evidenced by Permit Nos. 2005/814.

Appendix 1 provides a visual depiction of predominant land uses in the area surrounding Dowling Forest, highlighting the extent of non-horse training related uses in the current scheduled area.

3.6 Commentary

It is apparent that there is a fundamental ‘mismatch’ between the policies in the planning scheme and the detail in the zone. On the one hand, the Council MSS (Clause 21.04-11) makes it clear that the racing industry around Dowling Forest is strongly supported.

In support of this objective there is a schedule to the Farming Zone which purports to encourage small lot subdivision and housing development in association with horse stabling. In reality, this schedule is so loosely worded that the practice has been that intending applicants claim that they will be developing a house and horse stables thereby avoiding the need for a permit.

In practice, the completed development pattern has been for large rural residential dwellings without the required stables. So loose is the control that the Council does not typically even see an application for a dwelling (as it is 'as of right') only becoming aware of it at the building permit stage.

So as to better align the existing MSS with the planning controls, and so as to ensure that the recommendations of the Coffey report, the BRLUS, the 'New Format' Panel Report and the Amendment C127 Panel Report can be implemented, it is strongly recommended that there needs to be a change to the present suite of planning controls. The options for those controls are discussed below but they must facilitate genuine horse training premises while being anchored in achieving some certainty that rural residential development will not be the outcome.

4 OPPORTUNITIES

As noted, the Ballarat MSS (at Clause 21.04) acknowledges the long association between the racing industry and the City of Ballarat and notes the significant employment opportunities that the racing industry provides.

4.1 Changes in the Racing Industry

Research undertaken as part of the 'Coffey' report and consultation undertaken as part of the recent initiative to relocate the Pakenham racecourse both point to the benefits and opportunities of developing an enlarged training base at Ballarat. The Coffey report notes (at page 32) that Ballarat has the capacity to cater for at least 5000 race starters per year (compared with about 2000 now) particularly with the advent of the new uphill training track. In a regional sense, the likely demise of smaller training facilities at Warracknabeal, Kerang, Casterton, Murtoa and Edenhope also could benefit Ballarat.

In its submission to the Pakenham redevelopment (Amendment C141 to the Cardinia Planning Scheme) the Australian Trainers Association (ATA) advised that the optimum location for the training of thoroughbreds is within about an hours drive of the main metropolitan racetracks of Flemington, Sandown, Moonee Valley or Caulfield. Already 60% of all horses trained in Victoria are within one hour of Melbourne and over half of these are trained at either Caulfield, Cranbourne, Pakenham or Mornington.

In assessing the Pakenham relocation, the Priority Development Panel (PDP) of the Minister for Planning considered submissions from trainers and inspected an existing training base at the Pakenham Course. There are presently up to 80 trainers who regularly use the Pakenham Racecourse. These trainers either live adjacent to the course (albeit a limited number) or float their horses to the track early in the morning to conduct track work with the majority floating in two or three horses a morning. Track work can start as early as 4am and is typically completed by about 9am when trainers set off to take other horses to the race meeting planned for that day. Not all trainers use the track every morning of the week and there are some days when training is either limited or is banned.

Trainers also advised that 'best practice' training facilities included the ability to walk a horse no more than five minutes to the training track (rather than float them to the track) meaning that stables (with on-site accommodation) close to the course would be the ideal outcome.

That said, trainers acknowledged that stables and a dwelling was not the typical arrangement other than for some fortunate trainers at Cranbourne, Caulfield and Mornington and some of the older stable areas to the immediate west of Flemington. Critically, this outcome is already available at Ballarat on the north side of Kennedy's Road at Dowling Forest and is possible to the east, west and south of the course, all on private land.

While there is extensive training and trialling at Cranbourne, very few trainers live near enough to the course to avoid daily floating of their horses. An experimental 'low density' estate of about 50 lots to the east of the training track was developed in the 1980's with a view to providing on-site accommodation for trainers on lots of about 1 acre. Evidently the planning controls limiting the occupation of these houses to registered trainers was too weak and market forces soon conspired to turn the estate into a more conventional low density estate. It is understood that only a limited number of the lots are now used by equestrian related activities and there is some pressure from neighbouring land owners to limit some of their activities.

While there is no standard sized allotment for a horse trainer, discussions indicate that, depending on the number of horses in work, stables of between 2 and 4 hectares would provide sufficient area for a house, stables for horses, a lunging ring and some day yards. The bigger the operation, the more stabling and yards will be needed.

In an uncompromised area like Ballarat there is also the opportunity for spelling paddocks in the extensive rural areas adjoining the racecourse. This has the added benefit of providing horses that have completed a campaign, or that require a brief 'freshen up', to be turned out onto. This is typically not an option at any other track as the course is usually compromised by urban encroachment.

There are also some important structural adjustments occurring within the racing industry which may increase (perhaps significantly) the number of trainers who might access alternative facilities. These issues were addressed in greater detail in the 'Coffey' report.

The Caulfield racecourse has, for over a hundred years supported horse training and on-site accommodation. This level of support has waned in recent times as denser urban development around the course and redevelopment plans by the Melbourne Racing Club has prompted speculation that the course could close as a training facility within five years. Such an outcome could dislocate up to 35 trainers with up to 600 horses working of a morning.

The Mornington Racecourse supports numerous trainers but it too is coming under increasing pressure of urbanisation as the land values of the training lots around the course have reached a breaking point at which they become attractive for subdivision and conventional residential development (as opposed to horse training). Other rationalisation of country training facilities is also part of RVL's long term planning (Kerang, Murtoa, Traralgon, Stony Creek etc).

4.2 Locational advantages of Ballarat

In that context, Ballarat has a number of advantages over other venues. Apart from the attraction of the new uphill straight track which is expected to regularly draw trainers from Melbourne, there is the real advantage of freehold land all around the racecourse. A recurrent issue with trainers at other facilities (such as Caulfield) is that the horse stable area and domestic dwelling are typically owned by the race club, not the trainer, meaning that there is no asset to sell in the event of retirement or exiting the industry. The prospect of a private training and domestic asset that can be developed, improved and then sold is an attraction to trainers that is not available at many other Victorian venues. On top of all this is the direct abuttal on the east side of the course and the close proximity of freehold land on the south and west sides of the course.

4.3 Characteristics of the Racing Industry

The nature of the horse racing industry and the peculiar requirements of horse training are also relevant considerations. There are extremely strict requirements placed on horse trainers by the Australian Rules of Racing. Every trainer is registered under state and national regulations and every trainer is individually responsible for taking their horse to the races free from contamination. The penalty for failing this is disqualification of their licence which can vary from weeks to years dependent on the severity of the breach. Such a requirement obliges every trainer to isolate their horses from other trainers and other horses.

The reasons for the separation include health related issues such as the 2007 equine influenza (EI) outbreak which briefly stopped racing around Australia and which prohibited the transfer of horses between Victoria and NSW for about six months. There are also critical bio security issues. Trainers cannot afford to mix feed between stables and cannot afford the spread of even a horse cough from one stable to another.

In addition, trainers (and/or their staff) need to be on hand 24 hours a day to watch over very valuable thoroughbreds (collectively worth millions of dollars) for general surveillance and to watch for sudden illness, colic, pest bites or to provide stable security from the threat of outside parties. There are also extensive OHS issues that remain the personal responsibility of the individual trainer. It is the trainer who is the registered person under the racing regulations and therefore it is the trainer who carries the risk of disqualification.

4.4 Commentary

Ballarat, unlike many other training areas, seemingly has an opportunity to capture older 'relocated' horse stabling from places like Caulfield and regional Victoria; and newer markets driven by its uphill training facility which will have an extensive (almost statewide) catchment.

In addition this is the critical element of freehold land all around the course which can give a trainer equity and therefore control in his/her business and domestic arrangements. Not many racecourses have that amount of available private freehold land around their perimeter.

Finally, it is evident that those opportunities coincide with a strong commitment at the state and local level to support the expansion of the racing and training industry at Ballarat.



Construction of the new uphill track at Dowling Forest

5 CONSTRAINTS

Given the evident opportunities that Dowling Forest presents, it is prudent to see to what extent the course suffers from locational constraints. The most notable constraints to the development of the precinct for horse training facilities appear to be:

- Existing settlement pattern with rural residential lots hosting detached dwellings.
- The consequent potential ‘interface’ amenity issues that might be caused to these dwellings by lighting, noise, smell and hours of operations
- Effluent disposal constraints by virtue of soil type and proximity to watercourses
- Traffic management and safety issues especially on Kennedys and Midas Roads.

In this context, it is noted that the Coffey Report sounded the following cautionary note when contemplating a change to the current planning scheme arrangements:

...phasing out existing scheduled minimum lot sizes and introducing revised requirements will enable more stables to be located in the area however determination must be based on a understanding of the size needed to support a training enterprise and the context of the local urban area as well as considerations about effluent disposal and water supply.

5.1 Existing Settlement Pattern and Residential Interface

As evident from **Figure 4** for the area bounded by Sharpes, Gillies, Sweeney and Midas Roads there are already up to 50 houses within close proximity to the racecourse. These are mainly on the southern and eastern side (and particularly the north eastern side) of the course.



Figure 4: Existing settlement pattern (white circles denote dwellings)

It is estimated that less than half of these dwellings are associated with horse training facilities and over twenty of them are simply rural residential lots.

Some of these dwellings have been erected in accordance with the provisions (and exemptions) of the Farming Zone which allow for a dwelling to be erected 'as of right' so long as the land exceeds 4ha (or 10ha in the north east and north west). As noted, there is more than anecdotal evidence to suggest that dwelling applications have been modified to include an association with horse stables so as to take advantage of these permit exemptions.

Council's Environmental Health Unit has previously expressed concerns that as the dwelling density within the area increases, there is the increased likelihood of environmental health issues such as odour from stables or blowfly numbers in warmer months on adjoining properties affecting nearby residents.

That said, there is no direct evidence thus far that there has ever been any amenity concern with the close proximity of houses to the racecourse. Neither Council, the Race Club, any trainer or any resident has raised the proximity of the course to domestic living as an issue. It is unclear if this lack of opposition may be due to the fact that some dwellings may have been erected with the benefit of the existing FZ schedule.

Nevertheless, Council needs to be mindful of the experience at Cranbourne where, over time, rural residential activities became the entrenched settlement pattern thereby jeopardizing legitimate horse training facilities.

The racecourse is already within a Special Use zone and this sends a clear message to landowners of the role and purpose of this facility. One option is for a similarly strong, clear message being sent by a more tailored local planning control around the area where training facilities are promoted.

5.2 Effluent Disposal

Council's Environmental Health Unit has also advised that the adopted report of Council in 2006 (*Septic Tank Management Plan*) analysed local soil characteristics. This report suggested that further subdivisions in the Miners Rest (Dowling Forest) area should be restricted to a minimum of 2ha unless specialist land capability assessment and design was undertaken.

At present there is sewer to Midas Road only, and while it is possible to extend in an easterly direction it is understood that Central Highlands Water is not supportive of funding any upgrade to the system. Any augmentation of the sewer system would clearly lead to a better environmental outcome.

While it is also acknowledged that individual Land Capability Assessments may reduce lot sizes below 2ha, past performance suggests that this is typically on the basis of Secondary Treatment Septic Tank Systems or Constructed Mound Systems which are only available at considerable cost and which require regular servicing and maintenance. Council is concerned that past practice has also revealed that property owners with these type of systems can be unaware of their responsibilities to maintain their septic tank systems and fail to have regular servicing undertaken. Moreover, Land Capability Assessments can fail to consider the risk to the environment from cumulative effects as development densities increase.

There is a further issue with respect to horses that also needs to be considered in the discussion on effluent disposal.

The Environmental Health Unit advise that the area within a property for wastewater treatment and disposal must be fenced to prevent access to horses. This can result in less available area to be used for horse grazing. As a guide, Council's Environmental Health Unit has identified that a typical 4 bedroom dwelling would require about 1200m² for wastewater disposal. This area is for wastewater from the dwelling only. Any wastewater produced by the cleaning and washing down of stables should not be discharged into the septic tank system, and therefore would require additional area for disposal.

Furthermore, setback distances from watercourses (especially Burrumbeet Creek) are required in accordance with the EPA Code of Practice (Onsite Wastewater Management) and this may further inhibit the size of the land available for use.

According to stakeholders, a 2ha size is large enough for a dwelling and at least a 20 horse stable with associated facilities. Those wanting larger premises therefore may need to accumulate more than one lot. The Coffey Report noted that:

Based on the consultation undertaken with trainers at Ballarat and trainers at other centres, the preferred lot size for their operations ranges between 1.5ha-4ha for small to medium sized operations.

On this basis it is considered prudent to adopt a minimum lot size for subdivision around the racecourse of 2ha for subdivision size and for a dwelling.

In all cases a permit will be required for a dwelling and therefore in all future cases of subdivided land, the lot size will be of a size which Council believes is appropriate to at least absorb on-site effluent for the dwelling.

5.3 Traffic

The racecourse is bordered to the west by Midas Road which is a sealed road with a 100kmph speed limit. This road services the course on race days and training days and also services the Ballarat Veterinary Clinic. Just beyond the racecourse entrance the road has a gravel seal. Council estimates that it carries in the order of 550 vehicles per day (vpd).

The course is also bordered to the south by Kennedys Road which is an important east west link between Miners Rest and the Creswick Road. Council estimates that it carries traffic volumes of up to 770 vehicles per day.

It has a varied speed limit ranging from 100kmph at the eastern end which reduces to 80kmph abutting the racecourse. Kennedys Road is flanked by horse training facilities on both sides and is also the entrance point for the members drive. It is a wide (28.5m) grass verged road with a bitumen seal of up to 6.5m.

There is some evidence of trainers using the immediate road network for exercising and walking of their horses. There is ample space on the road verges of Kennedys and other nearby roads to do this.

At present horses access the racecourse 'on foot' from the north side of Kennedys Road and some also access the site from the south side. However, the majority of horses from the south side of Kennedys Road access the track via a float vehicle where the horse is picked up at the stable, loaded onto the float which then accesses Kennedys Road, heads west, turns right into Midas Road and then enters the course through the main gate on Midas Road.

While there is no record of any traffic accidents along Kennedys Road adjacent to the course, there have been three accidents at the junction of Kennedys and Gillies since 2005.

The view of many trainers and other stakeholders is that the current traffic arrangements on Kennedys Road are 'an accident waiting to happen'. This is especially so along the south side of Kennedys where trainers access that road with a vehicle and float and where the speed limit is as high as 100kmh in places dropping to 80kmh adjacent to the course. There is a particularly dangerous point on Kennedys Road about 100m west of Burrumbeet Creek where vehicles drop into a depression and are out of sight near to the point where a number of stables have their access onto the road (in particular the new Lewis stables). This is of particular concern in the early morning at dawn where darkness, emerging light and (sometimes) sun glare can conspire to limit good vision right at the time when trainers are busily getting horses onto and off floats, and onto and off the property.

While it is understood that VicRoads do not support any changes to the current traffic management pattern and while Council notes that Kennedys Road is only an 'access' road in its hierarchy, the reality is that slow moving float vehicles laden with horses regularly access the road at points where sight distances are limited and where safety appears compromised.

The Coffey report noted that based on its discussions with local groups and with Council, the use of Kennedys Road is on the increase and with the further development of Miners Rest it is likely that the use of this road will increase significantly in the future.

The Coffey report suggested that one option might be the development of a 'tunnel' system under both Kennedys Road and Midas Road to minimize conflict. The financial implications of this suggestion have not been estimated nor is there any cost/benefit analysis of its merits. At the very least, there appears little existing demand for such a measure on Midas Road although a significant increase in residential or horse training facilities west of Midas Road could change this. However, unlike Kennedys Road, Midas Road principally is used as an access point only to the course with little north-south traffic other than by racecourse users. By contrast, Kennedys Road has considerable east-west traffic over and above that which is racecourse related serving as a link between the Maryborough Road and the Creswick Road. As noted, it is estimated that this road carries up to 770vpd.

While seemingly premature at the moment (as well as being un-costed) if a tunnel is an option it may have more merit on Kennedys Road especially once the new uphill training facility is operational. The start of the uphill track is on the south east corner of the racecourse very close to the point where there is a cluster of exiting training facilities (Lewis, Brown, Williams etc). Subject to race club approval, and subject to permission from the course superintendent on track mornings, horses may be able to begin work on the new track from that south west corner without going all the way around the course in a float to the north west entrance which is what presently occurs.

Relevantly, the new uphill track is for daytime use only at this stage as there are no floodlights. This will inevitably extend the levels of activity around the course into later periods of the day than at present. This has consequent implications for extended traffic access periods.

The new up hill training facility therefore may change daily training habits and may provide impetus for structural changes to the existing road network. This will especially be the case if the Ballarat Race Club vision of the daily attendance of Melbourne based trainers using the new facility were to eventuate.

One option for the safe separation of horses and vehicles is to pursue a similar treatment to that which has been installed around the northern flank of the Mornington Racecourse (on Bungower Road and Racecourse Road).

At Mornington, there are multiple trainers on the south side of Bungower Road who previously walked horses on the road verge around the corner into Racecourse Road and then onto the Mornington racecourse itself. With significant population increases in the near vicinity and with Bungower Road performing an increasingly important east west arterial link, this method of transferring valuable animals became particularly problematic.

In response, Council has initiated a separated screened road verge treatment whereby there is a sand based track dedicated to the walking of horses which is separated from the busy Bungower Road by a light screen affixed to timber bollards of about 1.5m in height. The appearance of the road remains attractive and the safety of the animals and motorists seems more assured.



Examples of horse and road separation around Mornington Racecourse



Kennedys Road seems to have a much wider reservation (28.5m with a varying seal width of up to 6.5m) than Bungower Road. If implemented along Kennedys Road it is considered that there is more than enough space for a dedicated and fenced sand based walking lane which also allows for at least a three metre wide grassed road verge to be maintained on either side of Kennedys Road. In other words, there should be ample room on Kennedys Road to have the sealed road, then a 3m wide grassed verge, then a 3m wide fenced sand trail, and then more grassed area adjoining the private property.

While it is beyond the scope of the planning scheme implementation report to evaluate or cost traffic options, it is apparent that Council needs to be particularly mindful of the implications of facilitating horse stables on the one hand while ensuring that such stables can safely access the existing road network on the other. Any significant increase in activity, especially along Kennedys Road could compromise public road safety.

Accordingly it is strongly suggested that Council engage with VicRoads in discussions about the implications of allowing further residential and horse stabling onto Kennedy Road with a view to installing improved traffic calming measures on this road inclusive of (but not limited to) reduced speed limits, improved signage etc. In addition, the prospect of a dedicated sand based and fenced walking lane should also be investigated.

5.4 Commentary

There do not appear to be any insurmountable constraints to the more intensive development of horse training facilities adjacent to the Ballarat racecourse.

While there is evidence of a strong rural residential cluster of dwellings to the north east of the course, these are reasonably well displaced and have not generated any interface concerns so far.

The most significant environmental constraint is based around the capability of the land to support on-site effluent disposal. The suggested minimum allotment size for trainers of 1.5ha is more or less the same as Council's Environmental Health Unit (2ha).

Finally, the issue of road safety will need close attention as it will be difficult for Council to facilitate more intensive development along Kennedys Road while allowing the current road safety issue to persist. Importantly, the vast majority of stakeholders support a lowering of the speed limit.



View to the east from Mt Pisgah, Dowling Forest



View to the south-east from Mt Pisgah, Dowling Forest

6 PLANNING CONTROL OPTIONS

6.1 Dowling Forest Precinct Master Plan

As part of the Coffey Report, an issues and opportunities assessment of potential planning controls, planning schedule options and key infrastructure initiatives was undertaken by Davis Langdon Australia's National Urban Planning Services. Davis Langdon reviewed the planning controls on all land adjacent to the existing Dowling Forest Racecourse.

Key findings of their review were that land to the east, south and west of the existing Dowling Forest Racecourse be appropriately rezoned to encourage activities and practices associated with the equine industry which is not fragmented by other uses such as non-equine activities (hobby farms). The purposes of any new controls are very important and should aim:

- To provide certainty and allow for future growth in terms of appropriate uses in close proximity to a major sporting venue;
- To encourage the continued growth of the racing industry at Dowling Forest;
- To improve access to the Dowling Forest Racecourse facilities which is safe and efficient by means of a suitably located "tunnel" under Midas Road and Kennedy's Road;
- To protect the interface of the racing industry with Miners Rest Township;
- To protect the environmental environs of Burrumbeet Creek;
- To set a minimum subdivision allotment size that satisfactorily addresses the needs of the equine industry whilst ensuring each lot is capable of retention of effluent discharge within the boundaries of the property;
- To improve the overall traffic management of the precinct having regard to the purpose and use of the precinct

The report recommended that the land identified within the precinct boundary be rezoned from **Farming Zone** to **Rural Activity Zone** or the **Special Use Zone**. The Report noted that:

6.2 The extent of any changes in planning control

In terms of the existing planning controls, horse training facilities are clearly consistent with the purposes of the Farming zone. The activity is intrinsically related to agriculture and such a use is contemplated in the zone. That being the case, the issue arises as to whether more liberal allowances should be made to accommodate trainers and/or their employees on site.

The clear focus for future horse training development has been identified by trainers, the club and the Coffey report as being south, east and west of the course, usually centred on Kennedys Road.

The current Farming Zone provisions cover an area of about 420ha. 280ha of this is within the '4ha' area, and 140ha is within the 10ha area.

For reasons that are not apparent from any of the background material, the area with some of the best potential for expansion (being land south of Kennedys Road) has not ever been included within this schedule. This area is already divided into multiple lots and is committed to horse training (more so than any other nearby land) with up to twelve (12) existing horse stable premises.

The Coffey Report suggests that between 15ha and 60ha may be required for future use and development. The 'unzoned' land on the south side of Kennedy Road between Garland Road and the alignment of Ross Road amounts to 56ha.

As noted earlier, and to ensure that there is not too much land available, it is proposed to more clearly limit the development prospects of land to the north east and north west and to tie any approval to legal agreements for future subdivision and development.

This will enable the abutting land to the east, the adjoining land to the west (over Midas Road) and the land south of Kennedys between Garland Road and Ross Road to be included in a new tailored 'horse training' type zone.

The total area of additional land is 60ha.

Having determined the extent of the area needed to facilitate short and medium term growth, the next issue is to determine the outcomes required.

6.3 The preferred outcome in the identified area

The intended outcomes for the areas immediately surrounding the racecourse are as follows:

- An ability to articulate specific purposes for the control;
- A permit requirement for a dwelling in all cases;
- The need for a dwelling to be 'in conjunction with' horse training;
- An ability to assess the dwelling against decision guidelines including whether the dwelling is 'reasonably required' for the associated agricultural use (i.e. horse training);
- An ability to specify a minimum lot size;
- No options for any variations to this minimum lot size including by way of excisions or boundary realignments;

6.4 Zone Options

Having determined these outcomes, the next issue is to see if there is an 'off the shelf' suite of planning controls that align with this vision or whether a more tailored approach is needed.

A number of options have been considered for implementing the outcomes of the Dowling Forest Precinct Master Plan. The apparent zoning options include:

- Retention of the Farming Zone (FZ) over all or part of the precinct with a modified schedule.
- Application of the Rural Activity Zone (RAZ) with an attached schedule.
- Application of a Special Use Zone (SUZ) (or similar) with a tailored schedule.

Some of these zoning options and their respective roles were outlined in the Advisory Note which accompanied Amendment VC24 in June 2004 when the new suite of 'rural' zones were introduced. The Advisory Note describes the main features of the new rural zones as follows.

*The main feature of the **Farming Zone** is its recognition of agriculture as the dominant land use in rural Victoria. The purpose of the zone articulates the encouragement of agriculture as a future sustainable land use. Most agricultural uses do not need a planning permit. Agricultural uses that require a permit will need to consider the environmental effects and potential land use conflicts with surrounding agricultural uses.*

*The **Rural Activity Zone** is designed to be applied to selected areas where agricultural activities and other land uses can co-exist. A wider range of tourism, commercial and retail uses may be considered in the zone. Agriculture has primacy in the zone, but other uses may be established if they are compatible with the agricultural, environmental and landscape qualities of the area.*

The zoning options are now assessed in more detail.

6.5 Farming Zone (FZ)

While the FZ remains an option, one of its main limitations is that there is no scope to articulate localized purposes in the schedule. There is also no opportunity to list a 'Dwelling' as a Section 2 (permit required) use. On that basis, this zone fails the criteria listed in Section 6.3 above.

However, the FZ is suitable to be retained on all other nearby land to the north east and north west inclusive of a similar schedule to that which presently exists (with 4ha and 10ha options).

The only significant variation to this schedule would be to strengthen the link to the dwelling/subdivision being undertaken with a 'horse stable' by adopting stronger language requiring a legal agreement linking the development with a licensed horse trainer (or employee).

This approach is consistent with the Coffey Report which noted that one of the options available to ensure the land is developed in accordance with the strategic vision is "...to require future landowners/occupiers to be registered as thoroughbred trainers'.

This provision is an important caveat to include in the schedule to the existing FZ areas (in the 4ha and 10ha areas). It is therefore proposed to modify the FZ schedule for the land to the north east and north west (irrespective of the choice of zone for other land) so that it is a more robust link to the definitions in the planning scheme.

The schedule also needs to be clearer in terms of the defined provisions of the scheme. The definition of 'Animal husbandry' is:

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

This definition includes 'Horse stables'. The existing schedule to the FZ therefore needs to make a more explicit reference to 'animal husbandry (horse stables).

6.6 Rural Activity Zone (RAZ)

The Rural Activity Zone is the newest in the suite of zones introduced as a result of the Rural Zones review. The 'Practice Note' on applying the rural zones noted that the RAZ will require a specific planning scheme amendment based on detailed strategic justification. The Practice Note stated that the main feature of the zone is the flexibility that it provides for farming and other land uses to co-exist. The Practice Note states that in this zone:

- *The zone purpose and provisions support the continuation and growth of farming but provide the opportunity for non-farming uses to be considered in appropriate locations.*
- *A wider range of tourism, commercial and retail uses may be considered, compared to the Farming Zone and Rural Conservation Zone.*
- *Farming uses are encouraged to establish and expand with as little restriction as possible, subject to proper safeguards for the environment.*
- *A planning permit is always required to use land for a dwelling (emphasis added).*

The mix of uses that a planning authority may want to encourage in the zone is wide-ranging according to the Practice Note and could include:

- *Farming, rural industry and associated agribusiness uses.*
- *Farming, dwellings and tourist facilities.*
- *Intensive animal husbandry and associated rural processing industries.*
- *Nature-based tourism and recreation facilities.*
- *Agricultural and environmental education and research facilities.*

It is acknowledged that the Rural Activity Zone was suggested by both the Coffey Report and by the Ballarat Rural Strategy as being appropriate.

There are a number of factors which support this choice including the ability to articulate tailored 'purposes' in the schedule to the zone and the inclusion of a 'dwelling' as a Section 2, permit required use. There is also the scope to identify a minimum lot size.

However, on analysis it does appear to have some limitations that other options do not have. In particular the subdivision provisions of the zone cannot be changed and while they allow a minimum lot size to be specified, the zone allows for small lot options by way of excisions and boundary re-alignment. In a settled area such as Dowling Forest where there are multiple lots on some properties, the prospects of using the small lots options in the zone may undermine the strategy of one dwelling for each horse stable.

But most importantly, there is no scope anywhere in the schedule to the RAZ to include the sorts of matters that are critical to the effective implementation of the strategy. These include the need for legal agreements on the number of dwellings; or linking the occupant of the dwelling to those only associated with the racing industry. While it is acknowledged that this can be expressed in a local policy (or the MSS), the objective is to achieve a much more watertight planning regime than a discretionary local provision that can be waived either by a delegate, the Council or VCAT.

6.7 Special Use Zone (SUZ)

The SUZ has been applied at other training venues around Victoria with the most recently approved example being the redevelopment of the new Pakenham Racecourse to Tynong. This SUZ was only gazetted in October 2010 as part of Amendment 141 to the Cardinia Planning Scheme and it followed an exhaustive process facilitated by the Priority Development Panel which looked in detail at the options for planning controls.

Importantly, the SUZ enables specific purposes to be expressed which, in the case of the training facilities, explain the vision of the precinct.

The SUZ also enables the Table of Uses to be tailored to suit. That said it is intended that the schedule stays very close to the Farming Zone provisions with notable exceptions for:

- Dwelling (Section 2);
- Caretakers house (Section 2);
- Subdivision lot sizes;
- Number of dwellings on a lot; and
- The need for legal agreements.

The dwelling must be conditional upon being 'in conjunction with' the horse training facility on the site. The 'in conjunction with' test is set out at Clause 64.02 of the scheme having been introduced by VC43 in October 2006 being that:

There be an essential association between the two uses; and

The use must have a genuine, close and continuing functional relationship in its operation with the other use.

The schedule to the SUZ also enables the detail of a legal agreement to be specified as being linked to a person associated with horse training.

6.8 Comprehensive Development Zone (CDZ) or Priority Development Zone (PDZ)

The option of the CDZ or PDZ seemingly provides similar benefits to that of the SUZ. The CDZ and PDZ contain subtle differences such as the subdivision requirements of Clause 56 apply to residential areas (as opposed to this rural setting). In addition there are some applications that are automatically exempt from notice and review requirements. However, the biggest drawback of these zones is that they require an Incorporated Plan (at Clause 81) to be attached which has typically been applied to (say) residential development in metropolitan areas where there is a limited number of landowners. At Dowling Forest, with such a fragmented ownership pattern there is no need for such a plan as each trainer may have different requirements and different configurations. The detail of the provisions is the important outcome rather than compliance with any concept plan.

6.9 Clause 52.03

This clause enables any other provision of the scheme to be exempted from operation including zones and overlays.

The shortcoming of the provision is that the land stays in the same zone and the particular provisions are unknown to casual observers of the scheme.

One of the benefits of the SUZ (or the CDZ) is that it sends a very clear message from simple perusal of the zone maps that some form of 'special activity' is contemplated on the land. The SUZ (or CDZ) also allows specific 'purposes' to be specified.

6.10 Commentary

Of all of the options it is considered that the SUZ is the zone of 'best fit'. There is already a SUZ on the racecourse and the choice of a new SUZ schedule on surrounding land provides a clear link between the racecourse and the new training facilities.

The SUZ also enables the critical dwelling and subdivision provisions to be tailored to suit the objective of ensuring that any occupants are associated with the horse training industry.

7. SUGGESTED PLANNING CONTROLS

7.1 Purposes

The new Special use Zone should have the following ‘purposes’.

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

7.2 Table of Uses

The Table of Uses for the Special Use Zone should be similar to the Farming Zone with the following modifications:

- Caretakers house Section 2
- Dwelling Section 2 (but must be ‘in conjunction with’ animal husbandry – horse stables)

7.3 Dwelling Provisions

In terms of dwellings, and in the context of the peculiar characteristics of the horse training industry, it is apparent that on-site accommodation is not only the preference of the racing industry, it is an essential pre-requisite.

However, the implications of permitting extensive numbers of dwellings in the Farming Zone has to be considered especially given the past practice of developing dwellings unrelated to horse training without a permit to the east of the course. Nothing will be gained by allowing a *defacto* rural residential precinct all around the racecourse and quite quickly a similar situation as occurs near other courses may arise.

A planning regime is needed that makes it clear that the trainer accommodation is ‘ancillary’ to the main use of the horse training facility and so long as tight controls are established to avoid any prospects of conventional residential development.

In that context, and so as to ensure that there is no prospects at all for dwellings to be developed other than in association with racing and training, the following measures are suggested which are similar to those that were introduced into the Cardinia Planning Scheme to address the relocated Pakenham course.

A permit for a dwelling is required in all cases.

A permit may only be granted for a dwelling if:

- The use is in conjunction with horse stables and horse training.
- The owner or occupier is a licensed horse trainer within the meaning of the Australian Rules of Racing or is an employee of a horse trainer.
- There is only one dwelling on a lot
- The dwelling can be connected to a reticulated sewerage system or if not available, the waste water can be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling can be connected to a reticulated potable water supply or is able to have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling can be connected to a reticulated electricity supply or have an alternative energy source.
- The training facilities on the site are established.

7.4 Subdivision Provisions

In that same context, and as has been applied at Cardinia, the following specific subdivision requirements are suggested:

A permit is also required to subdivide land.

A permit may only be granted to subdivide land if:

- The racetrack and training facilities have been constructed on the site.
- Each lot to be created is at least the area specified (2ha).
- The permit is issued subject to a condition requiring the owner to enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 that provides for or requires that:
 - The land on which the dwelling is located must be used for the purposes of horse training and horse stables;
 - The land may be used for the purposes of a dwelling only if:

- it is in conjunction with horse training and horse stables;
- the dwelling is occupied by a trainer within the meaning of the Australian Rules of Racing or an employee of a trainer, including their domestic partners and dependants;
- there is only one dwelling on a lot.

8. RECOMMENDATIONS

8.1 That Council prepare and exhibit an amendment to the Ballarat Planning Scheme to implement this report including:

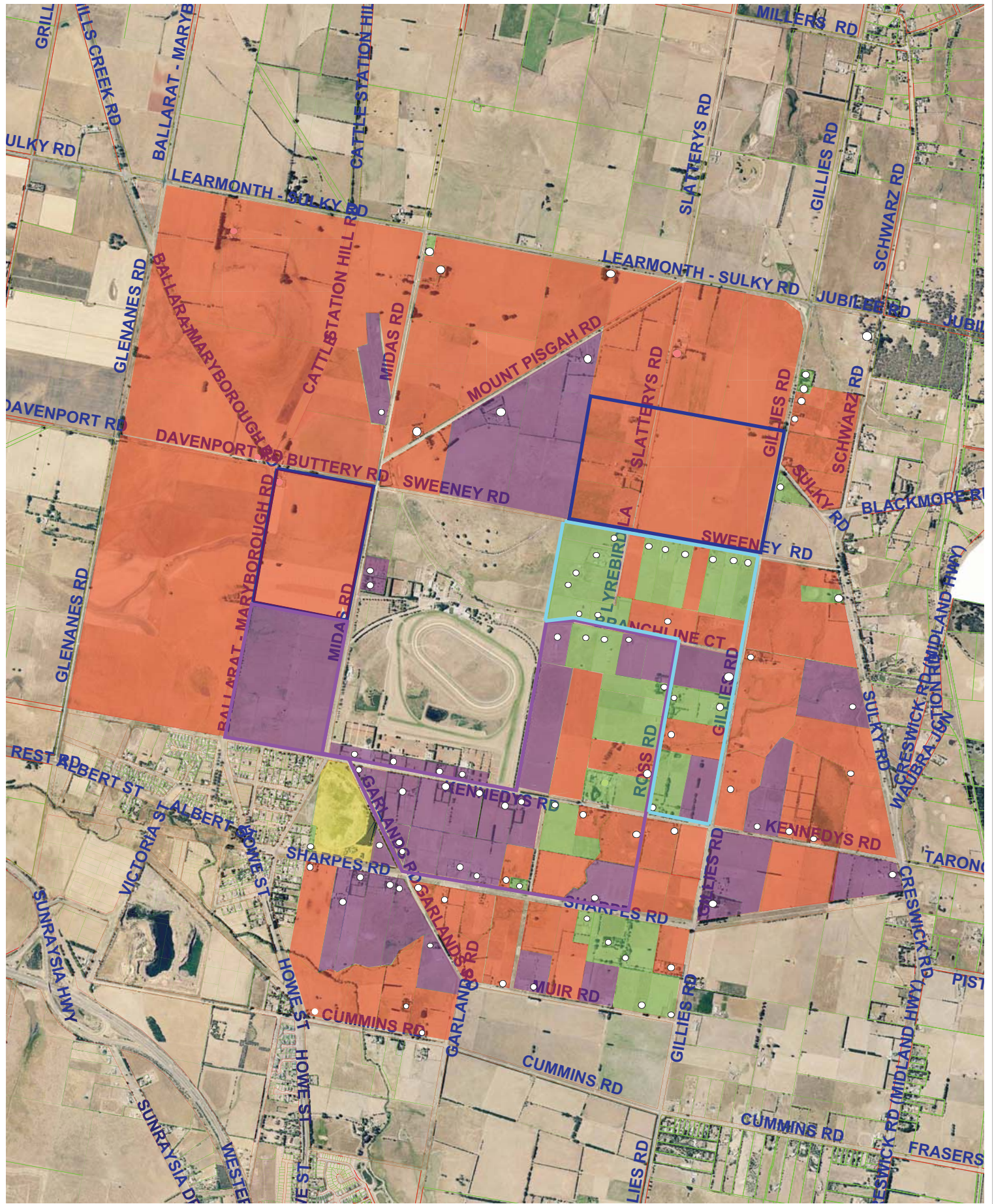
- Modifications to Clause 21.04 to include updated references to the importance of the horse racing industry in accordance with the findings of the 'Coffey' report.
- Modifications to Clause 21.10 to include the 'Coffey' report and this report as Reference Documents.
- Modification to the schedule to the Farming Zone at Clause 35.07 merging Maps 1 and 2 and deleting all of that land which is proposed to be included in SUZ(13).
- Modifications to the schedule to the Farming Zone at Clause 35.07 in accordance with the modified schedule attached at Appendix 2 and map at Appendix 3.
- Modify the maps to rezone land from Farming Zone to Special Use Zone in accordance with the map included in Appendix 4.
- Insert a new schedule to the Special Use Zone (Schedule) at Clause 37.01 in accordance with the modified schedule attached at Appendix 4.

8.2 That Council consult with VicRoads, Ballarat Turf Club and all relevant landowners and stakeholders on the possibility of reducing the existing speed limits on Kennedy Road adjacent to the racecourse.

APPENDIX 1:

SURROUNDING PROPERTIES LAND USE

DOWLING FOREST RACECOURSE – SURROUNDING PROPERTIES LAND USE



- Note: The City of Ballarat nor the State of Victoria does not warrant the accuracy or completeness of the information in this Publication and any Person using or relying upon such information does so on the basis that the City of Ballarat and the State of Victoria shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information.
- Farming
 - Rural Residential
 - Recreation
 - Equine Related Activity
 - Farming Zone Schedule 2- 10ha minimum subdivision/dwelling area (horse stable requirement)
 - Farming Zone Schedule 1- 4ha minimum subdivision/dwelling area (horse stable requirement)
 - Special Use Zone Schedule 13- 2ha minimum
 - House



APPENDIX 2:

PROPOSED FARMING ZONE SCHEDULE

SCHEDULE TO THE FARMING ZONE

Shown on the planning scheme map as **FZ**.

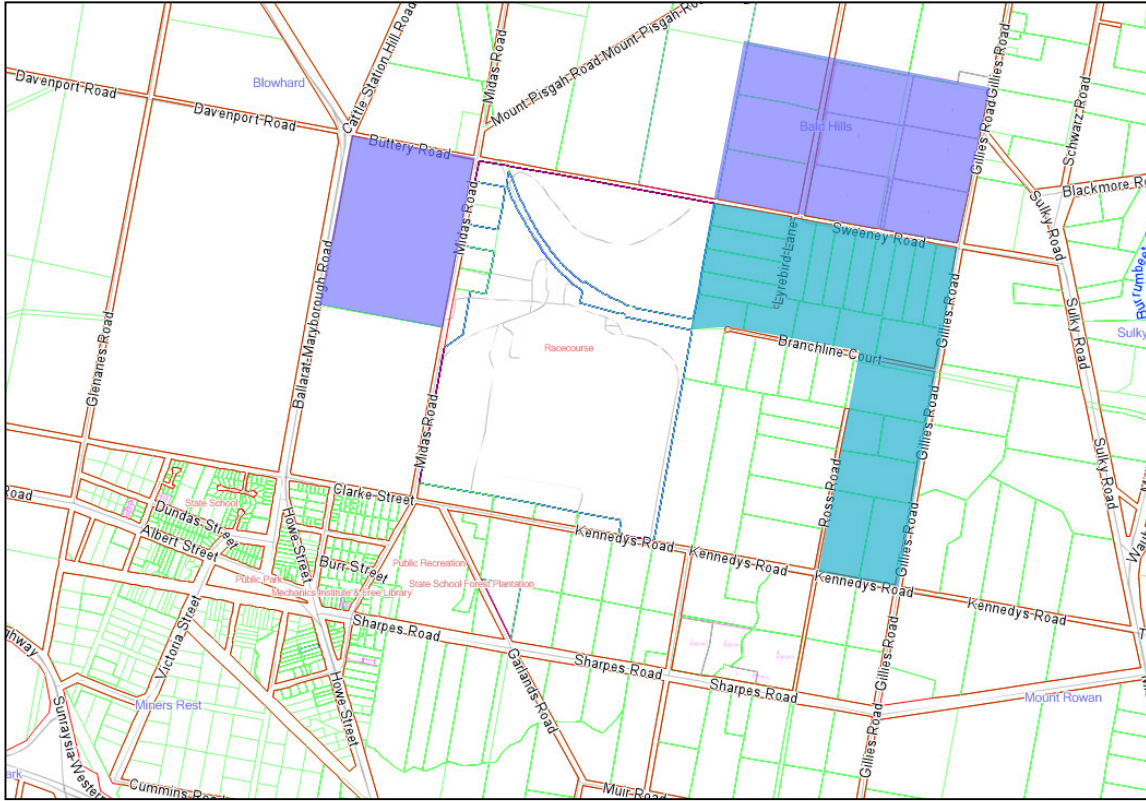
	Land	Hectares
Minimum subdivision area (hectares).	Land shown as "Area A" on the map attached to this schedule where the land will be used for Animal husbandry (Horse training and stables) and is subject to a legal agreement under Section 173 of the Planning and Environment Act that the owner or occupier is a licensed person within the meaning of the Australian Rules of Racing (or is an employee of such person).	4 hectares
	Land shown as "Area B" on the map attached to this schedule where the land will be used for Animal husbandry (Horse training and stables) and is subject to a legal agreement under Section 173 of the Planning and Environment Act that the owner or occupier is a licensed person within the meaning of the Australian Rules of Racing (or is an employee of such person).	10 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 will be used for Animal husbandry (Horse training and stables) and is subject to a legal agreement under Section 173 of the Planning and Environment Act that the owner or occupier is a licensed person within the meaning of the Australian Rules of Racing (or is an employee of such person).	4 hectares
	Land shown as "Area B" on the map attached to this schedule where the land will be used for Animal husbandry (Horse training and stables) and is subject to a legal agreement under Section 173 of the Planning and	10 hectares

	Environment Act that the owner or occupier is a licensed person within the meaning of the Australian Rules of Racing (or is an employee of such person).	
	All other land	40 hectares
Maximum area for which no permit is required to use land for timber production (hectares).	None specified	None Specified
Maximum area for which no permit is required to alter or extend an existing dwelling (square metres).	None specified	None specified
Minimum area for which no permit is required to alter or extend an existing building used for agriculture (square metres).	None specified	None specified
Minimum setback from a road (metres).	A Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road, Category 1	100 metres
	A Road Zone Category 2 or land in a Public Acquisition Overlay to be acquired for a road, Category 2	40 metres
	Any other road	20 metres
Minimum setback from a boundary (metres).	Any other boundary	5 metres
Minimum setback from a dwelling not in the same ownership (meters).	Any dwelling not in the same ownership	100 metres

Permit requirement for earthworks	Land
Earthworks which change the rate of flow or the discharge point of water across a property boundary.	None specified
Earthworks which increase the discharge of saline groundwater.	None specified

APPENDIX 3:

PROPOSED MAP CHANGE



Proposed Map 1 to the Farming Zone Schedule (FZ)



Area A - 4ha minimum dwelling & subdivision area



Area B - 10ha minimum dwelling & subdivision area

APPENDIX 4:

PROPOSED SPECIAL USE ZONE SCHEDULE (13)

SCHEDULE 13 TO THE SPECIAL USE ZONE - HORSE TRAINING FACILITIES

Shown on the planning scheme map as **SUZ13**.

1. Purpose

To encourage the use and development of horse training facilities in association with the Ballarat Racecourse.

To provide for subdivision of land for use and development as horse training facilities.

To facilitate on-site accommodation for horse trainers and their employees in conjunction with the horse training facilities.

To ensure that horse training facilities are established in a manner which is consistent with surrounding land uses.

2. Table of uses

Section 1 – Permit not required

USE	CONDITION
Agriculture (other than Animal keeping, Apiculture, Intensive animal husbandry, Rice growing and Timber production)	
Animal keeping (other than Animal boarding)	Must be no more than 5 animals.
Animal husbandry	
Apiculture	Must meet the requirements of the Apiary Code of Practice, May 1997.
Bed and breakfast	No more than 6 persons may be accommodated away from their normal place of residence. At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.
Carnival Circus	Must meet the requirements of A 'Good Neighbour' Code of Practice for a Circus or Carnival, October 1997
Dependent Persons Unit	Must be the only dependent person's unit on the lot Must meet the requirements of Clause 3.

Geothermal energy extraction	Must meet the requirements of Clause 52.08-4
Greenhouse gas sequestration	Must meet the requirements of Clause 52.08-6.
Greenhouse gas sequestration exploration	
Home occupation Informal outdoor recreation Mineral exploration	
Mining	Must meet the requirements of Clause 52.08-2.
Minor utility installation Natural systems Railway Road	
Search for stone	Must not be costeaning or bulk sampling.
Telecommunications facility	Buildings and works must meet the requirements of Clause 52.19.
Tramway	

Section 2 – Permit required

USE	CONDITION
Animal boarding	
Broiler farm	Must meet the requirements of Clause 52.31.
Caretaker's house	Must meet the requirements of Clause 3.
Car park	Must be used in conjunction with another use in Section 1 or 2.
Cattle feedlot	Must meet the requirements of Clause 52.26. The site must be located outside a catchment area listed in Appendix 2 of the Victorian Code for Cattle Feedlots – August 1995.
Cemetery Community market Crematorium	
Dependent person's unit – if the Section 1 condition is not met	Must meet the requirements of Clause 3.
Dwelling (other than Bed and breakfast)	Must be the only dwelling on the lot The lot must be at least 2 hectares except on those lots which existed as a separate title on 1 January 2011.
	Must be 'in conjunction with' horse training facilities conducted on the lot. Must meet the requirements of Clause 3.
Emergency services facility	
Freezing and cool storage	
Group accommodation	Must be used in conjunction with Agriculture, Animal boarding, Animal husbandry, Outdoor recreation facility.

Host farm

**Intensive animal husbandry (other than
Broiler farm and Cattle feedlot)**

Interpretation centre

**Leisure and recreation (other than
Informal outdoor recreation and
Motor racing track)**

Manufacturing sales

**Mineral, stone, or soil extraction (other
than Mineral exploration, Mining, and
Search for stone)**

**Place of assembly (other than Carnival
and Circus)** Must not be used for more than 10 days in
a calender year.

Primary produce sales

**Renewable energy facility (other than
Wind energy facility)**

Residential hotel

Rural industry

Rural store

Saleyard

Store

Timber production

Utility installation (other than

**Minor utility installation
and Telecommunications facility)**

Veterinary centre

Wind energy facility

Winery

Section 3 - Prohibited

USE

**Accommodation (other than Caretakers house, Dependent person's unit,
Dwelling, Group accommodation, Host farm and Residential hotel)**

Industry (other than Rural industry and Store)

Motor racing track

Retail premises (other than Community market and Primary produce sales)

Rice growing

Transfer station

Warehouse (other than Store)

Any other use not in Section 1 or 2

3.0 Use of land for a dwelling

An application to use a lot for a dwelling, caretakers house, dependent persons unit, group accommodation, host farm or residential hotel must be accompanied by an 'Integrated Land Management Plan' (ILMP) describing the horse training facilities on the site (or proposed on the site) and which explains how the proposal responds to the following provisions.

A permit may only be granted to use the land for the purposes of a dwelling, caretakers house, dependent persons unit, group accommodation, host farm or residential hotel if all of the following apply:

- The dwelling is in conjunction with horse stables and the business of horse training as described in the ILMP.
- The owner or occupier of the land is a licensed horse trainer or the occupier is an employee of a licensed horse trainer. (For the avoidance of doubt, a dwelling may only be occupied by a licensed horse trainer or employee of a licensed horse trainer within the meaning of the Australian Rules of Racing, together with their domestic partner and any dependents.)
- The horse training facilities on the site are established (or a permit has been issued for the horse training facility and is conditional on no dwelling being erected until at least 50% of the stables are constructed).
- There is only one dwelling on a lot (other than a caretakers house, dependent persons unit, group accommodation, host farm or residential hotel).
- The dwelling can be connected to a reticulated sewerage system or if not available, the waste water can be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling can be connected to a reticulated potable water supply or is able to have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.

- The dwelling can be connected to a reticulated electricity supply or have an alternative energy source.
- The permit is issued subject to a condition requiring the landowner to enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 that provides for, or requires that:
 - The land on which the dwelling is located must be used for the purposes of horse training and horse stables; and
 - The land may only be used for the purposes of a dwelling if:
 - it is in conjunction with horse training and horse stables in accordance with an approved ILMP;
 - 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;
 - there is only one dwelling on a lot (other than a caretakers house, dependent persons unit, group accommodation, host farm or residential hotel).

4.0 Subdivision

A permit is required to subdivide land.

A permit may only be granted to subdivide land if:

- Each lot to be created is at least 2ha in area.
- The permit is issued subject to a condition requiring the landowner to enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 that provides for or requires that:
 - The land must be used for the purposes of horse training and horse stables.

A permit may only be granted to create smaller lots if the subdivision is by a public authority or utility service provider to create a lot for a utility installation.

5.0 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 50 square metres.
 - An out-building associated with an existing dwelling provided the floor area of the out-building is not more than 50 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.

6.0 Exemption from notice and review

An application for use, subdivision and buildings and works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

7.0 Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, and in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- How the use or development relates to the purposes of the zone.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- The layout of the subdivision;
- The suitability of the location of the training facilities on the site;
- Access arrangements;
- The location and design of existing and proposed infrastructure services including gas, water, drainage, telecommunications and sewerage facilities.

Agricultural issues

- Whether the use or development will support and enhance horse training facilities.
- Whether the use or development will permanently remove land from horse training facilities.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any 'Integrated Land Management Plan' prepared for the site.

Dwelling issues

- Whether the dwelling is reasonably required for the operation of the activity conducted on the land.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

Environmental issues

- The impact of the proposal on the natural physical features and resources of the area.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

Design and siting issues

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts including the visual impact on the landscape.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.

Traffic issues

- Whether the use and development will require any traffic management measures.

- Whether there is safe entry and egress from the land including adequate sight distances.

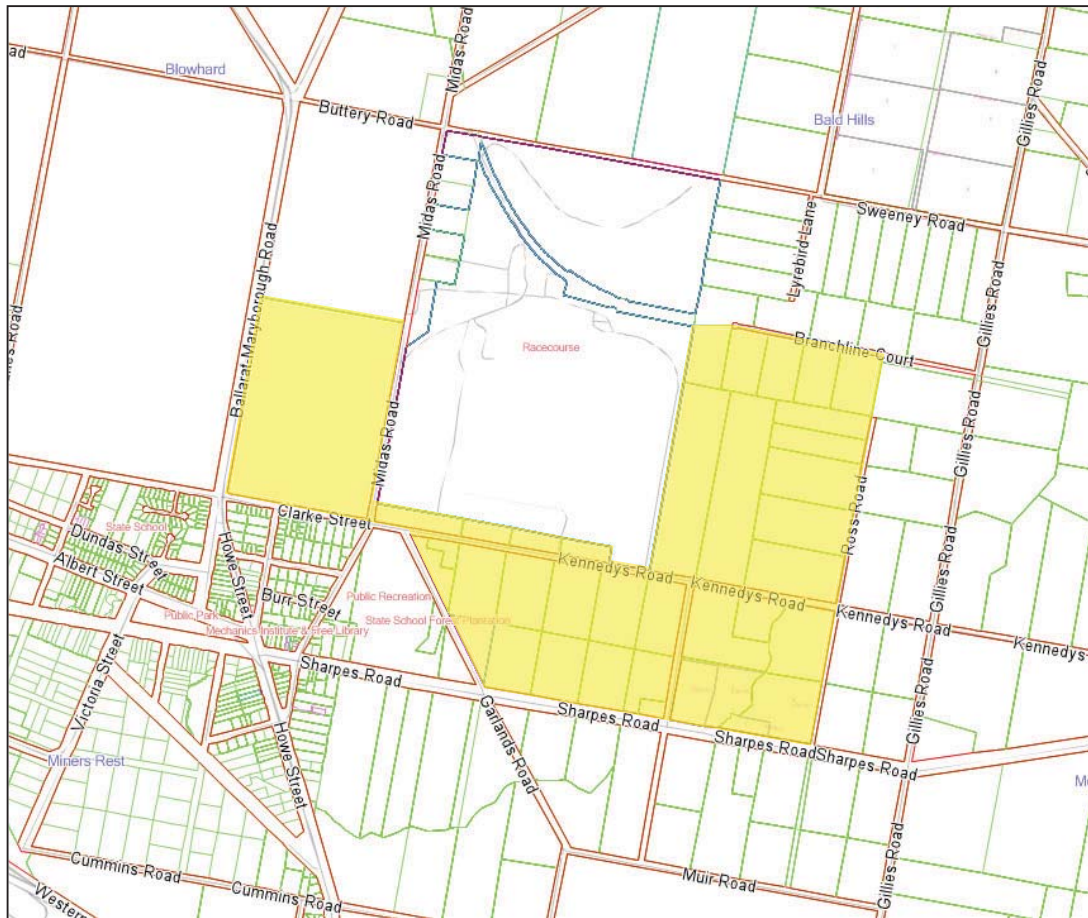
8.0 Advertising signs

Advertising sign requirements are at Clause 52.05. This zone is in Category 4.

Notes: *Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.*

Check whether an overlay also applies to the land.

Other requirements may also apply. These can be found at Particular Provisions



Proposed Special Use Zone Schedule 13 (SUZ13)