

Central Victoria Livestock Exchange

Date of Inspection 25 May 2015

Date of Report 10 June 2015

Prepared by **Andrew Rodda**



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Contents

1	Introduction.....	3
2	Summary of Opinion	5
3	Subject Site and Surrounds.....	6
4	Ballarat Planning Scheme – Existing Provisions	9
4.1	State Planning Policy Framework (SPPF)...	9
4.2	Local Planning Policy Framework (LPPF) .	12
4.3	Zoning & Overlays.....	13
4.4	Particular and General Provisions.....	16
4.5	Other Informing Documents.....	17
5	Amendment C185.....	19
6	Amendment Process	20
7	Planning Considerations.....	21
7.1	Planning Context.....	21
7.2	Strategic Considerations.....	23
7.3	Suitability of the rezoning and development proposal	24
7.4	Suitability of Planning Tools.....	25
7.5	Some observations concerning the Explanatory Report and the content of Schedule 15 to the SUZ	28
7.6	Matters raised in submissions	30
7.7	Strategic Assessment Guidelines	31
8	Conclusion	33

Attachment 1	Summary of Qualifications and Experience
Attachment 2	Aerial Photograph
Attachment 3	Map 10 – Ballarat Framework Plan
Attachment 4	Spiire Planning Assessment pages 2 and 3

1 Introduction

- 1 I have been requested by Maddocks Lawyers on behalf of the City of Ballarat to consider and comment on the key principles associated with Amendment C185 to the Ballarat Planning Scheme.
- 2 I was not involved in the request for or preparation of Amendment C185. I am aware that the amendment is a combined Planning Scheme Amendment and Works Approval Application in accordance with the Memorandum of Understanding between the Department of Transport, Planning and Local Infrastructure (now the Department of Environment, Land, Water) and Planning and the Environment Protection Authority – ‘Joint processing of a Planning Scheme Amendment under the Planning and Environment Act 1987 and an Application for a Works Approval under Section 19B of the Environment Protection Act 1970’.
- 3 I have been advised that a Works Approval Application is required as the livestock saleyards is a ‘scheduled premises’ under B02, pursuant to the *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007*.
- 4 The Works Approval Application is Service Order Reference 1001580 and relates to the relocation of the Central Victoria Livestock Exchange (CVLX) from its existing site in central Ballarat to the proposed site at (Part) 22-76 Victoria Street, Miners Rest. The applicant is the Regional Livestock Exchange (RLX) Operating Company Pty Ltd.
- 5 I have been provided with a copy of the directions of the Panel appointed to receive and consider submissions in relation to this matter.
- 6 In preparing this report I have:
 - Inspected the subject site and surrounds from adjacent roads.
 - Reviewed the relevant provisions of the Ballarat Planning Scheme.
 - Reviewed the Central Highlands Regional Growth Plan, May 2014.
 - Reviewed the Potential Relocation of the Ballarat Livestock Selling Centre – Strategic Planning Analysis Report (Draft), 15 August 2007 prepared by Coomes Consulting Group.
 - Reviewed the documents exhibited as part of Amendment C185 to the Ballarat Planning Scheme, including the supporting reports and documentation prepared by various members of the proponent’s consultant team.
 - Reviewed the Concept Plan forming part of proposed Schedule 15 to the Special Use Zone.
 - Reviewed matters raised in the written submissions made to Amendment C185 to the Ballarat Planning Scheme.
 - Reviewed the City of Ballarat Council Meeting Report relating to Amendment C185 dated 22 April 2015.
- 7 A summary of my qualifications and experience is included as Attachment 1 to this report.



1 Introduction

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- 8 I have not been asked to specifically address matters relating to the works approval application; native vegetation; flora and fauna; traffic; drainage; and cultural heritage as they relate to the planning scheme amendment or operational matters and details of the buildings and works proposed on the subject land.

2 Summary of Opinion

9 Having regard to the matters which I have considered I am of the opinion that:

- There is reasonable justification for the use of a combined planning scheme amendment and EPA Works Approval process having regard to the size of the subject site and nature of the project which has a regional focus and benefit.
- The proposed rezoning and use of a zone schedule and Clause 52.03 to provide a single town planning approval process is reasonable and appropriate given the size of the proposed development and the initial technical investigations which confirm the candidacy of the subject site for the proposal.
- The proposal and planning scheme amendment which will facilitate its detailed approval is consistent with the purpose of the Farming Zone, consistent with State and local planning policy and capable of being designed and operated in a manner which will result in an acceptable response to the outcomes sought in relation to protection of the natural environment and maintaining the reasonable amenity of the nearest residential areas.
- The proposed planning scheme amendment responds positively to the Strategic Assessment Guidelines for planning scheme amendments and adopts an appropriate Victoria Planning Provision (VPP) planning tool.
- The proposed SUZ schedule will, subject to minor variations to text (to clarify the intent and operation of the schedule), provide a sound basis for the assessment of detailed information concerning the proposed livestock saleyard in response to assessment criteria which is generally reflective of State and local policy and the matters identified in the decision guidelines in the Farming Zone.
- In overall terms and subject to the suggested changes indicated in this report I am satisfied that the proposed amendment is reasonable and appropriate.



3 Subject Site and Surrounds



- 10 The land affected by the amendment comprises land generally bound by the Sunraysia Highway to the north and east, Western Highway (Ballarat Bypass) to the south and private property to the west.
- 11 The land is described in the following Certificates of Title:
 - Lots 1 and 2, TP840697G;
 - Lot 2, PS341031L; and
 - Lot 1, TP944606J.
- 12 The subject land is irregular in shape and has an area of approximately 45 hectares. The land has frontage to the Sunraysia Highway and Western Highway.
- 13 The land is presently vacant and appears to have been used for stock grazing. There are two dams on the property, a group of trees on the elevated north-east part of the site and some existing vegetation adjacent to sections of the Sunraysia Highway and Western Highway (although it appears that this vegetation is mainly within the road reserve).
- 14 The land generally to the north and east of the Sunraysia Highway, south of the Western Highway and to the west appear to be used for rural purposes. The surrounding land is all located within the Farming Zone with the exception of the main roads which are within a Road Zone Category 1.
- 15 The land to the east of Victoria Street comprises the Miners Rest quarry. I have been advised that the quarry is no longer operating. Information obtained from the Energy and Resources websites indicates that the quarry has a current Work Authority (WA85) which allows the authority holder to extract stone resources such as rock, gravel, sand, soil, and clay in the work authority area.
- 16 The subject land is located approximately 1 kilometre south-west of the Miners Rest township. Figure 1 contained in the Council Meeting Report dated 22 April 2015 indicates that the six closest dwellings are located between approximately 890 metres to 1,400 metres from the subject land. The nearest farms / dwellings to the west include one accessed off Dowling Road and one accessed from the Western Highway east of Dowling Road.
- 17 A Locality Plan, Cadastral Plan and Aerial Photographs are included as Figures 3.1, 3.2, 3.3 and 3.4. An Aerial Photograph depicting the subject site and its broader context is included at Attachment 2 to my report.

3 Subject Site and Surrounds

Figure 3.1
LOCALITY PLAN

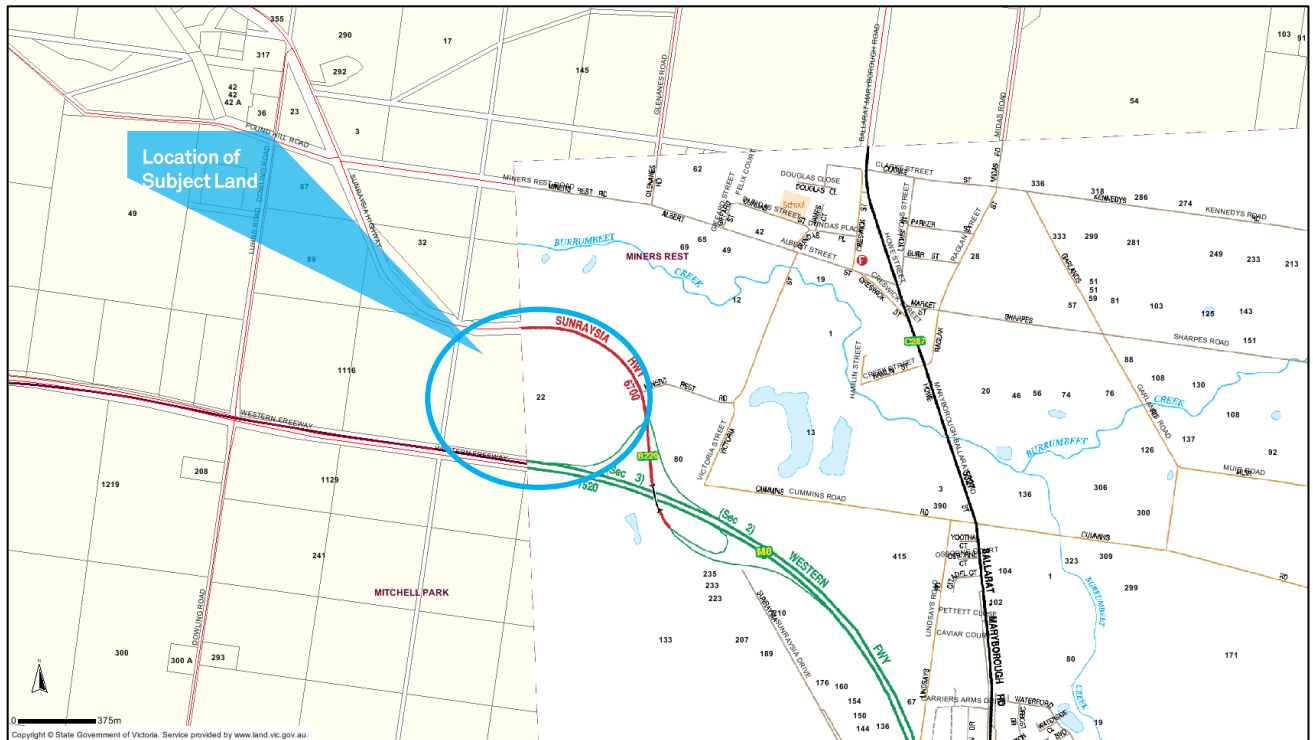
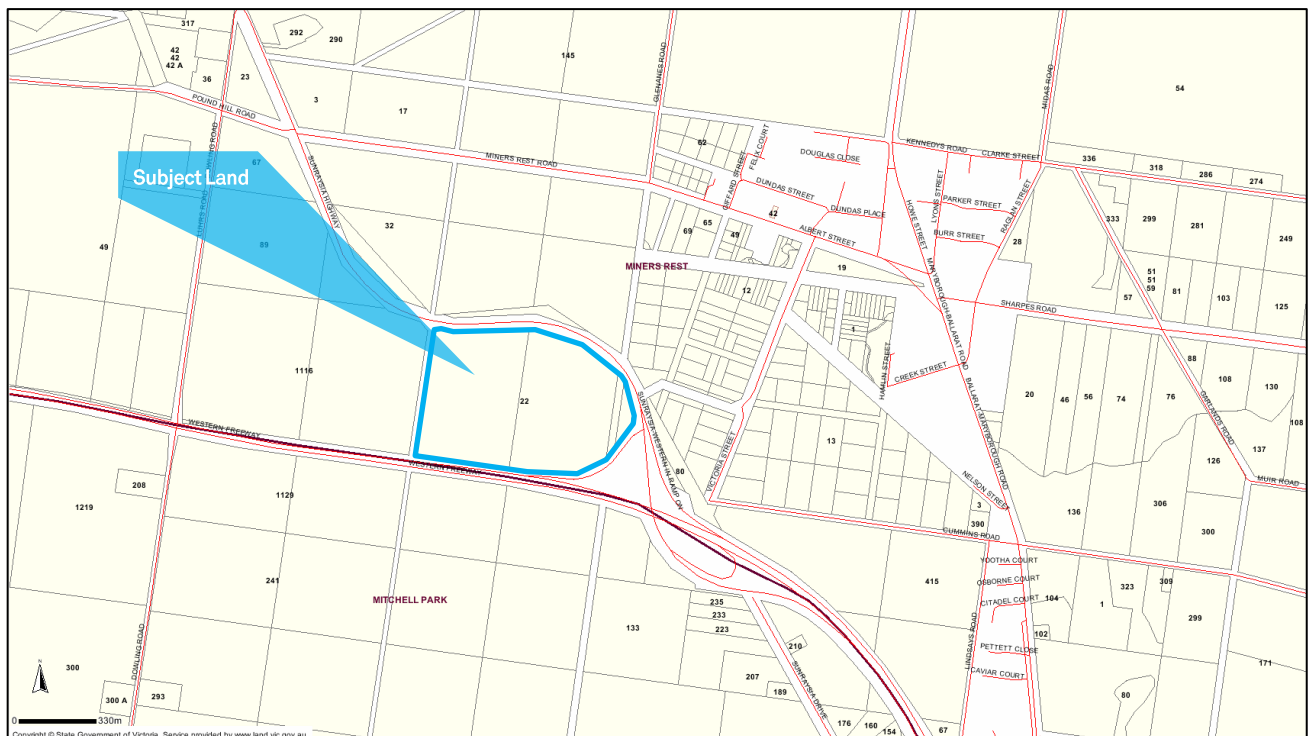


Figure 3.2
CADASTRAL PLAN



3 Subject Site and Surrounds

Figure 3.3
AERIAL PHOTOGRAPH—SUBJECT LAND



Figure 3.4
AERIAL PHOTOGRAPH—LOCALITY



4 Ballarat Planning Scheme – Existing Provisions

4.1 State Planning Policy Framework (SPPF)

18 The following policies within the State Planning Policy Framework section of the Ballarat Planning Scheme are relevant to the proposed rezoning:

- Clause 10 - Operation of the State Planning Policy Framework
- Clause 11 – Settlement
- Clause 11.05 – Regional Development
- Clause 11.06 – Central Highlands Regional Growth
- Clause 13 - Environmental Risks
- Clause 13.02 – Floodplains
- Clause 13.04 – Noise and Air
- Clause 14 - Natural Resource Management
- Clause 14.01 – Agriculture
- Clause 14.02 - Water
- Clause 15 - Built Environment and Heritage
- Clause 15.03 - Heritage
- Clause 17 - Economic Development
- Clause 18 - Transport
- Clause 19 – Infrastructure (Drainage)

19 I have taken these policies into account in my consideration of this amendment.

20 In particular, Clause 10.04 relates to integrated decision making and states:

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

Consistent with the objectives of local government under the Local Government Act 1989, municipal planning authorities are required to identify the potential for regional impacts in their decision-making and co-ordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.

21 Clause 11 relates to Settlement. The broad policy states, inter alia:

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.



4 Ballarat Planning Scheme – Existing Provisions

22 Clause 11.05 relates to Regional Development. Clause 11.05-1 seeks *‘To promote the sustainable growth and development of regional Victoria through a network of settlements identified in the Regional Victoria Settlement Framework Plan’.*

23 A relevant strategy states *‘Direct urban growth into the major regional cities of Ballarat, Bendigo, Geelong, Horsham, Latrobe City, Mildura, Shepparton, Wangaratta, Warrnambool and Wodonga’.*

24 Ballarat is identified as a Regional City on Map 1 –Regional Victoria Settlement Framework forming part of this clause.

25 Clause 11.05-4 relates to Regional planning strategies and principles and includes the following objective and strategies, inter alia:

To develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable.

- *Identify and assess the spatial and land use planning implications of a region’s strategic directions in Regional Strategic Plans.*
- *Ensure regions and their settlements are planned in accordance with any relevant regional growth plan.*
- *Apply the following principles to settlement planning in Victoria’s regions, including the hinterland areas:*
 - *A network of integrated and prosperous regional settlements*
 - *Environmental health and productivity*
 - *Regional Victoria’s competitive advantages*
 - *Climate change, natural hazards and community safety*
 - *Distinct and diverse regional settlements*
 - *Liveable settlements and healthy communities*

26 In relation to Regional Victoria’s competitive advantages policy indicates these will be maintained and enhanced by a number of matters including *“Focusing major government and private sector investments in regional cities and centres on major transport corridors, particularly railway lines, in order to maximise the access and mobility of communities”.*

27 Clause 11.06 relates to Central Highlands regional growth and includes the following relevant objectives and strategies, inter alia:

To plan for population growth in sustainable locations throughout the region.

- *Support Ballarat as the main centre for regional growth, services and employment with major growth focussed to the west.*
- *To strengthen the region’s economy so that it is more diversified and resilient.*

4 Ballarat Planning Scheme – Existing Provisions

-
- *To manage, protect and enhance the region's land, soil, water and biodiversity.*

28 This clause indicates that planning must consider the Central Highlands Regional Growth Plan, May 2014. I have considered this plan and outlined relevant details in Section 4.5 of my report.

29 Clause 14.01 relates to Agriculture and includes the following objectives and strategies, inter alia:

- *To protect productive farmland which is of strategic significance in the local or regional context.*
 - *In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:*
 - *The desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.*
 - *The compatibility between the proposed or likely development and the existing uses of the surrounding land.*
 - *Assessment of the land capability.*
- *To encourage sustainable agricultural land use.*
 - *Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.*
 - *Encourage sustainable agricultural and associated rural land use and support and assist the development of innovative approaches to sustainable practices.*
 - *Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.*

30 Clause 14.02 relates to Water and includes the following objectives:

- *To assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.*
- *To protect water quality.*

4 Ballarat Planning Scheme – Existing Provisions

4.2 Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

- 31 The following clauses within the Ballarat Planning Scheme are also relevant to the proposed rezoning:
- Clause 21.01 – Municipal Overview
 - Clause 21.02 – Key Issues
 - Clause 21.03 – Ballarat’s Strategic Framework
 - Clause 21.04 – Land Uses
 - Clause 21.05 – Built Form and Amenity
 - Clause 21.06 – Environment
 - Clause 21.07 – Infrastructure
 - Clause 21.08 – Local Areas (Clause 21.08-1 – Miners Rest)
 - Clause 21.10 – Reference Documents
- 32 The Overall Framework Plan forming part of Clause 21.03 indicates that the subject land, together with land generally to the north, east and west, is within a ‘Rural Area’. The land to the south of the Western Highway is identified as ‘Long Term Industrial Growth’. The Sunraysia Highway and Western Highway are identified as ‘Major Roads’.
- 33 The Residential Framework Plan forming part of Clause 21.04-2 illustrates the existing residential areas which form part of Miners Rest. There are no short to medium term residential urban growth areas or long term residential urban growth areas identified proximate to the subject land.
- 34 The Industrial Framework Plan forming part of Clause 21.04-3 identifies the land to the south of the Western Highway proximate to the subject land as long term industrial growth.
- 35 Clause 21.04-8 relates to Rural Land Use and includes the following objectives and strategies, inter alia:
- *To ensure that productive agricultural land remains available for agricultural and sustainable resource use.*
 - *To support agriculture as an important element of the City’s economic and employment base.*
 - *Support diversification of farming activities which support a sustainable agricultural economy.*
 - *Provide for agricultural value adding industries within the City in locations where appropriate services are available.*
- 36 Clause 21.08 outlines strategies for local areas within Ballarat including Miners Rest. Miners Rest is described as follows:
- Miners Rest is a small settlement to the north of the Ballarat urban area. It has been designated as a short to medium term residential growth area and it is projected that, with constraints on development such as the Western Highway by-pass, flood prone land and the airport*

4 Ballarat Planning Scheme – Existing Provisions

flight paths the township has the capacity to accommodate a total of 970 lots (or an additional 2000 people).

Local Policies

- 37 There are no specific local policies in the Ballarat Planning Scheme which are relevant to the proposal.

4.3 Zoning & Overlays

- 38 The subject land is presently included in the Farming Zone (FZ) within the Ballarat Planning Scheme.
- 39 Pursuant to Clause 35.07 of the Ballarat Planning Scheme, the purpose of the Farming Zone is:
- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - *To provide for the use of land for agriculture.*
 - *To encourage the retention of productive agricultural land.*
 - *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
 - *To encourage the retention of employment and population to support rural communities.*
 - *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- 40 A permit is required to use land for a 'Saleyard' in the Farming Zone. A permit is also required to construct or carry out a building or works associated with a use in Section 2 of Clause 35.07-1 (amongst other things).
- 41 The decision guidelines at Clause 35.07-6 state:

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, 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.*

4 Ballarat Planning Scheme – Existing Provisions

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- *Any Regional Catchment Strategy and associated plan applying to the land.*
 - *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.*
 - *How the use and development makes use of existing infrastructure and services.*

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *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 agricultural 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 will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*

4 Ballarat Planning Scheme – Existing Provisions

-
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
 - *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.*

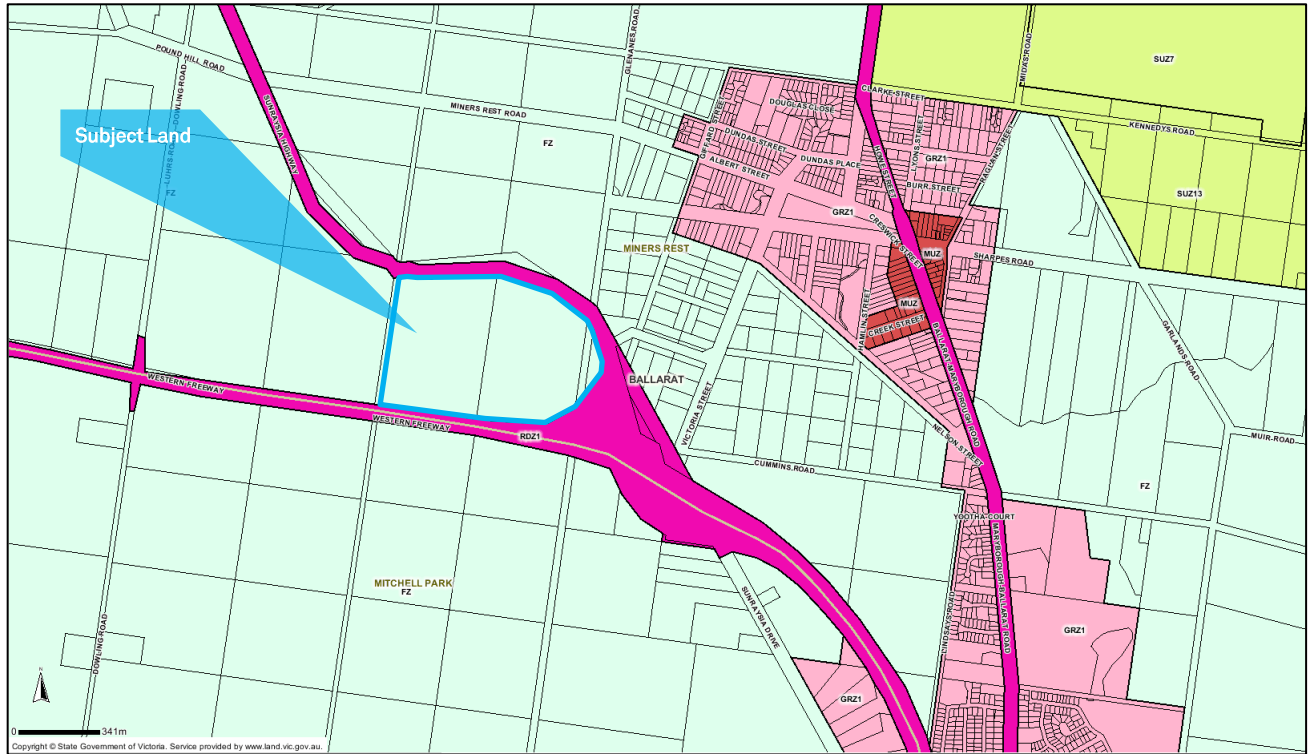
Design and siting issues

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

42 The subject land is not affected by overlays.

4 Ballarat Planning Scheme – Existing Provisions

Figure 4.1
ZONING PLAN



4.4 Particular and General Provisions

43 The following particular and general provisions are also relevant to approval for the proposal under the current provisions of the Planning Scheme:

- Clause 52.05 – Advertising Signs
- Clause 52.06 – Car Parking
- Clause 52.07 – Loading and Unloading of Vehicles
- Clause 52.17 – Native Vegetation
- Clause 52.29 – Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 65 – Decision Guidelines

4 Ballarat Planning Scheme – Existing Provisions

4.5 Other Informing Documents

Central Highlands Regional Growth Plan, May 2014

- 44 The Central Highlands Regional Growth Plan provides a regional approach to land use planning in the Central Highlands. The plan covers the municipalities of Ararat, Ballarat, Golden Plains, Hepburn, Moorabool and Pyrenees.
- 45 In the “Executive Summary”, the Plan is indicated to identify:
- *where future development will be supported and assessed at a regional scale*
 - *environmental, economic, community and cultural assets and resources of regional significance that should be preserved, maintained or developed*
 - *how the region can respond to opportunities, challenges and long-term drivers of change*
 - *key regional priorities for future infrastructure planning and investment to support growth*
- 46 The Vision for the Central Highlands states:
- The Central Highlands Regional Strategic Plan identifies that the vision for the Central Highlands region towards 2030 and beyond is to provide a productive, sustainable and liveable region for its people.*
- 47 The future directions for Rural Land Use state:
- *Recognise the Central Highland region’s regionally significant rural and agricultural assets in land use planning, including the areas of highly productive and versatile soils in Moorabool, Ballarat and Hepburn, the Bacchus Marsh Irrigation District and the Pyrenees wine region.*
 - *Provide greater certainty of land use in rural areas to encourage new investment in agricultural activities that enables growth of exports, increased productivity and strengthens farming communities.*
 - *Manage versatile and productive agricultural areas for primary production by providing for a range of flexible rural uses, while protecting such areas from incompatible land uses.*
 - *Support and protect opportunities for intensive agriculture in areas with excellent access to markets, and where potential amenity and water catchment impacts can be appropriately managed.*

4 Ballarat Planning Scheme – Existing Provisions

48 The future directions for Industry and Employment state:

- *Encourage local employment opportunities and provide industrial land to support the population growth and economic opportunities identified in this plan.*
- *Identify opportunities for the expansion of existing industries and the establishment of new industries in the region that leverage off the region's competitive strengths, including its workforce, research and knowledge infrastructure, and access to major markets.*
- *Exploit the regional significance of the Ballarat Employment Zone in providing land for manufacturing, freight and logistics, and commercial uses.*
- *Support the infrastructure investment where it provides for the expansion or establishment of new industry and other employment-generating uses.*

49 Section 12 of the plan relates to the Regional economy. The land use policies, strategies and actions under 12.3 –Rural land use include, inter alia:

- *Identify locations where changes in land use controls would help facilitate economic development opportunities or better protect existing rural land use assets.*

50 Section 14 of the plan includes Map 10 –Ballarat Framework Plan. A copy of this plan is included at Attachment 3 to my report.

5 Amendment C185

-
- 51 The proposal involves a planning scheme amendment for the rezoning of the subject land to the Special Use Zone (Schedule 15) specifically to facilitate the use and development of a livestock saleyard facility. Details of the proposed use and development are contained on pages 2 and 3 of the Central Victoria Livestock Exchange planning Assessment prepared by Spiire dated August 2014. A copy of pages 2 and 3 are included in Attachment 3 to my report.
- 52 The proposed Schedule 15 requires the preparation and approval of a Development Plan consistent with the requirements outlined in the schedule.
- 53 The amendment also seeks to introduce the “Central Victoria Livestock Exchange, Ballarat December 2014” Incorporated Document into the Schedule to Clauses 53.02 and 81.01. This Incorporated Document seeks to exclude the land from certain particular provisions contained in the Ballarat Planning Scheme.
- 54 The amendment is a combined Planning Scheme Amendment and Works Approval Application.
- 55 I make a number of observations concerning the content and suitability of the proposed SUZ schedule in Section 7.5 of my report.



6 Amendment Process

-
- 56 The City of Ballarat is the planning authority for this amendment. The amendment was on public exhibition from 12 February to 20 March 2015.
- 57 The Council Meeting Report dated 22 April 2015 indicates that a total of 95 submissions were received by Council and summarised the “key concerns” as follows:
- *Proximity to houses and Miners Rest;*
 - *Odour and noise;*
 - *Trucks and traffic;*
 - *Operational matters;*
 - *Flooding and water quality concerns;*
 - *Current saleyards;*
 - *Other issues; and*
 - *Referral Authority responses.*
- 58 The submissions include responses from Goulburn-Murray Water, Country Fire Authority, Glenelg Hopkins Catchment Management Authority, VicRoads, Central Highlands Water, Southern Rural Water and The Department of Economic Development, Jobs, Transport and Resources which provide advice relating to specific matters.
- 59 I note that the amendment documents and process has involved a significant public engagement process and the preparation of supporting technical reports to assist in understanding how the requirements of proposed Schedule 15 to the SUZ will be used to produce a “Development Plan” which if approved will control future development and use of the land for a stock saleyard without the necessity for further third party involvement.



7 Planning Considerations

7.1 Planning Context

- 60 The proposed planning scheme amendment provides for the rezoning of land in a manner which facilitates a specific proposal to use and develop land for a livestock saleyard generally in accordance with a Concept Plan forming part of proposed Schedule 15 to the Special Use Zone.
- 61 The Central Victoria Livestock Exchange is in a regional context a substantial investment and an important facility to support the livestock industry in the region and in turn support the regional and local economy and the employment opportunities which flow from a healthy economy.
- 62 It is apparent that a single approval process has been pursued to achieve an efficient, largely all encompassing approval which will deliver certainty for the project to proceed.
- 63 The subject site comprises a large land holding with an area of approximately 45 hectares. The land is bound by the Sunraysia Highway generally to the north and east and the Western Highway to the south. There are private rural properties to the west.
- 64 The Concept Plan which forms part of proposed Schedule 15 to the Special Use Zone depicts the location of buildings, vehicle access and car / truck parking, drainage ponds and wetlands, with the remaining areas identified for grazing.
- 65 Relevant current planning provisions and policies are described in Section 4.0 of my report and are summarised below to provide an assessment context for the proposal.
- 66 The subject land and all of the surrounding land, with the exception of the main roads, is within the Farming Zone (FZ). The subject land is not affected by any overlay controls.
- 67 The Overall Framework Plan forming part of the Council's Municipal Strategic Statement (MSS) identifies the subject land and surrounding land to the north, east and west as part of the 'Rural Areas' and the land to the south of the Western Highway as 'Long Term Industrial Growth'. The established areas of Miners Rest are indicated on the Overall Framework Plan as 'Existing Residential Areas'. There are no urban growth areas identified in Miners Rest. This is consistent with the recently released Central Highlands Regional Growth Plan.
- 68 The Miners Rest Outline Development Plan, March 1994, which is a reference document in the Ballarat Planning Scheme indicates a containment of the Miners Rest urban area.
- 69 Planning policy contained within the State and local policy frameworks outline a range of planning objectives which must to be balanced in favour of providing net community benefit and sustainable development for the benefit of present and future generations.



7 Planning Considerations

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- 70 In this case, these include matters relating to settlement, environmental risk, natural environment, built environment, economic development and provision of infrastructure.
- 71 The physical context of the site is influenced by its topography, current level of improvement, location and limited interface to nearby land. The context includes the following:
- Location within a “rural area” which does not form part of the Miners Rest township or future residential area;
 - The land is bound by major roads to the north, east and south and has convenient access to the arterial road network;
 - The land is accessible to a range of existing services, social and commercial infrastructure within Ballarat;
 - The land generally to the east comprises the Miners Rest quarry which together with land capability constraints impacts on the potential future growth of the Miners Rest township to the west; and
 - The land to the south presently comprises rural land which is identified as proposed for long term industrial land.
- 72 The character of the subject land and the locality comprises features typically associated with a rural setting where there is direct abuttal to major roads.
- 73 The closest dwellings are those located on rural properties which range in distance between approximately 890 metres and 1,160 metres to the west.
- 74 The proposed amendment seeks to rezone the subject land to a Special Use Zone with a schedule specifically designed to provide for the use and development of the land for the Central Victoria Livestock Exchange. A concurrent Works Approval Application is also being considered.
- 75 The assessment of the proposed amendment requires the balancing of policy relating to settlement, environmental risks, natural environment, built environment, economic development and infrastructure.
- 76 The assessment of the Works Approval Application largely relates to technical matters associated with the operation of a ‘scheduled premises’ on the land. These matters are considered in the Works Approval Application prepared by Spiire dated August 2014 and the associated supporting documents.

7 Planning Considerations

77 Having regard to this context I provide a response to the following:

- The State Planning Policy Framework (SPPF), including the Central Highlands Regional Growth Plan, and the Local Planning Policy Framework, including the Municipal Strategic Statement.
- The suitability of the rezoning and development proposal from a town planning perspective.
- The Strategic Assessment Guidelines for planning scheme amendments.

78 I provide a response to each of these matters in the remaining sections of this report.

7.2 Strategic Considerations

79 In my opinion, State and Local Planning Policy Frameworks provide policy support for the rezoning and use and development of the land for the Central Victoria Livestock Saleyards.

80 Within the State and Local policy context, the subject land is located in an area which is currently rural and existing policy maintains the rural designation of this area. There are no significant changes in land use designation proposed which would result in sensitive land uses encroaching into the rural area near the subject land.

81 I observe that the Ballarat Planning Scheme does not provide policy support that specifically encourages the proposed use and development of a livestock saleyard complex on the subject site or elsewhere. Clause 21.04-8 recognises agriculture as an important element of the City's economic and employment base and seeks to provide for agricultural value adding industries within the City.

82 There is otherwise the broad support for economic investment in Ballarat and the Central Highlands Region, particularly in facilities which support the region's agricultural industry and employment and sustained population growth as a strategically important "Regional City".

83 In particular, there are no urban or residential growth areas identified for Miners Rest with new development to be contained within the existing township area. This is confirmed on the Residential Framework Plan forming part of Clause 21.04-2.

84 The plans forming part of Clause 21.08-1 relating to Miners Rest are extracts from the Miners Rest Outline Development Plan, March 1994. These plans do not extend as far as the subject land. This clause and the plans identify a number of constraints to the future development of Miners Rest including the location of the disused quarry, flight paths associated with the Ballarat Airport and flood prone land.

7 Planning Considerations

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- 85 I note that local policy identifies the land to the south of the Western Highway as long term industrial growth. The proposed use and development of the subject land for a saleyard will not impact on the future use and development of land to the south of the Western Highway for industrial purposes.
- 86 The proposal is consistent with the broad principles and directions for regional growth outlined in the Central Highlands Regional Growth Plan including those relating to rural land use and economic development.

7.3 Suitability of the rezoning and development proposal

- 87 The subject site is farming land located approximately 10 kilometres from the centre of Ballarat and enjoys excellent access to major roads which connect the site to the wider region within which sheep and beef farming takes place.
- 88 The land is well separated from sensitive uses and is not shown as required for future urban use and development in either the City of Ballarat MSS or the Central Highlands Regional Growth Plan.
- 89 In terms of the development proposed (as depicted in the Concept Plan), State and local policies require careful consideration of operational and environmental impacts including management of flood events and consideration of potential impact on water quality.
- 90 Based on the information provided to me (which I understand forms part of the material exhibited with Amendment C185), the “Concept Plan” for the proposal, which has been prepared to inform the planning scheme amendment and EPA Works Approval application, has taken account of key landform and land capability influences together with vehicle access and the preliminary views of a number of referral agencies.
- 91 As a result I have confidence in the arrangements proposed for a detailed approval process for the project through the use of the Special Use Zone Schedule 15, subject to minor changes to clarify the mechanism for future development and operating conditions and requirements.
- 92 Ballarat is a Regional City and I consider that the development of a contemporary livestock saleyard facility in reasonable proximity to the city centre is consistent with State policy which encourages investment in business and business infrastructure in or near regional cities.

7 Planning Considerations

7.4 Suitability of Planning Tools

- 93 The proposed amendment seeks to rezone the land from Farming Zone to a Special Use Zone. Proposed SUZ Schedule 15 relates specifically to the Central Victoria Livestock Exchange and includes requirements for the preparation of a Development Plan which will guide future use and development of the land.
- 94 These requirements include the preparation of the following documents:
- Existing Conditions Plan
 - Site Layout Plan
 - Landscaping Master Plan
 - Vegetation Management Plan
 - Car Parking and Traffic Management Plan
 - Flood Investigation
 - Stormwater Management Plan
 - Operations and Environmental Management Plan
 - Consolidated Conditions and Requirements
- 95 The amendment also seeks to introduce the 'Central Victoria Livestock Exchange, Ballarat December 2014' Incorporated Document into the Schedules to Clauses 53.02 and 81.01 of the planning scheme. This document will exclude the land from a range of controls in the planning scheme on the basis that these matters are addressed in the Development Plan.
- 96 As discussed previously, the use and development of land for a 'Saleyard' is a Section 2 – Permit Required Use within the Farming Zone. The proposal could therefore be considered under the current planning scheme controls. The planning scheme amendment has been pursued to provide provisions which specifically relate to the Central Victoria Livestock Exchange. The process also provides for the concurrent consideration of the Works Approval Application.
- 97 The purpose of the Farming Zone is significantly focussed on supporting agriculture and maintaining opportunity for agricultural pursuits.
- 98 Notably the purpose includes ensuring that land use and development is based on sustainable land management practices and more recently the purpose includes the retention of employment and population to support rural communities (Amendment VC37).
- 99 The matter of whether the proposed use and development of a "livestock saleyard" is consistent with the purpose of the Farming Zone has been addressed by VCAT (Margery & Anor v Wodonga CC [2012] VCAT 787).

7 Planning Considerations

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- 100 In the above matter which related to a livestock saleyard in Wodonga VCAT stated at paragraph 30 of its decision:

With respect to the proposal's consistency with the purpose of the Farming zone, we are satisfied that the use is one that is inextricably linked with agricultural purposes and is a use that supports the agricultural industry in this region. We are satisfied that the use will not compromise the capacity of surrounding land to continue to be used for agricultural purposes. The use is therefore suitable in a Farming Zone.

- 101 I note that the Tribunal had also concluded that the review site was not high quality agricultural land.
- 102 Accordingly, the subject proposal can be regarded in principle as one which is consistent with the purpose of the Farming Zone. I accept that the subject site may have value for agricultural pursuits and whilst it is a relatively small land holding, bound by two main roads, its use for "agricultural infrastructure" rather than primary production needs to be taken into account.
- 103 Notwithstanding the in-principle suitability of the use, the Farming Zone has a comprehensive range of matters which are required to be taken into account prior to a decision as to whether to grant a planning permit or not.
- 104 I note that the only basis for approval proposed by Amendment C185 is the assessment requirements and future operational control provided by Schedule 15 to the SUZ, together with the EPA Works Approval.
- 105 Accordingly it is important that the SUZ15 provisions provide a sufficiently comprehensive assessment to ensure those matters usually considered pursuant to the Farming Zone are included for this proposal. I am satisfied that these matters will be adequately addressed in the Development Plan.
- 106 I am familiar with the practices of applying the Special Use Zone to a single landholding with a schedule tailored to achieve a specific outcome for a large rural / regional based business or industrial use.
- 107 In my experience various reasons have been advanced to justify the Special Use Zone approach. These are usually linked to ensuring investment certainty through the certainty of town planning approval and longevity of development approval and specific land use rights which also provide some flexibility in design and operation without risk of approval delay or denial of approval because of a change in circumstance and the need for a further protracted public process.
- 108 The greatest threats to large projects in regional locations relate to investment certainty and apprehension of the operation once constructed being compromised by encroachment of sensitive land uses which have the medium term effect of making existing and future use uncertain.

7 Planning Considerations

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- 109 In my opinion one of the benefits of the SUZ is to denote a very transparent, site specific, planning policy message concerning future land use and in effect have a single mechanism for control of the future development and operation.
- 110 The Victoria Planning Provisions (VPP) Practice Note – “Applying the Special Use Zone” offers guidance on when the SUZ should be applied. The first of the nominated circumstances suggests use of the SUZ can be considered when:
- “an appropriate combination of other available zones, overlays and local policies cannot give effect to the desired objectives or requirements”.*
- 111 The Practice Note also suggests the SUZ is not necessary to require or give effect to master plans and that overlays can be used for this purpose.
- 112 I have been advised that the objective of the combined planning scheme amendment and EPA Works Approval is to achieve a single coordinated comprehensive approval in a timely manner.
- 113 I observe that whilst options exist to seek a planning permit pursuant to the Farming Zone and / or amend the Planning Scheme to impose a design / development overlay on the land while maintaining the current zone, neither will necessarily deliver the desired objective for planning approval certainty together with works approval certainty.
- 114 It is my view that the Special Use Zone (SU15) and the Incorporated Document are appropriate mechanisms for facilitating the use and development of the land for a saleyard.
- 115 I note the Incorporated Document – “Central Victoria Livestock Exchange, Ballarat December 2014” provides exemptions in relation to specific nominated provisions of the planning scheme which might ordinarily trigger the need for a planning permit. The provisions which are sought to be exempt have, in my opinion, been incorporated adequately in the requirements for the Development Plan as outlined in SUZ Schedule 15.
- 116 I consider that the proposed provisions of the schedule, subject to my suggested changes outlined in Section 7.5 of my report, will facilitate the use and development of the land for the saleyard in a form that is reasonable in this setting, and as a result are suitable and appropriate.

7 Planning Considerations

7.5 Some observations concerning the Explanatory Report and the content of Schedule 15 to the SUZ

117 I have reviewed the Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments (Planning Practice Note 46, July 2014).

118 Taking these guidelines into account I have also reviewed the Explanatory Report and Schedule 15 to the SUZ exhibited as part of Amendment C185.

119 I make the following observations:

Explanatory Report

1. The reason for the amendment is not articulated clearly under the heading “Why is the amendment required?”.

I recommend the following substitute text:

“An amendment is required to provide a single approval process and comprehensive approval framework for a regionally significant livestock saleyard facility in Ballarat.

Certainty is required to enable funding and delivery of the proposal in a timely manner.

The application of the Special Use Zone and specific schedule provides appropriate planning policy recognition of the site and facility and a comprehensive framework for detailed approvals and ongoing site operations.”

2. On page 4 of the Explanatory Report reference is made to “a planning permit being granted”. This reference should be deleted as no planning permit is contemplated for the project, which will be approved via a “Development Plan” only.
3. Text under the heading “Clause 11 –Settlement” (in the second paragraph) is not clear in relation to environmental impacts. This text should be clarified or deleted.
4. Text referencing Clause 19 –Infrastructure and particularly Clause 19.03-5 which refers to waste management matters appears incorrect.

The reference and text should be deleted from the Explanatory Report.

Special Use Zone –Schedule 15

120 I recommend the following changes to the exhibited version of Schedule 15:

1. The Special Use Zone includes a provision relating to Buildings and Works at Clause 37.01-4 which states:

7 Planning Considerations

A permit is required to construct a building or construct or carry out works unless the schedule to this zone specifies otherwise.

(my emphasis)

Any requirement in the schedule to this zone must be met.

Section 4.0 of proposed Schedule 15 states:

A permit is required to construct or carry out buildings or works associated with a use outlined in Section 2 of Clause 1.0 of this Schedule.

The text under Section 4.0 should also include the following to confirm that no permit is required for buildings and works for a Section 1 use:

A permit is not required to construct or carry out buildings or works associated with a use in Section 1 of Clause 1.0 of this Schedule.

2. The heading “Consolidated conditions and requirements” should be modified to “Development and operating conditions and requirements” and include the following text:

“A development and operating conditions schedule must be prepared and approved by and to the satisfaction of the Responsible Authority.

The use and development of the saleyard must be in accordance with the conditions in the development and operating conditions schedule.

The conditions included in the schedule must be worded to achieve the following:

- *require all development to be constructed in accordance with the approved site layout plan, landscaping masterplan and car parking and traffic management plan.*
- *require all development to be constructed in accordance with the findings of a flood investigation, drainage report, stormwater management plan, operations and environmental management plan.*
- *inclusion of conditions required by the Glenelg Hopkins Management Authority, City of Ballarat, VicRoads, Goulburn Murray Water, Country Fire Authority, Central Highlands Water and Southern Rural Water as required through referral of relevant components of this Development Plan.”*

7 Planning Considerations

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- 121 I note that a report titled “Initial response to the Development Plan requirements of the exhibited version SUZ15”, Spiire, January 2015 has been prepared and which in draft form addresses the SUZ15 requirements including the need for “consolidated conditions and requirements”.
 - 122 I support the need for the approved Development Plan to contain what will in effect be a substitute for planning permit conditions in relation to the approved ongoing use and development of the land.
 - 123 It is desirable to ensure the conditions and requirements are legible, enforceable and are derived from the specific components required to inform the Development Plan including the responses of any referral agencies.

7.6 Matters raised in submissions

- 124 I note and accept that a number of matters raised by submitters relate to an apprehension in broad terms that the proposal will have an unreasonable impact on residential amenity and impact on the environment.
- 125 I rely on the expert assessment of others in relation to potential impact on traffic and the operation of local roads and from odour, noise, lighting and on the natural environment.
- 126 I have not been provided with detailed drawings of the proposed development however I accept that the proposal will result in a significant change to the appearance of the subject land when viewed from adjacent land and public roads.
- 127 Views to the development from the east and north east (Miners Rest) will be partially obscured by the hilltops on the subject site.
- 128 Distant views from parts of Miners Rest will be altered by the presence of new structures associated with the saleyard facility. Perimeter landscaping (existing and proposed) is anticipated to provide some screening of these buildings.
- 129 In my opinion the changes to the appearance of the land are acceptable given its locational context and distance of separation from residential areas.
- 130 In my experience rural areas including those on the periphery of local and regional towns often host infrastructure associated with farming and agricultural activity including livestock saleyards. To the extent that Ballarat is part of a region exhibiting a high level of agricultural activity, such a facility is not unexpected.

7 Planning Considerations

7.7 Strategic Assessment Guidelines

131 I have reviewed the Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments and provide a summary of the manner in which I consider that the proposed planning scheme amendment responds to the guidelines by reference to each.

1. Why is an amendment required?

132 The amendment is required to provide an efficient consolidated process for approval of a project which involves a regionally significant livestock sales facility.

133 The proposal is supported by State and local policies on a general level and whilst not specifically supported by either State or local policy, is not at odds with the strategic framework for Ballarat and the Central Highlands region.

134 There are alternative statutory approval processes which could apply to the proposal however in my opinion these do not offer the efficiency, comprehensive considerations or project certainty offered by the proposed combined planning scheme amendment and EPA works approval.

135 The amendment also provides medium to long term policy confirmation concerning the appropriate use and development of the subject land.

2. Does the amendment implement the objectives of planning and address any environmental, social and economic effects?

136 The amendment reasonably implements the objectives of planning in Victoria and adequately addresses and makes provision for environmental, social and economic effects.

137 Having regard to the strategic planning framework for Ballarat and the current zoning of the subject land, together with the physical separation of the subject land from the nearest residential areas, the proposal is not at odds with specific social or economic outcomes contemplated by the planning scheme.

138 Based on the technical assessments which have been prepared to support the proposal I consider it unlikely that unreasonable environmental, social and economic changes would result from the proposal such that would not be reasonably offset and justified by the significant support provided to the livestock industry in the region and the businesses that rely on that industry in Ballarat and the wider region.

139 In my opinion the proposal can reasonably be expected to result in a net community benefit.

3. Does the amendment address relevant bushfire risk?

140 I note that the views of the relevant fire authority have been sought in relation to the amendment and no objection has been raised.

7 Planning Considerations

4. Does the amendment comply with all the relevant Minister's Directions?

- 141 The relevant Minister's Directions are the Ministerial Direction on the Form and Content of Planning Schemes and Direction No. 11 – Strategic Assessment of Amendments.
- 142 The amendment responds appropriately to the relevant content of these directions.

5. Does the amendment support or implement the State Planning Policy Framework (SPPF)?

- 143 I have referred to the relevant State Planning Policy Framework in Section 4.1 of my report and which is supported by the proposed amendment.

6. How does the amendment support or implement the Local Planning Policy Framework (LPPF) and, specifically, the Municipal Strategic Statement (MSS)?

- 144 I have referred to the relevant Local Planning Policy Framework including the Municipal Strategic Statement in Section 4.2 of my report. I note that there are no relevant local planning policies in Clause 22 of the Ballarat Planning Scheme. The proposed amendment supports relevant local policy.

7. Does the amendment make proper use of the Victoria Planning Provisions?

- 145 I have addressed this matter in Section 7.4 of my report.

8. How does the amendment address the views of relevant agencies?

- 146 The views of the relevant agencies have been sought and a summary is provided in the Council Meeting report dated 22 April 2015.

9. Does the amendment address the requirements of the Transport Integration Act 2010?

- 147 I have not been able to identify any relevant "Statement of Policy Principles" and note that a traffic assessment has been undertaken for the proposal.

10. What impact will the new planning provisions have on the administrative costs of the responsible authority?

- 148 I have not been provided with information to enable a response to this matter.

8 Conclusion

149 For the reasons expressed in this report, and subject to the text changes suggested, I consider proposed Amendment C185 to the Ballarat Planning Scheme to be reasonable and appropriate.

Andrew Rodda
B. App. Sci. (Planning)



Attachment 1

Summary of Qualifications and Experience

A1

Attachment 1 - Summary of Qualifications and Experience

Name and Address	Andrew John Rodda is a Director of Contour Consultants Australia Pty Ltd, Town Planners and Practices from Level 1, 283 Drummond Street, Carlton, in Victoria.
Qualifications and Expertise	<p>Bachelor of Applied Science (Planning) Experience Summary -</p> <ul style="list-style-type: none"> • Town Planner in local government – 1980-1990 • Town Planning Consultant – 1990 to present Board Member, Central Coastal Board – 2012 to present
Area of Expertise	<ul style="list-style-type: none"> • Town Planner with a wide range of experience gained in local government including statutory and strategic land use planning in metropolitan areas of Melbourne. • Town Planner as a consultant involved in statutory planning and strategic land use planning. • Has worked on a wide range of projects in urban and regional locations. • Particular relevance of expertise – extensive range of experience with a variety of projects, including advice for and assessment of industry specific planning controls.
Instruction which Defined the Scope of this Report	I received written instructions from Maddocks Lawyers on behalf of the City of Ballarat.
Facts, Matters and Assumptions Relied Upon	<ul style="list-style-type: none"> • Material provided in briefing documents received from Maddocks Lawyers including technical reports supporting the planning scheme amendment and Works Approval Application and relevant Council documentation.
Documents Taken Into Account	<ul style="list-style-type: none"> • Ballarat Planning Scheme. • Documents forming Amendment C185 to the Ballarat Planning Scheme, including the supporting reports and documentation prepared by various members of the proponent's consultant team. • Central Highlands Regional Growth Plan, May 2014. • Works Approval Application – Service Order 1001580 which was exhibited with Amendment C185. • Ballarat Council Meeting Report regarding Amendment C185 dated 22 April 2015 including a summary of the key matters raised in submissions to the amendment. • Potential Relocation of the Ballarat Livestock Selling Centre – Strategic Planning Analysis Report (Draft), 15 August 2007 prepared by Coomes Consulting Group. • Aerial photography of the subject site and surrounds.
Identity of Persons Undertaking the Work	I prepared this report with assistance from Nerelie Pugh, Associate at Contour Consultants.
Summary of Opinion	Refer to my report.

Attachment 1 - Summary of Qualifications and Experience

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

ANDREW RODDA
Director

Attachment 2

Aerial Photograph

A2

Attachment 3

Map 10 – Ballarat Framework Plan

A3

Attachment 4

Spiire Planning Assessment
pages 2 and 3

A4

