

Planning Delegated Committee Meeting

Agenda

10 March 2021 at 6:30pm

**Council Chamber, Town Hall, Sturt Street,
Ballarat**





The City of Ballarat acknowledges the Traditional Custodians of the land we live and work on, the Wadawurrung and Dja Dja Wurrung People, and recognises their continuing connection to the land and waterways. We pay our respects to their Elders past, present and emerging and extend this to all Aboriginal and Torres Strait Islander People.

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1. OPENING DECLARATION

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

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

2. APOLOGIES FOR ABSENCE

3. DECLARATION OF CONFLICT OF INTERESTS

4. CONFIRMATION OF MINUTES

5. OFFICER BRIEFING

6. PLANNING DELEGATED COMMITTEE REPORTS

6.1. C220BALL – DOWLING FOREST

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Virginia Mcleod – Senior Strategic Planner

PURPOSE

1. To provide background and discussion on planning scheme amendment C220ball. C220ball proposes changes to the planning controls for the Dowling Forest Equine Precinct in Miners Rest.
2. To consider the submissions received for amendment C220ball.
3. To recommend that Council refer unresolved submissions to a Panel appointed under part 8 of the *Planning and Environment Act 1987* by the Minister for Planning.

BACKGROUND

4. Issues with the planning controls around the Dowling Forest Racecourse have been apparent since the post-1998 introduction of the new format planning schemes in Victoria. At this time, land around the Racecourse was translated into the new planning schemes as Farming Zone with allowances for smaller lots and additional dwellings provided this was for the purpose of horse stables.
5. Due to lack of compliance or knowledge of the planning controls there were several instances of subdivision and construction of dwellings for rural residential outcomes unrelated to the racing industry.
6. In 2012, the Minister for Planning approved planning scheme amendment C149 to the Ballarat Planning Scheme. This amendment introduced changes including rezoning land around and adjacent to the Dowling Forest Racecourse to Special Use Zone – Schedule Area 13 (SUZ13) and Farming Zone – Schedule Area and B (FZA and FZB).
7. The primary intent of these changes was to ensure availability and suitability of private land for purchase and development for racehorse training. The planning controls intended to stop additional subdivision unless related to the racehorse training and was managed through legal agreements on land titles.
8. However, since 2012 the demand for freehold land by the training industry has been low. Development of training facilities has been funded and supported by the Ballarat Turf Club however this has primarily occurred on Crown land managed by the Ballarat Turf Club.
9. In conjunction with a lack of demand, landowners have been significantly restricted by the SUZ13 when seeking to sell or find alternative use or development outcomes for their land.
10. Council resolved to review and amend the planning controls in 2016 after receiving a petition from several members of the community.

11. The Dowling Forest Equine Precinct (the precinct) is shown on Figure 1.
12. The precinct is composed of the Dowling Forest Racecourse, land surrounding the Racecourse Zoned SUZ13, and surrounding land zoned FZA and FZB.

01.

DOWLING FOREST EQUINE PRECINCT

EQUINE PRECINCT BOUNDARY

LEGEND

— Dowling Forest Equine Precinct



ZONING PROVISIONS
MINERS REST - VICTORIA

SCALE: 1:10,000
DATE: 01/10/2019
PROJECT: P19/001
JOB: 01



spiire

Figure 1 – Dowling Forest Equine Precinct

13. The initial review of the planning controls (the review) was undertaken by Spiire Consulting for the City of Ballarat (see Attachment 3 – Key Dates). The planning scheme amendment process has been undertaken by the City of Ballarat (CoB) and commenced with City of Ballarat seeking authorisation from the Minister for Planning for the preparation of amendment C220ball in November 2019.
14. Amendment C220ball was placed on public exhibition in accordance with the *Planning and Environment Act 1987* over a six-week period, concluding on 21 December 2020.

KEY MATTERS

15. Amendment C220ball seeks the following changes to the Ballarat Planning Scheme:
 - a. Rezone 26 properties from SUZ13 to SUZ19
 - b. Rezone 6 properties from Farming Zone to SUZ13
 - c. Rezone 1 property from FZA to SUZ13
 - d. Rezone properties zoned FZA and FZB to SUZ17 and 18
 - e. Changes to the local planning policy at Clause 21.07.

16. Exhibition of amendment C220ball resulted in 6 submissions. 4 submissions requested changes or opposed the amendment. 2 submission raised no issues with the amendment.
17. Matters raised in these 4 submissions remain unresolved and are fundamental to the amendment including the proposed use of the Special Use Zone, continual recognition of thoroughbred horse training, the extent of land included in the amendment, and animal welfare concerns with horse racing.
18. As the amendment has been exhibited in accordance with the *Planning and Environment Act 1987* and there are unresolved submissions, Council can decide to abandon the amendment, change the amendment as requested in the submissions, or refer the submissions to an independent panel for consideration.
19. It is recommended that Council resolve to request the Minister for Planning appoint a panel and refer unresolved submissions to this Panel.
20. As part of the Panel process all submitters will be notified and given the opportunity to appear before the Panel.

OFFICER RECOMMENDATION

- 21. That Council, having considered all submissions to planning scheme amendment C220ball to the Ballarat Planning Scheme, resolve to:**
 - 21.1 Request the Minister for Planning appoint an Independent Panel under part 8 of the *Planning and Environment Act 1987*;**
 - 21.2 Refer all unresolved submissions to the Panel (including late submissions not considered in this report):**
 - 21.3 Submit to the Panel a detailed response to the submissions consistent with the position outlined in this report and Attachments.**

ATTACHMENTS

1. Governance Review [6.1.1 - 2 pages]
2. Planning Evaluation [6.1.2 - 7 pages]
3. Key dates [6.1.3 - 2 pages]
4. Proposed planning controls [6.1.4 - 15 pages]
5. Response to Submissions [6.1.5 - 3 pages]

ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES

1. Planning scheme amendment C220ball supports the following goals of the City Ballarat Council Plan 2017-2021:
 - *Prosperity* – the amendment removes the current restrictive Special Use Zone – Schedule 13 that has prevented landowners from using, developing and in some instances selling land. The proposed planning controls support the prosperity and growth of the area.
 - *Sustainability* - the amendment supports the growth and development of the area in a structured way, reflective of community needs and aspirations.
2. The review of the planning controls and resulting amendment completes the 2016 Council resolution.

COMMUNITY IMPACT

3. The amendment will have a positive social impact through the removal of the current restrictive Special Use Zone – Schedule 13 that has prevented landowners from selling, using and developing their land for any purpose beyond thoroughbred horse racing training.

CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

4. The amendment has no impact on either consideration.

ECONOMIC SUSTAINABILITY IMPLICATIONS

5. By removing the restrictive Special Use Zone - Schedule 13 from properties within the area, landowners will be able to use and develop their properties for a range of purposes consistent with the creation of a more general equine area. This will increase the economic sustainability of the area.

HUMAN RIGHTS CONSIDERATIONS

6. There are no implications on human rights resulting from the amendment. One submission received stated that the amendment represents a breach of human rights. For further discussion on this submission see Attachment 5 – Response to submissions.

COMMUNITY CONSULTATION AND ENGAGEMENT

7. Three stages of consultation were undertaken to inform the review commencing in 2019. This included stakeholder and community sessions, and release of an issues and options paper (see Attachment 4 – Key dates).
8. Amendment C220ball was formally exhibited between 16 November 2020 and 21 December 2020. 5 submissions were received (see Attachment 5 – Consideration of submissions for further discussion). 4 submissions are unresolved.

CONFLICTS OF INTEREST THAT HAVE ARISEN IN THE PREPARATION OF THIS REPORT

9. No Council Officers who has provided advice in relation to this report have a conflict of interest regarding this matter.

ATTACHMENT 2**PLANNING EVALUATION****Authorisation processes and modifications to amendment C220ball**

Amendment C220ball was informed by work undertaken by Spiire Consulting for the City of Ballarat in 2019 (the review). The review included community and stakeholder consultation and the preparation and informal exhibition of an issues and options paper. Following the review and presentation of the report to Council on 16 October 2019, the City of Ballarat applied for and received conditional authorisation for amendment C220ball from the Department of Environment, Land, Water and Planning (DELWP) in December 2019.

The authorisation included conditions that City of Ballarat reconsider the use of the Farming Zone to replace the Special Use Zone 13 (SUZ13). DELWP noted that the residential outcomes the City of Ballarat was seeking were unclear given the local planning policy and minimum 2 hectare lot size in the area currently zoned Special Use Zone – Schedule 13.

DELWP suggested, but did not require the City of Ballarat to reconsider retaining Schedule 13 (SUZ13) but modifying the most restrictive elements. The City of Ballarat considered the authorisation conditions and outcomes of the Review and proposed that new Special Use Zone schedules be drafted for the majority of the SUZ13 area and the existing Farming Zone -Schedule Areas A and B (FZA and FZB).

The Planning Special Committee resolved to modify the amendment to reflect these changes on 29 July 2020. Table 1 compares the planning controls recommended at the completion of the review with those adopted by Council on 29 July 2020.

Table 1 - Modifications made to amendment C220ball in July 2020.

Recommendations at the completion of the review process	Modified by Council resolution July 2020
SUZ13 retained on key properties in accordance with criteria for use, location and access to the Racecourse.	SUZ13 retained on key properties in accordance with criteria for use, location and access to the Racecourse
Remaining SUZ13 properties rezoned to Farming Zone – Schedule Area C (with provision for 2 hectare minimum lot size and associated local planning policy to guide decision making)	Remaining SUZ13 properties rezoned to SUZ19 with provision for 2 hectare minimum lot size to facilitate the use of land for horse breeding, boarding or training.
Minor modifications to FZA and FZB	FZA and FZB to be replaced with SUZ17 and 18 (identical to SUZ19 except for minimum subdivision sizes of 10 hectares and 4 hectares)
Changes to the Local Planning Policy to emphasise the equine precinct and remove focus from thoroughbred training.	Further changes to the Local Planning Policy to provide guidance on expected outcomes for the 'core' area of the Precinct (zoned SUZ7 and SUZ13) and the wider remaining area. Clear guidance for decision making for subdivision and dwellings.

Features of amendment C220ball**1. Creation of two distinct areas with the precinct**

Amendment C220ball splits all the land within the precinct into two distinct areas with separate zones; the core of the precinct and the wider precinct area.

- The core of the precinct – zoned Special Use Zone 7 (SUZ7) and existing/ proposed SUZ13

The proposed local planning policy creates a core precinct for the purpose of the Dowling Forest Racecourse and associated thoroughbred horse training. The core area is proposed to be composed of land in two zones - the area currently zoned SUZ7 and land to retained or added to SUZ13.

Figure 1 – Extent of land currently zoned Special Use Zone 7



SUZ7 is not proposed to be modified by amendment C220ball. Land zoned SUZ7 is Crown land managed by the Ballarat Turf Club.

C220ball proposes to rezone most properties (all but 5) from SUZ13 to an alternative SUZ19 (see discussion below). However the review also determined that the SUZ13 should be retained in the Ballarat Planning Scheme and only applied to properties based on criteria including proximity and access to the Racecourse and existing use of the land. This is to ensure that land currently used in connection with the Ballarat Turf Club for keeping or thoroughbred horse training is maintained for that purpose.

Amendment C220ball proposes to rezone 7 properties to SUZ13 together with 5 properties that are proposed to be maintained as SUZ13.

The 7 properties proposed to be added to SUZ13 are shown in red in Figure 2. These properties are a mix of private land, currently used for horse keeping or training in association with the Ballarat Turf Club, and Crown land parcels that the Ballarat Turf Club is seeking a lease agreement for.

Figure 2 – Properties proposed to be rezoned to SUZ13 shown in red



- The wider precinct – proposed to be zoned Special Use Zone 17, 18 and 19

The proposed local planning policy supports the growth and development of the remaining land as the wider equine precinct. The purpose of this area is to allow a range of land uses, not limited to thoroughbred horse training, with a focus on supporting equine or equine industry uses.

All land in the wider precinct is proposed to be rezoned through C220ball in the following manner:

Current Zoning	Amendment C220ball proposed zoning
SUZ13 (with the exception of 5 properties that are proposed to be maintained as SUZ13)	SUZ19
Farming Zone – Schedule Area A	SUZ17
Farming Zone – Schedule Area B	SUZ18

Special Use Zone 17, 18 and 19 are discussed in more detail below.

2. Special Use Zone 19

Amendment C220ball proposes to rezone most land from SUZ13 to SUZ19 (see Attachment 4 – Proposed planning controls).

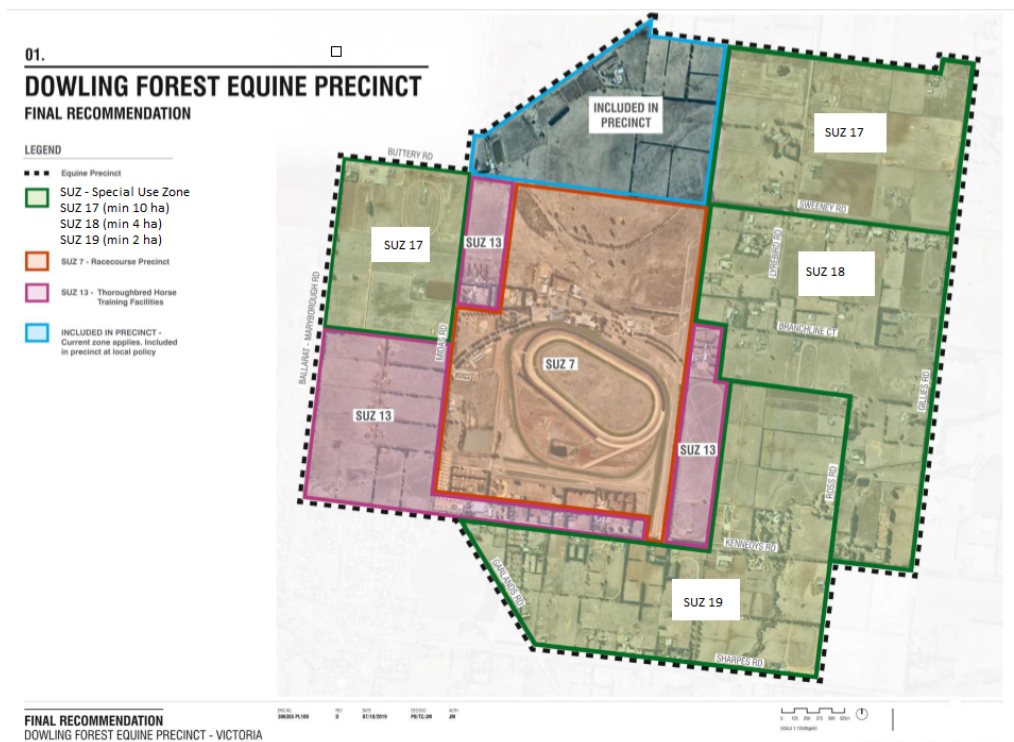
SUZ19 has been drafted to allow landowners to use and develop land for a range of purposes, consistent with the intent of supporting the growth and development of the equine precinct as stated in the purposes of the SUZ19 and the local planning policy at Clause 21.07.

SUZ19 would allow landowners to build a dwelling, provided it is the only dwelling on the lot. The City of Ballarat is aware of 3 properties in this area that do not currently have a dwelling, and unless used for thoroughbred horse training would currently be unable to construct one.

The current SUZ13 minimum lot size of 2 hectares has been retained in the proposed SUZ19, however with a change to the conditions pertaining to subdivision. The proposed SUZ19 allows subdivision where it is required to facilitate the use of the land for horse training, horse boarding or horse breeding. The City of Ballarat is required to consider whether an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* is required on the title of the land to ensure that subdivided land is used for this purpose.

The intent of these controls is to minimise the risk of land being subdivided to the minimum lot size and used primarily for rural residential purposes with no equine association.

Figure 3 – Proposed planning controls amendment C220ball



3. Special Use Zone 17 and 18

Amendment C220ball proposes to remove the current FZA and FZB and rezone these areas to SUZ17 and 18 respectively.

SUZ 17, 18 and 19 are identical except for the minimum subdivision sizes. The intent of this proposed change is to ensure equity for landowners throughout the wider precinct area. As the current SUZ13 area is predominantly not required for thoroughbred training, it is logical that land within the wider precinct area is subject to the same planning controls.

As per SUZ19, the current minimum subdivision sizes of the FZA and FZB have been preserved within the SUZ17 and 18. Subdivision is subject to the same conditions as outlined for SUZ19; where the subdivision is required to facilitate the use of the land for horse breeding, training or boarding, and potentially subject to a Section 173 Agreement to ensure the land is continuously used for this purpose.

Justification for the continued proposed use of SUZ

The City of Ballarat received submissions in both June 2020 and in exhibition of amendment C220ball raising concerns with the proposed SUZ17, 18 and 19 and requesting that land be rezoned to Farming Zone, as was proposed at the conclusion of the review process (see Attachment 5 – response to Submissions).

City of Ballarat maintains that the SUZ17, 18 and 19 is the zone that provides the best outcome for amendment C220ball for the following reasons:

- The authorisation issued for amendment C220ball was conditional upon the reconsideration of proposed Farming Zone (and other matters), implying that DELWP (as the delegate for the Minister for Planning) would support the amendment utilising the Farming Zone with smaller lot sizes. The concern with utilising the Farming Zone was the potential to inadvertently create rural residential outcomes in absence of any strategic support for this outcome. Considering this, City of Ballarat has formed the view that it would be more appropriate to retain the SUZ but modify the requirements to address the concerns raised in the review rather than propose to rezone to Farming Zone. Pursuing the Farming Zone would have required the City of Ballarat to abandon the amendment and retain the current zoning while undertaking a strategic assessment of the merits of increasing residential development and attempting to seek authorisation for a new amendment from the Minister for Planning.
- The uses of land permitted with and without a permit in SUZ 17, 18 and 19 are very similar to the Farming Zone with a specific focus on supporting the growth of the equine precinct. The SUZ17, 18 and 19 allows the fair use of land without of permit for a range of uses, primarily agricultural in nature but consistent with the intent of the equine precinct. This includes the use of land for a dwelling (subject to the condition that it is the only dwelling on the lot).
- Current minimum subdivision sizes are preserved through the SUZ17, 18 and 19. The minimum lot size is permitted where the land is to be used for specific purposes (horse breeding, boarding and training) and subject to a legally binding agreement on the title of the land.
- The Special Use Zone allows purposes of the zone to be tailored to the specific outcome sought; in this instance to support the development of the wider equine precinct.

The City of Ballarat is required to utilise the Victoria Planning Provisions and adhere to Ministerial Directions in the preparation of planning scheme amendments. In this instance this has meant that the City of Ballarat has been unable to make some changes to the SUZ17, 18 and 19 requested by submitters throughout the process including renaming the zone to remove the stigma associated with the current SUZ13, and use specific language, for example the term equine is not defined in the Victoria Planning Provisions.

4. Changes to the Local Planning Policy

The local planning policy at Clause 21.07 has been rewritten to distinguish between the core of the precinct (containing the Dowling Forest Racecourse and some private land zoned SUZ13 and SUZ7) and the wider area of the precinct.

The intent of this change is to provide clear guidance for decision-making in these two different areas of the precinct:

- The core of the Precinct is subject to more restrictions to ensure land continues to be used for the Racecourse or horse training in conjunction with the Ballarat Turf Club.
- The wider precinct encourages a range of equine uses including associated uses e.g. vet. Thoroughbred horse training is still supported and mentioned, but the policy is not limited to this use. The construction of additional dwellings for rural living are not supported in this area.

City of Ballarat has proposed to add three properties, shown in blue on Figure 1, into the precinct through the local planning policy only (i.e. with no associated rezoning of land from the current Farming Zone). These properties directly interface with the Dowling Forest Racecourse and currently have some use of horse training associated with the Racecourse. Inclusion at the local planning policy level highlights the importance of the location of these properties for any future land use or development outcomes.

Assessment and recommendations

Five submissions were received to amendment C220ball, with 4 submissions unable to be resolved.

One submission was received on behalf of 18 objectors. This submission is highlighted to Council as it raises several complex issues with the proposed planning controls and represents the views of a significant portion of impacted landowners (see Attachment 5 – Response to submissions).

This submission maintains a preference for land in the precinct to be rezoned to Farming Zone, among other outcomes.

The City of Ballarat cannot resolve this issue through amendment C220ball due to the conditional authorisation received from DELWP as discussed above.

The City of Ballarat considers that amendment C220ball is a suitable planning outcome as it reflects the desired outcomes identified from the review process. Net community benefit can be demonstrated through removal of the current restrictive planning controls in the SUZ13 area and allowing landowners to fairly use and develop land.

It is recommended that Council refer the unresolved submissions to an independent panel appointed by the Minister for Planning under the *Planning and Environment Act 1987*. This would give all submitters the opportunity to make a submission to Panel on the matters of concern for them. Panel would provide Council with recommendations on both the amendment and the submissions received. This would assist Council in deciding how to proceed with the amendment.

Alternatively, Council could seek to abandon the amendment. This would mean that the restrictive zone, SUZ13, remains in place until an alternative planning scheme amendment is undertaken. If the City of Ballarat undertakes any future process to change the planning controls, it is recommended that the area be completely reassessed rather than reviewing the operation of the current planning controls.

ATTACHMENT 3

KEY DATES

Project Stage	Date/s	Action
<i>Review of the planning controls undertaken by Spiire Consulting on behalf of the City of Ballarat</i>	March 2019	Scoping meetings with key stakeholders and community
	May 2019	Discussion of key options and solutions
	June 2019	Release of issues and options paper and invitation for submissions
	30 August 2019	Final stakeholder meeting to discuss submissions
	16 October 2019	Planning Special Committee noted the results of the review of the planning controls and resolved to seek authorisation from the Minister for Planning for planning scheme amendment C220ball.
<i>Planning scheme amendment C220ball undertaken by the City of Ballarat</i>	December 2019	City of Ballarat receives conditional authorisation for amendment C220ball from Department of Environment, Land, Water and Planning. Conditions of authorisation required changes to the proposed planning controls (see Attachment 2 – Planning Evaluation for further information and discussion).
	19 June – 8 July 2020	City of Ballarat undertakes consultation with key stakeholders and invites submissions on modified planning controls (due to public health orders related to Covid-19, larger community meetings were unable to be held). 5 written submissions received.

	29 July 2020	<p>Planning Special Committee was asked to consider modifying the proposed planning controls for C220ball to meet the requirements of DELWP letter of authorisation and make minor changes in response to the consultation undertaken in June 2020.</p> <p>Planning Special Committee resolved to proceed with the modified planning controls and place the amendment on exhibition.</p>
	12 November – 21 December 2020	<p>Formal exhibition of amendment C220ball in accordance with the <i>Planning and Environment Act 1987</i>.</p> <p>6 submissions received.</p>

AMENDMENT C220BALL**System Note: The following ordinance will be modified in Clause:21 MUNICIPAL STRATEGIC STATEMENT, Sub-Clause:21.07 ECONOMIC DEVELOPMENT****21.07-6**

C220ball

Racing Industry

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

The Dowling Forest Racecourse is surrounded and supported by the Dowling Forest Equine Precinct:

- The core area of the Precinct supports strategically important land for thoroughbred racehorse training, and is identified by the Special Use Zone – Schedule Area 13, in addition to the Special Use Zone – Schedule Area 7 for the Dowling Forest Racecourse. Any ‘accommodation’ associated with horse training must be ancillary to that primary purpose. Council does not encourage any urban or rural residential outcomes on the land that it has identified for thoroughbred horse training facilities.
- The wider Precinct area is zoned Special Use Zone – Schedule areas 17,18 and 19. The wider Precinct supports and allows a range of uses, including equine uses not limited to thoroughbred racehorse training. The purpose of wider Precinct is to encourage equine uses while retaining land suitable to meet any future growth in demand from the thoroughbred horse training industry.

Objective 10

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

Strategies

- 10.1 Encourage the growth and development of the harness and greyhound industries.
- 10.2 Discourage activities that will restrict the use and development of the Redan harness and greyhound facilities.

Objective 11

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

The Dowling Forest Equine Precinct is land shown in red below.

AMENDMENT C220BALL

To retain and protect the core of the Dowling Forest Equine Precinct (zoned Special Use Zone – Schedule 7 and Special Use Zone - Schedule 13) for the operation of the Dowling Forest Racecourse and for thoroughbred horse training.

To ensure that land within the wider Precinct (zoned Special Use Zone 17, 18 and 19) provides a buffer to the Dowling Forest Racecourse, and can be used and developed for equine purposes or related equine industry.

Strategies

- In the core of the Dowling Forest Equine Precinct (zoned Special Use Zone – Schedule 7 and Special Use Zone – Schedule 13):
 - Ensure land is used and developed for horse husbandry, specifically thoroughbred horse training in conjunction with the Dowling Forest Racecourse.
 - Ensure other permitted land uses and associated development do not compromise the land for future use for thoroughbred training.
- In the wider Dowling Forest Equine Precinct (zoned Special Use Zone – Schedule 17, 18 and 19):
 - Encourage use of the land for equine purposes, not limited to thoroughbred horse training.
 - Encourage use of land that supports the equine industry (for example vet, farrier, horse transportation).
 - Ensure use or development of land will not compromise future use of the land for equine purposes.
 - Ensure non-equine use of land does not result in adverse amenity impacts to land within the core of the Dowling Forest Equine Precinct.
 - Allow subdivision of land only where it will be used for the ongoing purpose of horse training, horse breeding or horse boarding. City of Ballarat will require agreements pursuant

AMENDMENT C220BALL

to Section 173 of the Planning and Environment Act 1987 for to ensure lots created through subdivision are used for these purposes.

- Protect land from rural living intensification and associated amenity conflicts by limiting the construction of dwellings to one dwelling per lot, and preventing further subdivision for the purpose of rural living.

System Note: The following ordinance will be modified in Clause:21 MUNICIPAL STRATEGIC STATEMENT, Sub-Clause:21.07 ECONOMIC DEVELOPMENT**21.07-7**
C220ball**Gaming**

Ballarat has a high overall density of gaming machines, and a level of gaming expenditure that exceeds both Victorian and regional municipal averages. Wendouree, Sebastopol and North Ballarat are particularly disadvantaged, and these areas are least capable of addressing the potential harmful effects of gaming.

The location of gaming machines within Ballarat should seek to balance competing social, economic and environmental issues in order to achieve a net community benefit by using the locational criteria set out in the local policy at Clause 22.07.

Objective 11

To locate gaming machines in areas and venues which minimise the potential harms associated with gaming.

Strategies

- 11.1 Locate gaming machines in venues that do not facilitate convenience gaming for the local community including through the prohibition of gaming venues in strip shopping centres and shopping complexes.
- 11.2 Limit the accessibility of gaming machines to vulnerable communities
- 11.3 Encourage gaming machines to be located in venues which deliver a net benefit to the community.

System Note: The following ordinance will be modified in Clause:21 MUNICIPAL STRATEGIC STATEMENT

AMENDMENT C220BALL**21.10**

C220ball

REFERENCE DOCUMENTS**Settlement and Housing**

- Today, Tomorrow, Together: The Ballarat Strategy (2015)

Built Form, Heritage and Design

- Ballarat Heritage Precincts Study Part A, July 2006; Dr David Rowe: Authentic Heritage Services Pty Ltd and Wendy Jacobs: Architect and Heritage Consultant
- Ballarat Heritage Study (Stage 2), July 2003; Hansen Partnership
- Ballarat Urban Character Study, August 1999; John Patrick Pty Ltd and Allom Lovell and Associates Pty Ltd
- City of Ballarat Advertising Sign Guidelines, July 2013
- City of Ballarat Heritage Assessments: Sebastopol 2013 (Updated 2016); Dr David Rowe and Wendy Jacobs
- City of Ballarat Heritage Citation: Former Ballarat Orphanage August 2014
- Gates and Gate Posts, Driveway and Ponds 80 Howe Street Miners Rest Heritage Investigation, May 2015, Wendy Jacobs
- Heritage Citation – Former St James Presbyterian Church (2012)
- Sebastopol Heritage Study Stage 2, Final report, Volume 1: Key Findings & Recommendations, Thematic History; Volume 2: Citations; Volume 3: Mapping, Revised 2015; Context
- St. Patrick's Presbytery, O'Collins Hall and Diocesan Centre, Lyons and Dawson Street, Ballarat, Heritage Assessment, March 2015; Dr David Rowe: Authentic Heritage Services, March 2015

Environmental

- Ballarat City Council Comprehensive Koala Plan of Management Part 1 and Part 2, August 2006; Rolf Shlagloth and Hedley Thomson
- Ballarat Open Space Strategy Volume 1 and 2 2008
- City of Ballarat Native Vegetation Mapping and Review of the Vegetation Protection Overlay (VPO1), August 2005; Centre for Environmental Management, University of Ballarat

Economic Development

- Ballarat Activity Centres Strategy, 2012; Hill PDA and Hansen
- Ballarat Economic Program 2015-2019
- Ballarat Gaming Policy Framework, 2011
- Ballarat Review of Future Industrial Areas, Final Report, June 2009; CPG Australia
- Ballarat Rural Land Use Strategy, November 2010; Parsons Brinckerhoff
- Ballarat West Employment Zone Master Plan Document 2012; AECOM; May 2012
- Ballarat West Growth Area Plan, March 2009, Tract Consultants Pty Ltd
- Making Ballarat Central – The CBD Strategy, 2011

Transport and Infrastructure

- City of Ballarat Car Parking Strategy

Local Area Plans

- Ballarat Health Precinct Study, March 2006; Regional Innovation & Urbanomics

AMENDMENT C220BALL

- Canadian Valley Outline Development Plan, June 2005; RPD Group with Land Design Partnership and Andrew O'Brien & Associates
- Dowling Forest Equine Precinct Planning Controls Review, Final Report, October 2020: City of Ballarat
- Outline Development Plan for the Buninyong Township, December 1993; John Bennett & Associates
- Woodmans Hill Gateway Precinct Master Plan, January 2015; Aurecon

**System Note: The following schedule will be inserted after Sub-Clause:37.01
SPECIAL USE ZONE, Schedule:SCHEDULE 16 TO THE SPECIAL USE ZONE**

AMENDMENT C220BALL

C220ball

SCHEDULE 17 TO CLAUSE 37.01 SPECIAL USE ZONEShown on the planning scheme map as **SUZ17****DOWLING FOREST EQUINE PRECINCT - WIDER PRECINCT****Purpose**

To retain land within the Dowling Forest Equine Precinct for possible future demand by the horse racing industry based at the Dowling Forest Racecourse.

To support use and development associated with horse husbandry or related industry within the Dowling Forest Equine Precinct.

To buffer the operation of the Ballarat Turf Club from surrounding Farming Zone land by limiting conflicting uses and associated amenity impacts.

To ensure land used and developed for dwellings is in conjunction with specified horse husbandry uses.

1.0

C220ball

Table of uses**Section 1 - Permit not required**

Use	Condition
Agriculture (other than Animal husbandry)	
Animal husbandry (excluding Horse husbandry)	Must be no more than 5 animals.
Bed and breakfast	
Dependent Persons Unit	Must be the only dependent person's unit on the lot.
Dwelling	Must be the only dwelling on the lot
Informal outdoor recreation	
Veterinary centre	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Car park	Must be used in conjunction with another use in Section 1 or 2.
Group accommodation	Must be 'in conjunction' with the use of the land for horse husbandry
Market	
Primary produce sales	
Rural store	
Trade supplies	
Any other use not in Section 1 or 3	

Section 3 - Prohibited

Use
Industry (other than Rural industry and Trade supplies)

AMENDMENT C220BALL**Use**

Retail premises (other than Market and Primary produce sales)

Warehouse (other than Store)

2.0

C220ball

Use of land

The following application requirements apply to an application for a permit under Clause 37.01-2, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- The purpose of the use and types of activities that will be carried out on the land.
- The capability of the land to accommodate the proposed use, including management of sewerage and water supply.
- The likely effects of the use of the land on adjacent and nearby land including noise, traffic, hours of operation.

The following decision guidelines apply to an application for a permit under Clause 37.01-2, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must be considered as appropriate, by the responsible authority:

- The effect existing uses may have on the proposed use.
- The potential for the use of limit the operation and expansion of the thoroughbred horse training industry based at the Dowling Forest Racecourse

3.0

C220ball

Subdivision

A permit is required to subdivide land. Each proposed lot must be a minimum size of 10 hectares and subdivision must be for the purpose of facilitating the use of the land for horse breeding, horse boarding or horse training.

The following application requirements apply to an application for a permit under Clause 37.01-3, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A report detailing:
 - In the absence of reticulated sewerage, a land assessment which demonstrates that each lot is capable of treating and retaining all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
 - Show for each lot a building envelope and driveway to the envelope.
 - Details of the proposed use of each lot created by the subdivision.
 - Show how the proposed subdivision relates to the existing or likely use of the land and use and development of adjoining and nearby land.
 - For a staged subdivision – show for the balance of the land may be subdivided.

The following decision guidelines apply to an application for a permit under Clause 37.01-3, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether a Section 173 Agreement pursuant to Section 173 of the Planning and Environment Act 1987 is required to ensure any lots created by subdivision are used for the purpose of horse training, horse boarding or horse breeding.
- Impact of the subdivision of the land on adjoining and nearby land uses.

AMENDMENT C220BALL**4.0**

C220ball

Buildings and works

A planning permit is required to construct or carry out buildings and works. This does not apply to:

- An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is not more than 100 square metres.
- An out-building associated with an existing dwelling provided the floor area of the outbuilding is not more than 100 square metres.
- An alteration or extension to an existing building used for agriculture provided the floor area of the alteration or extension is not more than 100 square metres.
- Rainwater tank

The following application requirements apply to an application for a permit under Clause 37.01-4, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must accompany an application, as appropriate, to the satisfaction the responsible authority:

- A plan drawn to scale which shows:
 - Boundaries and dimensions of the site
 - Location, height and purpose of building and works on adjoining land
 - Adjoining roads
 - Relevant levels
 - All driveways, parking areas and loading areas
 - Proposed landscaped areas
 - External waste storage areas
- Elevation drawings to scale showing the colour and materials of all buildings and works
- Details of the management of sewerage, waste, storm water and connection availability of essential services.

The following decision guidelines apply to an application for a permit under Clause 37.01-4, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Capacity of the land to accommodate the proposed buildings and works.
- Any impacts from the proposed buildings and works on adjoining or surrounding land uses including from the movement of vehicles, storage of waste, lighting and storm water discharge

5.0

C220ball

Signs

Sign requirements are at Clause 52.05. All land located within the Dowling Forest Equine Precinct is in Category 4.

System Note: The following schedule will be inserted after SCHEDULE 17 TO CLAUSE 37.01 SPECIAL USE ZONE

AMENDMENT C220BALL

C220ball

SCHEDULE 18 TO CLAUSE 37.01 SPECIAL USE ZONEShown on the planning scheme map as **SUZ18****DOWLING FOREST EQUINE PRECINCT - WIDER PRECINCT****Purpose**

To retain land within the Dowling Forest Equine Precinct for possible future demand by the horse racing industry based at the Dowling Forest Racecourse.

To support use and development associated with horse husbandry or related industry within the Dowling Forest Equine Precinct.

To buffer the operation of the Ballarat Turf Club from surrounding Farming Zone land by limiting conflicting uses and associated amenity impacts.

To ensure land used and developed for dwellings is in conjunction with specified horse husbandry uses.

1.0

C220ball

Table of uses**Section 1 - Permit not required**

Use	Condition
Agriculture (other than Animal husbandry)	
Animal husbandry (excluding Horse husbandry)	Must be no more than 5 animals.
Bed and breakfast	
Dependent Persons Unit	Must be the only dependent person's unit on the lot
Dwelling (other than a bed and breakfast)	Must be the only dwelling on the lot
Horse husbandry	
Host farm	
Informal outdoor recreation	
Veterinary centre	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Car park	Must be used in conjunction with another use in Section 1 or 2.
Group accommodation	Must be 'in conjunction with' use of the land for horse husbandry.
Market	
Primary produce sales	
Rural store	
Trade supplies	
Any other use not in Section 1 or 3	

Section 3 - Prohibited

Use
Industry (other than Rural industry or trade supplies)

AMENDMENT C220BALL**Use**

Retail premises (other than Market or Primary produce sales)

Warehouse (excluding rural store)

2.0

C220ball

Use of land

The following application requirements apply to an application for a permit under Clause 37.01-2, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- The purpose of the use and types of activities that will be carried out on the land
- The capability of the land to accommodate the proposed use, including management of sewerage and water supply.
- The likely effects of the use of the land on adjacent and nearby land including noise, traffic, hours of operation.

The following decision guidelines apply to an application for a permit under Clause 37.01-2, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must be considered as appropriate, by the responsible authority:

- The effect existing uses may have on the proposed use.
- The potential for the use of limit the operation and expansion of the thoroughbred horse training industry based at the Dowling Forest Racecourse

3.0

C220ball

Subdivision

A permit is required to subdivide land. Each proposed lot must be a minimum size of 4 hectares and subdivision must be for the purpose of facilitating the use of the land for horse breeding, horse boarding or horse training.

The following application requirements apply to an application for a permit under Clause 37.01-3, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- - A report detailing:
 - In the absence of reticulated sewerage, a land assessment which demonstrates that each lot is capable of treating and retaining all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
 - Show for each lot a building envelope and driveway to the envelope.
 - Details of the proposed use of each lot created by the subdivision.
 - Show how the proposed subdivision relates to the existing or likely use of the land and use and development of adjoining and nearby land.
 - For a staged subdivision – show for the balance of the land may be subdivided.

The following decision guidelines apply to an application for a permit under Clause 37.01-3, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether a Section 173 Agreement pursuant to Section 173 of the Planning and Environment Act 1987 is required to ensure any lots created by subdivision are used for the purpose of horse training, horse boarding or horse breeding.
- Impact of the subdivision of the land on adjoining and nearby land uses.

AMENDMENT C220BALL**4.0**

C220ball

Buildings and works

A planning permit is required to construct or carry out buildings and works. This does not apply to:

- An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is not more than 100 square metres.
- An out-building associated with an existing dwelling provided the floor area of the outbuilding is not more than 100 square metres.
- An alteration or extension to an existing building used for agriculture provided the floor area of the alteration or extension is not more than 100 square metres.
- Rainwater tank

The following application requirements apply to an application for a permit under Clause 37.01-4, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must accompany an application, as appropriate, to the satisfaction the responsible authority:

- A plan drawn to scale which shows:
 - Boundaries and dimensions of the site
 - Location, height and purpose of building and works on adjoining land
 - Adjoining roads
 - Relevant levels
 - All driveways, parking areas and loading areas
 - Proposed landscaped areas
 - External waste storage areas
- Elevation drawings to scale showing the colour and materials of all buildings and works
- Details of the management of sewerage, waste, storm water and connection availability of essential services.

The following decision guidelines apply to an application for a permit under Clause 37.01-4, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Capacity of the land to accommodate the proposed buildings and works.
- Any impacts from the proposed buildings and works on adjoining or surrounding land uses including from the movement of vehicles, storage of waste, lighting and storm water discharge

5.0

C220ball

Signs

Sign requirements are at Clause 52.05. All land located within the Dowling Forest Equine Precinct is in Category 4.

System Note: The following schedule will be inserted after SCHEDULE 18 TO CLAUSE 37.01 SPECIAL USE ZONE

AMENDMENT C220BALL

C220ball

SCHEDULE 19 TO CLAUSE 37.01 SPECIAL USE ZONEShown on the planning scheme map as **SUZ19****DOWLING FOREST EQUINE PRECINCT - WIDER PRECINCT****Purpose**

To retain land within the Dowling Forest Equine Precinct for possible future demand by the horse racing industry based at the Dowling Forest Racecourse.

To support use and development associated with horse husbandry or related industry within the Dowling Forest Equine Precinct.

To buffer the operation of the Ballarat Turf Club from surrounding Farming Zone land by limiting conflicting uses and associated amenity impacts.

To ensure land used and developed for dwellings is in conjunction with specified horse husbandry uses.

1.0

C220ball

Table of uses**Section 1 - Permit not required**

Use	Condition
Agriculture (other than Animal husbandry)	
Animal husbandry (excluding Horse husbandry)	Must be no more than 5 animals.
Bed and breakfast	
Dependent Persons Unit	Must be the only dependent person's unit on the lot.
Dwelling (other than a bed and breakfast)	Must be the only dwelling on the lot
Horse husbandry	
Host farm	
Informal outdoor recreation	
Veterinary centre	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Car park	Must be used in conjunction with another use in Section 1 or 2.
Group accommodation	Must be 'in conjunction with' use of the land for horse husbandry.
Market	
Primary produce sales	
Rural store	
Trade supplies	
Any other use not in Section 1 or 3	

AMENDMENT C220BALL

Section 3 - Prohibited

Use
Industry (other than Rural industry and trade supplies)
Retail premises (other than Market and Primary produce sales)
Warehouse (excluding rural store)
—
—
—
—

2.0

C220ball

Use of land

The following application requirements apply to an application for a permit under Clause 37.01-2, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- The purpose of the use and types of activities that will be carried out on the land.
- The capability of the land to accommodate the proposed use, including management of sewerage and water supply.
- The likely effects of the use of the land on adjacent and nearby land including noise, traffic, hours of operation.

The following decision guidelines apply to an application for a permit under Clause 37.01-2, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must be considered as appropriate, by the responsible authority:

- The effect existing uses may have on the proposed use.
- The potential for the use of limit the operation and expansion of the thoroughbred horse training industry based at the Dowling Forest Racecourse

3.0

C220ball

Subdivision

A permit is required to subdivide land. Each proposed lot must be a minimum size of 2 hectares and subdivision must be for the purpose of facilitating the use of the land for horse breeding, horse boarding or horse training.

The following application requirements apply to an application for a permit under Clause 37.01-3, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A report detailing:
 - In the absence of reticulated sewerage, a land assessment which demonstrates that each lot is capable of treating and retaining all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
 - Show for each lot a building envelope and driveway to the envelope.
 - Details of the proposed use of each lot created by the subdivision.
 - Show how the proposed subdivision relates to the existing or likely use of the land and use and development of adjoining and nearby land.
 - For a staged subdivision – show for the balance of the land may be subdivided.

The following decision guidelines apply to an application for a permit under Clause 37.01-3, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

AMENDMENT C220BALL

- Whether a Section 173 Agreement pursuant to Section 173 of the Planning and Environment Act 1987 is required to ensure any lots created by subdivision are used for the purpose of horse training, horse boarding or horse breeding.
- Impact of the subdivision of the land on adjoining and nearby land uses

4.0

C220ball

Buildings and works

A planning permit is required to construct or carry out buildings and works. This does not apply to:

- An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is not more than 100 square metres.
- An out-building associated with an existing dwelling provided the floor area of the out-building is not more than 100 square metres.
- An alteration or extension to an existing building used for agriculture provided the floor area of the alteration or extension is not more than 100 square metres.
- A rainwater tank.
- The following application requirements apply to an application for a permit under Clause 37.01-4, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must accompany an application, as appropriate, to the satisfaction the responsible authority:
 - . A plan drawn to scale which shows:
 - Boundaries and dimensions of the site
 - Location, height and purpose of building and works on adjoining land
 - Adjoining roads
 - Relevant levels
 - All driveways, parking areas and loading areas
 - Proposed landscaped areas
 - External waste storage areas
 - Elevation drawings to scale showing the colour and materials of all buildings and works
 - Details of the management of sewerage, waste, storm water and connection availability of essential services.

The following decision guidelines apply to an application for a permit under Clause 37.01-4, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Capacity of the land to accommodate the proposed buildings and works.
- Any impacts from the proposed buildings and works on adjoining or surrounding land uses including from the movement of vehicles, storage of waste, lighting and storm water discharge

5.0

C220ball

Signs

Sign requirements are at Clause 52.05. All land located within the Dowling Forest Equine Precinct is in Category 4.

System Note: The following ordinance will be deleted from Clause:35 RURAL ZONES, Sub-Clause:35.07 FARMING ZONE

AMENDMENT C220BALL

C220ball

SCHEDULE TO THE FARMING ZONE

This schedule and schedule sections will be deleted.

ATTACHMENT 5

CONSIDERATION OF SUBMISSIONS

Submission Number	Submission detail	City of Ballarat response to submission	Proposed action
1	<ol style="list-style-type: none"> Object to the support and promotion of the horse racing industry due to animal welfare concerns and social impacts of problem gambling. Object to restrictive planning controls on private land to support the industry. Raises the scenario of the future closure of the industry and land continuing to be restrictively zoned for equine uses 	<p>The views of the submitter regarding issues of animal welfare and supporting the gambling industry are noted.</p> <p>It is City of Ballarat policy to support the development and continued operation of the horse racing industry based at the Dowling Forest Racecourse.</p> <p>The City of Ballarat acknowledges that the proposed rezoning of land from Farming Zone – Schedule Areas A and B to Special Use Zone – Schedule 17 and 18 (SUZ17 and SUZ18) introduces new purposes that promote equine outcomes and aim to protect the industry Dowling Forest Racecourse. However the operation of the current Farming Zone and the proposed Special Use Zones are similar including:</p> <ol style="list-style-type: none"> Further subdivision at the same lot size is allowed for specific types of equine uses. Uses of land that do not require a planning permit are very similar, focused on agricultural type outcomes. <p>The proposed Special Use Zones 17, 18 and 19 provide for a wide range of uses with and without a planning permit, with a focus on agricultural (and more specifically equine) uses that could accommodate a long-term expansion or contraction of the horse racing industry based at Dowling Forest Racecourse.</p> <p>Should the horse racing industry ceasing operation, the City of Ballarat would commit to reviewing the planning policy and zoning of the land in the Dowling Forest Equine Precinct (the Precinct).</p>	No change to the amendment recommended
2	<ol style="list-style-type: none"> A large area of land impacted by this amendment is a mapped area of Aboriginal Cultural Heritage Sensitivity under the <i>Aboriginal Heritage Act 2006</i> and associated regulations. The report accompanying the amendment does not disclose or consider this. A cultural values appraisal is suggested so the City of Ballarat can determine any impacts from the proposal. 	<p>The City of Ballarat acknowledges that the report (<i>Dowling Forest Equine Precinct Planning Controls Review Final Report</i>, City of Ballarat, October 2020) accompanying the amendment did not identify the presence of the area mapped for aboriginal cultural heritage sensitivity under the <i>Aboriginal Heritage Act 2006</i>. This should have been identified in the report followed by discussion and assessment against the requirements of the <i>Aboriginal Heritage Act</i> in relation to land use changes and impacts on aboriginal cultural heritage sensitivity.</p> <p>However, the City of Ballarat has assessed amendment C220ball against the requirements of the Planning and Environment Act 1987 and the amendment complies with the requirements of this Act.</p> <p>The suggestion to undertake a cultural values appraisal is noted. The City of Ballarat will consider how to undertake this assessment outside of the process for amendment C220ball.</p>	<p>Amend the report accompanying amendment C220ball to recognise the presence of the area of Aboriginal Cultural Heritage Sensitivity under the <i>Aboriginal Heritage Act 2006</i>.</p> <p>Provide a detailed response to the requirements of the Act. Response to discuss how the proposed amendment does change any of the use or development outcomes relevant to the requirement for a Cultural Heritage Management Plan under the Act.</p>

3	<p>1. The administrative process including the final report (<i>Dowling Forest Equine Precinct Planning Controls Review Final Report</i>, City of Ballarat, October 2020) and resulting resolutions made by Council are flawed including for the following reasons:</p> <ul style="list-style-type: none"> a. Planning Special Committee [when resolving to modify the planning controls and continue with amendment C220ball in July 2020] did not consider human rights implications b. Reports were not kept/reinstated on the City of Ballarat website as promised c. Changes were not made to the report in June 2020 as resolved by Council d. The final planning controls were not agreed to after community consultation as suggested by the report e. Insufficient communication with the community f. Community concerns have not been resolved g. Minutes of the Planning Special Committee meeting have not been made publicly available h. The final report gives insufficient explanation as to why the Special Use Zone should be used i. DELWP would not have raised concerns with the Farming Zone if local policy reflected the broadened direction and core purpose of the Precinct. <p>2. The submission presents detailed changes to the proposed local planning policy at Clause 21.07 and to the proposed SUZ17, 18 and 19. Raises issues with the drafting of the controls and the content, including the provisions relation to subdivision and the use of 173 Agreements.</p> <p>3. There will be ongoing stigma associated with term 'Special Use Zone' and perpetuation of the impacts of the SUZ13 on landowners.</p> <p>4. Potential breeches of the human rights of landowners through linking land use to thoroughbred training, and the impact of the Special Use Zone.</p> <p>5. DELWP has not adequately justified the conditions of authorisation and why the Farming Zone is no longer supported.</p>	<p>City of Ballarat continues to acknowledge that the process of the amendment C220ball has been difficult and challenging for landowners, but maintains that it is acting in good faith to resolve suitable planning controls that meet the outcomes sought through the review, the requirements of the Minister for Planning and achieve the best planning outcome for the community (not just affected landowners).</p> <p>The submitters mention that at the conclusion of the review process the planning controls had been agreed with the community and stakeholders, however this fails to acknowledge the broader process for the preparation and approval of an amendment to the planning scheme under the <i>Planning and Environment Act 1987</i>.</p> <p>City of Ballarat does not agree that resolutions made by Council are flawed and therefore require the amendment to be reviewed. At no time did the City of Ballarat seek to mislead or misrepresent the views of the community, including through the accompanying report or in reporting to Council.</p> <p>Upon receiving conditional authorisation for amendment C220ball, City of Ballarat notified submitters that it was proposing alternative planning controls. City of Ballarat maintains that the proposed planning controls represent the general outcomes sought for the precinct while removing the SUZ13.</p> <p>With respect to detailed local planning policy changes the City of Ballarat maintains that the policy has been drafted consistent with the recommendations of the review and the authorisation conditions of DELWP. City of Ballarat must draft local planning policy in accordance with the Directions of the Minister for Planning.</p> <p>The submission raises the omission of the term 'horse keeping' in the proposed Special Use Zones to determine where further subdivision may be appropriate and notes that any use of land for any horse husbandry uses should be able to subdivide to the minimum lot size. Horse husbandry is defined in the Ballarat Planning Scheme at Clause 73.03 as 'land used to keep, breed, board or train horses'. City of Ballarat has omitted 'keeping horses' from the land uses that would allow further subdivision. This is an attempt to prevent subdivision occurring with a single horse kept on a property, thus increasing the scale of residential development throughout the Precinct. Training, breeding and boarding of horses are more likely to be a commercial operation, and this includes allowing smaller lots for thoroughbred horse training should the need arise.</p> <p>In response to the submitter's issues with Section 173 Agreements, City of Ballarat agrees that these are difficult to enforce and costly. However in this instance it was the only mechanism available to the City of Ballarat to ensure that subdivision occurs in a manner that is consistent with the purposes of the proposed Special Use Zones and not for the purpose of residential development.</p> <p>The concerns of the submitters are noted about the ongoing use of SUZ within the Precinct. However City of Ballarat maintains that it is the content of the controls, not just the name, that has led to the issues apparent with SUZ13. City of Ballarat has committed to the distribution of information should amendment C220ball be completed that will be designed to educate what uses and development are permitted.</p> <p>City of Ballarat maintains that amendment C220ball does not breach the human rights of land owners. The planning controls do not require landowners to be engaging in thoroughbred training or associated with the Ballarat Turf Club. The planning controls allow thoroughbred horse training to occur in the Precinct, consistent with the equine outcome that was strongly desired. The planning controls also allow for a lot to be developed with a single dwelling and permit other uses that are consistent with the intent to develop the equine Precinct, but not</p>	No change to the amendment recommended
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		<p>directly associated with them. A restriction on the number of dwellings that can be developed and the size of the lots that can be created is consistent with the strategic context of the land and is not more restrictive than the status quo.</p> <p>City of Ballarat notes the comments on the desired use and suitability of the Farming Zone by the submitters. This remains an option that Council could decide to pursue but not in the form initially recommended by the review. City of Ballarat would need to undertake further strategic work to justify rezoning the land to Farming Zone. Potential issues with this approach would be the inability to maintain the current minimum lot sizes under the Farming Zone and lack of purpose and uses tailored to create the desired outcome of an equine precinct.</p>	
4	<p>Seeks the inclusion of 4 properties within the Precinct and proposes these properties be rezoned from Farming Zone to the proposed SUZ19 on the basis of:</p> <ol style="list-style-type: none"> Location of the subject properties adjoining the Dowling Forest Equine Precinct including providing a buffer to the Dowling Forest Racecourse. Suitability of the land to support equine and thoroughbred training uses Good road access Contribution to land supply Lack of environmental or bushfire constraints Creation of an orderly planning outcome <p>The submission notes that these properties have not been considered for inclusion at any stage during the review and amendment process.</p>	<p>City of Ballarat acknowledges that the four properties that are the subject of this submission are located a short distance from the Dowling Forest Racecourse and adjacent to properties in the Dowling Forest Equine Precinct (the Precinct) to the north and west. As stated in the submission these properties have good road access, lack any significant constraints and are suitable to support equine uses.</p> <p>However as the review of the planning controls for the Dowling Forest Equine Precinct demonstrated, the demand for freehold land that was assumed would be created when the current planning controls were installed has not occurred. The lack of demand and restrictive nature of the controls necessitated this review and subsequent amendment C220ball.</p> <p>Despite the characteristics of the properties that are the subject of this submission, City of Ballarat does not have the necessary strategic justification to include additional land within the Dowling Forest Equine Precinct that will also be rezoned to Special Use Zone – Area 19.</p> <p>If demand for freehold for the purpose of training thoroughbred horses were to increase, there is sufficient land available within extent of the Precinct. The current zoning of this land as Farming Zone does not preclude use of the land for equine activities and purchase for thoroughbred racehorse training industry, but limits further subdivision and construction of dwellings.</p> <p>The larger area south of Muir Road is likely to experience considerable change in the future due to the Council decision in 2019 to designate this area for urban expansion. City of Ballarat has committed to review the zoning of land bound by Sharpes Road, Garlands Road, Muir Road and Gillies Road when/should this change occur. It is recommended that the properties that are the subject of this submission be included in any future review in this area.</p>	No change to the amendment recommended
5	Content of the amendment C220 is noted and no objection is raised	NA	NA
6	Content of the amendment C220 is noted and no objection is raised	Na	NA

7. GENERAL BUSINESS - MATTERS ARISING FROM THE AGENDA

8. CLOSE