

# Maitland City Local Council



Development Application

ANIMAL BOARDING & TRAINING ESTABLISHMENT

Including:

*-Equestrian Arena & Solar Lighting –*

240 Scotch Creek Road, Millers Forest

Lot 144/ DP 882115

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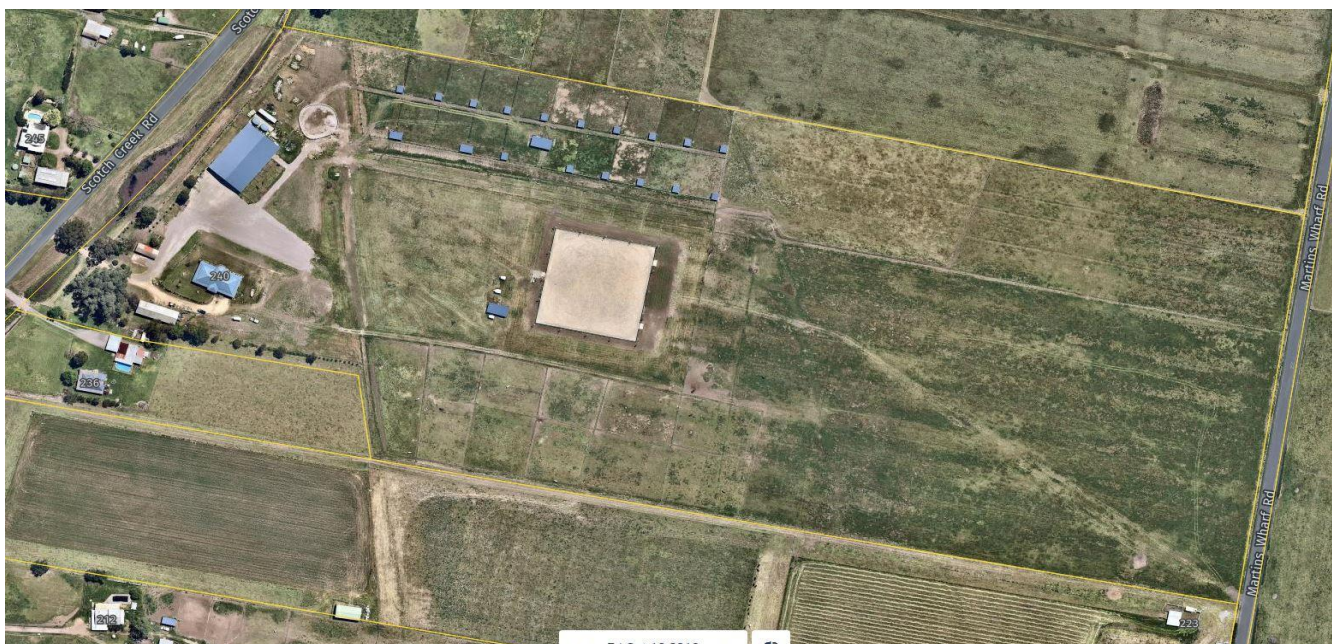


Figure 1. Aerial Site of Lot144 / DP 882115 - 240 Scotch Creek Road, Millers Forest 2324 Ref: Google Earth Maps

## INTRODUCTION

The development application has been lodged to resolve a notice of un-authorized development issued by Maitland Local Council in regards to a 60m x 60m equestrian riding arena and solar lighting. The arena was constructed on the advice provided by Director, Mr Timothy Hessel of Equestrian Services Australia. The Client will be progressing in a civil matter regarding Equestrian Services Australia.

On the 9<sup>th</sup> August, 2019, Maitland City Council Compliance Officer Mr George KNEZEVIC attended and inspected the property and subsequently a letter restricting use of the arena was issued as at the 20<sup>th</sup> August, 2019 restricting commercial use.

Further discussions with Maitland Local Council, the client was advised to cease all use of the arena or fines could be imposed immediately. The arena has not been used since the initial attendance by Mr George KNEZEVIC and receipt of the letter in any capacity. There has never been any commercial gain by the Client in relation to the arena or lighting.

A development application and building information certificate consent is attached to address these compliance issues. Additional reports attached include;

Denis Hunt and Associates – Structural Assessment of arena and solar lighting.

Total Precision Surveys – Site Survey

DIALux – Lighting specifications and locality assessment.

The site is zoned RU1, Primary Production having a total site area of 15.81ha. There are existing structures in place including, a single story dwelling, horse stable shed (28 stables), horse arena, driveways & informal parking areas. The Client has previously engaged Professional's in relation to development on the property due to minimal knowledge at the time in these areas. The Client relied on the 'expert' advice of such businesses and Maitland City Council information desk.



Figure 2: 240 Scotch Creek Road Frontage and entry now including tree screening.

The site is within a rural area predominantly being horse and cattle farming. Historically the area was a major area in dairy milk production. However, in recent times, the area has developed now consisting more so towards private horse agistment and training operations.

The arena is compliant with the various legislation including but not limited to the Environmental Planning and Assessment Act, 1979, Local Government Act 1993, relevant regulations, Building Code of Australia, Australian Standards and Local Policies relating to the development works, building construction and protection and enhancement of public health and the environment.

The Client seeks approval for commercial use of the arena and attached solar lighting The Client also requests trading hours be amended to reflect reasonable hours with the lighting approvals until 8.30pm and trade until 9pm.

The Client requires consent and approval for the arena and lights in line with the original DA 2015/14 to reflect use:

The following consent is currently in use at the location;

## **SCHEDULE OF CONDITIONS DA/14-1215**

### *HORSE STABLES*

#### *Reason for Conditions*

*The following conditions are applied to:*

- *Confirm and clarify the term's of Council's Approval;*
- *Identify minor modifications and additional requirements that will result in improved compliance, development and environmental outcomes; and*
- *Draw attention to the applicant and owner and their responsibility to comply with the requirements of various legislation including but not limited to the Environmental Planning and Assessment Act, 1979, Local Government Act 1993; relevant Regulations; Building Code of Australia, Australian Standards and Local Policies relating to development works, building construction and protection and enhancement of public health and the environment.*

### **APPROVED PLANS AND DOCUMENTATION**

1. *Delivery, pick up and other works associated with the keeping of horses on the premises shall only be carried out between the following times:*
  - *7:00am to 8pm Monday to Fridays*
  - *8:00am to 8pm Saturdays, Sundays and Public Holidays*

### **GENERAL PROVISIONS**

2. *The stables shall be constructed using orb profile roof and wall sheeting of a mid to dark colour, with quad profile guttering.*
3. *All building work must be carried out in accordance with the provisions of the Building Code of Australia.*
4. *The owner shall note that the issue of this development consent does not amount to a release, variation or modification by Council of any covenant applicable to this property and that any action taken by the applicant in accordance with consent which results in any loss or damage by way or breach of the covenant will not be the responsibility of the Council.*
5. *The development or the portion of the development shall not be used or occupied until an Occupation or Interim Occupation Certificate has been issued. Occupation applications must be accompanied by the required fee and all associated information and fashion, the occupation certificate application should be submitted at the same time as the final inspection is being requested.*

### **SITE CONSIDERATIONS**

6. *All building refuse on the building site shall be stored in such a manner so as to not cause a nuisance to a-joining properties.*

### **HEALTH & AMENITY**

7. *That the part of the stable contained under the roofline is to be hard paved, graded and drained.*
8. *Roof waters shall be piped to a holding tank for re-use, and the overflow shall be discharged to the dam.*

9. *Horse yards, enclosures and access areas to the stables are to be kept clean and the surface graded to prevent the accumulation of liquids and water run-off to adjacent premises.*
10. *A large metal or plastic bin or receptacle shall be maintained with a flanged close fitting lid for the daily reception of all manure and waste including damp stable bedding and feed waste.*
11. *All manure and refuse shall be removed from the subject premises daily.*
12. *Suitable ammonia absorbing products (e.g containing diatomaceous earth and clay) shall be added on a regular basis to the open pen stabling to control odours associated with urine.*
13. *Animal feeds shall be stored in an approved metal or plastic receptacle provided with a fitting lid, so as to provide effective protection against rats and vermin.*
14. *All necessary measures shall be taken for the control of insect, rodent and vermin and all stables, horse yards, feed rooms, enclosures and other buildings shall be kept free from rodents, insects and vermin and from any condition likely to attract or harbour rodents, insects or vermin.*
15. *The operation of the site shall be carried out so as to minimise the impact of noise on the surrounding area. This shall include loading and unloading of horses and related equipment, **the training and feeding of horses and any required maintenance activities.***

#### ADVICES

*A Council removes the right to direct the removal of any horse from the premises, or serve a notice under the Local Government Act or the Protection of the Environment Operations Act if the horse, or horses, and premises are not maintained in accordance with these conditions.*

#### ZONING

The site is zoned RU1 Rural Landscape under Maitland Local Environmental Plan 2011 (the LEP).

#### CURRENT USE AND APPROVAL

As per DA 2015/014 the property is currently commercially active in operating horse agistment, husbandry and training. Approval was sought and granted under the aforementioned DA which comprises of the stable /shed.

An occupational certificate was granted in 2018 and has been commercially operating since this date without suburban issue or impact on local traffic. The site operates with 28 internal stables, 3 outdoor shelters, 20 outdoor yards with individual shelters. There is also a vast amount of grazing land used to maintain the grass coverage for spelling of horses.

A total of 40 horses are in training and spelling on the property at different times which varies depending on the horse. This varies with client horses remaining for training and agistment horses on site. The Client is unable to provide numbers on this as it changes due to demand however a maximum of 40 horses is requested.

This number is easily catered for due to the stabling and paddocking of horses on full maintenance and the facility is of the highest standards in compliance with the DA approvals in place.

## **OPERATIONAL DETAILS**

As summary of the operation of the facility is as follows:

### **Hours of Operation:**

- 24hours -7 days for rare cases of sick or injured horses that may require care at any and all hours of the day that staff/owner and or veterinarian has to attend to. Normal trading hours are 07:00 until 8:00pm, request is made to amend to reflect proper use.

## **WINTER TRAINING LIGHTING REQUEST**

No morning arena light use is requested.

Due to short day light issues in the winter months and the clientele being professional persons, most generally working until 5/30pm, training would commence for a number of clients from 6.30pm and concludes at 8.30pm under the solar lights. Due to show jumping and shadow concerns the use of all installed lighting is requested to avoid potential risks of a horse spooking at shadows. If doing general fitness training and no jumping, less lighting on two sides of the arena would be sufficient and facing away from immediate neighbours, depending on the number of riders using the arena at the time. This could easily be managed on site and form part of the contractual agreement.

Should a number of rider's be utilising the space then full lighting would be recommended as per the installer's recommendations for safety reasons to light the entire arena space.

Previous neighbour concerns have raised a reduced number be permitted, however this specific amount equates to the size of this area being a larger 60x60m dressage and show jumping arena and not a standard 60m x 20m Olympic sized dressage arena. The larger arena allows for training of eventing horses that require interval cardio training on a safe surface of which the business owners train for and are competitive in.

An aerial images follows, with the closest eastern rear facing neighbour being approximately 585 metres distance away should only the western side lights only be used with minimal number of riders. The arena was designed to be set back 250 metres away from the Scotch Creek Road houses in respect of keeping privacy and trainees away from the residences.

Figure 3 demonstrates the land and distance between the rear side eastern neighbour being on the Martin Wharf Road and Edithville Road side in view of the facility.

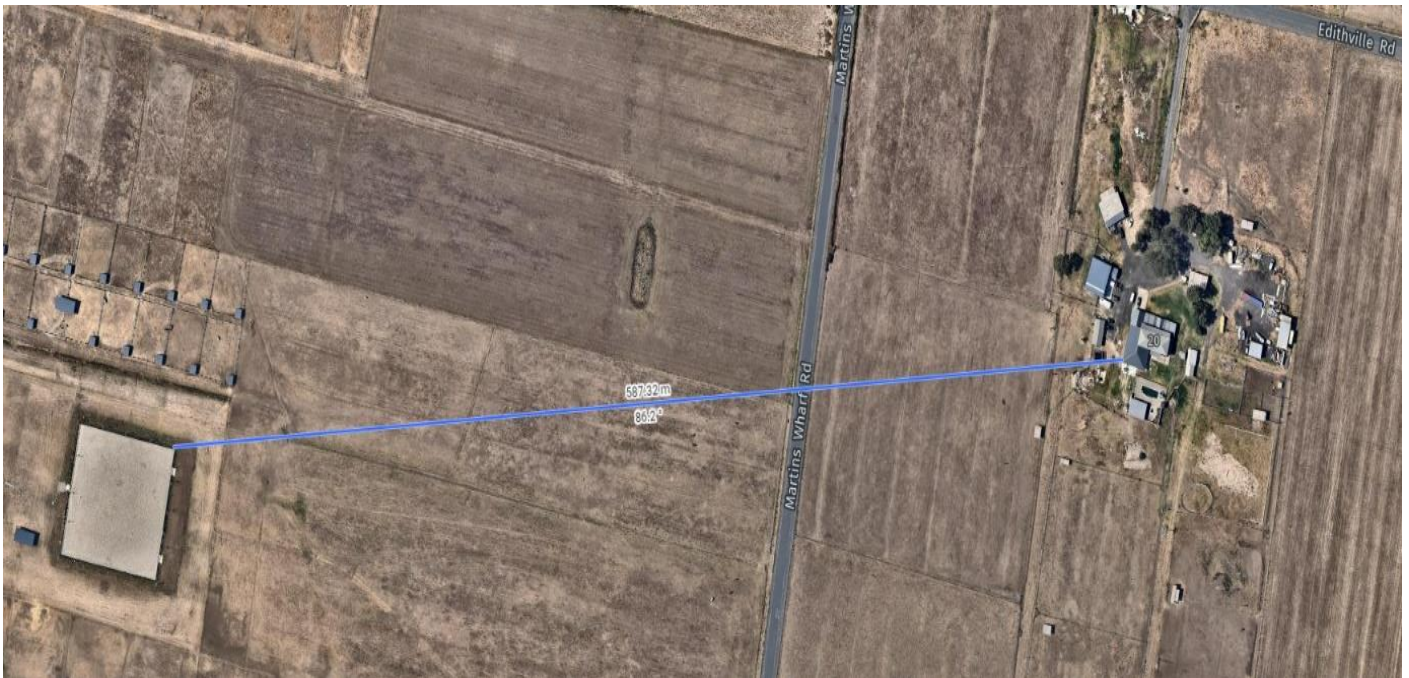


Figure 3 – Arena facing rear towards Martin’s Wharf Road entries – easterly perspective.

### **HEALTH & MAINTENANCE OF HORSES**

It is a requirement to exercise horses and the all weather arena is designed to be able to do so in rainy and wet weather conditions. This is particularly crucial for the stabled horses which require daily exercise.

The arena allows the general horse owner who works traditionally 9am until 5.30pm the ability to train consistently and safely on the arena surface which has a small raised drainage mound, and a sand and gravel mix surface which is inarguably safer than training on grass or mud for both horse and rider. There are numerous benefits for the health and safety aspects.

Without the arena and lighting a training schedule can be impacted for weeks on end, even months due to weather and lighting constraints. The arena and lights allow for consistent and safe training, and it would be reasonable and fair for the Equestrian Community to have equal training rights to enjoy their sport at a safe and risk assessed facility that is open for business reflective and equal to of other local sporting facilities hours.

Maitland and Newcastle showgrounds do not have Equestrian arenas nor does the Council grounds at Anambah, all operating on grass fields, having lighting and sound amplifying use permission, within close proximity to residences including an aged care facility.

The Anambah site accommodates Maitland Polocrosse Club and the Hunter Valley Show Jumping Club, both of which the Client’s business has supported for years via sponsorships for competitions to occur which brings a significant tourist influx to the area and local trade.



## LIGHTING & SOUND – 240 SCOTCH CREEK ROAD

There are no sound amplifying tools used in the training times and the Centre is respectful with noise, light and dust pollution concerns. The centre has invested in rider training aid's, headsets for any instruction taking place. This minimises the need for raised voices and is easier for all participants.

There are a broad range of Equestrian Discipline riders that utilise the centre, non- impacting on the health and or comfort of the surrounding neighbours. Clients are reminded to act in a quiet, professional manner whilst conducting their equestrian pursuits and to be mindful of neighbours. Client's utilise a number of differing riding instructors at the site, all of which are insured and qualified.

Equine related activities are proven to be an effective mode of therapy, creating relaxation. The centre is not targeted at generating noise or unruly behaviour, but quite the opposite being a high-end facility focused on controlled training for performance horse purposes. The equines are valuable family members. The competition horses are provided care at all times in the highest standard. All horses at the facility follow a property wide health plan with worming and annual injections conducted at the same time to ensure minimal exposure to disease. All new horses are isolated if required as per veterinary guidance under advice from Hunter Equine Specialist vet, Dr Madalen Baltussen.

### ARENA OUTDOOR UNEEK BRAND AUSTRALIAN DESIGNED SOLAR LIGHTING

The lighting assessment completed by DIALux demonstrates that the lighting design has been installed to ensure minimal light spill from the proposed development. It is not anticipated that the development will have any detrimental impacts on the adjacent properties.

The solar arena lighting is new generation floodlights with a high purity anodised polished reflector incorporating an adjustable lamp position. The lamps have yet to be set at 20 degrees prior to consent and use. Photo is at time of installation. The Client requests a reasonable hour of operation be amended to 30pm cut off with trading hours amended to 9pm.

Figure 4 Uneek lighting solar units on



60x60m shows immediate drop in spillage

## LIGHT, DUST AND SOUND MITIGATING FACTORS - HEDGING TREES

The client planned a significant number of hedging trees after consulting with a Nursery expert to increase privacy and to negate any lighting pollution concerns and to increase privacy to Client's land. This was a significant cost to the client of \$10,000. Figure 4 shows initial planting and growth currently which has been successful on the Scotch Creek Road frontage.



Figure 5 – Internal photo facing Scotch Creek Road.

Figure 5 as at February 2020. Current growth is approximately 5+ metres in height, providing significant wind break, noise and dust reduction and utmost privacy screening for both Client and neighbourhood from the Western boundary.

The client notes that the front property trees remain and have been very successful in growth, however there has been contention in regards to possible poisoning by weed killer being sprayed along the southern boundary fence line, where only six trees remain. Drought also was in place at the time of planting, however the Client watered all trees in the same manner with approved water restriction plan in place.

The neighbour was observed to be spraying along the fence line away from the horse paddock and upon querying the chemical use, the neighbour stated that he believed the chemical to be Glyphosate and was requested to cease use due to the horses grazing on the area. The spraying killed grasses on the Client's side 2 metres into the boundary which was not known at the time with the Client discovering poisoned grass. A veterinarian bill was caused due to two horses becoming ill and requiring invasive gastroscoping, followed by treatment for stomach ulceration which had never been an issue in the history of ownership

(10 years) requiring stabling off their paddocks. Due to these financial losses, further planting has not occurred on the direct boundary line and photos were obtained.



Figure 6 & 7 Eastern boundary planting of mature pine trees.

## EQUESTRIAN SERVICES INSTALLED ARENA



Figure 8 – 2018 Commencement of arena minor excavation.

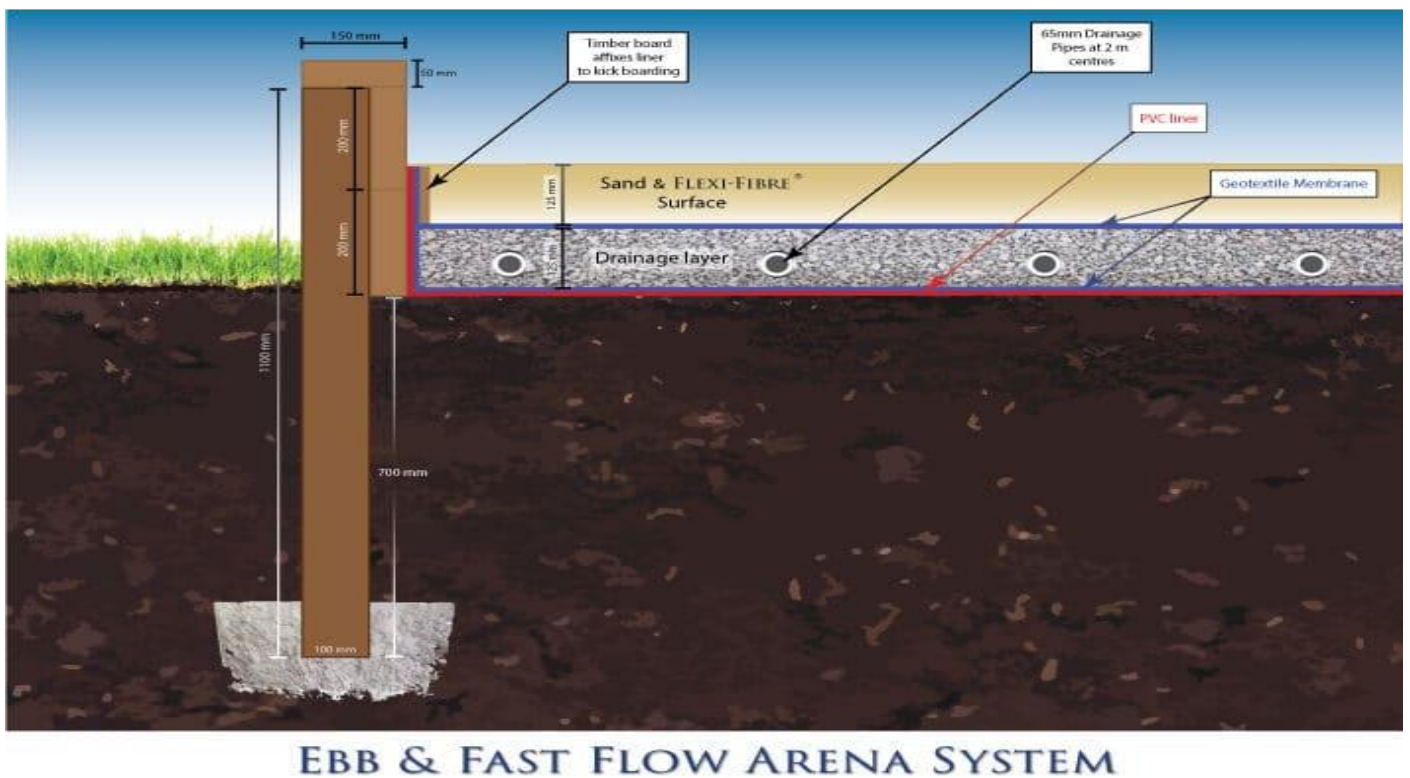


Figure 9 – Equestrian Services Australia Arena Installation

## ARENA IN CURRENT FORM -FEBRUARY 2022

In discussions with the Council and EPA the arena is now compliant and suitable for use on the flood plain with all compliance issues removed.

Geofabric was removed, sand and fibre removed and replaced with new geofabric liner, sand and crusher dust. Dust is controlled by recycled water use.



Figure 10 – February, 2022 Final Arena Completion with full compliance with works completed by Professional, Mr Greg MEXON, Mexon Earthworks.

## **MAJOR EXCAVATION WORK**

Nil major excavation work has been conducted nor excavation below the 1 metre depth. An ASS Management Plan is not required and only minor earthworks have taken place to construct the arena and lights. A structural Engineer report has been prepared by Denis Hunt and is attached.

## **FLOOD PLAN**

The existing Flood Plan in place has been effective and all stock have been removed from the property by by ourselves and the respective owners. This is part of the contractual agreement in the training contract with full awareness of risk. Training does not occur if flood risk is imminent and access to the property by clients is restricted until it is cleared of risk.

The client has several properties to remove all horses to when required and use of the flood mound on site is utilised with a stock of hay and hard feed in preparation. Use of the stable shed can shelter all horses safely out of lower level flood risk.

The Manager of the Client has extensive training in Emergency Management and Risk Assessment and initiates the flood plan when required. In extreme situations where removal was not an option, the stock would remain and have access to the stable and existing sheds, mound with shelter with a supply of water and feed.

All persons evacuate should it arise in the event of a in 100 year flood.

## **TOILETS**

Portaloos are currently in use which are serviced on a fortnightly basis or as required.

## **PARKING**

A traffic and parking report was compiled for the original DA by Intersect Traffic, this covers a larger amount to show capability however in current position for the client and only training approval request, appropriate consent is requested for training purposes only.

The report deems no impact to surrounding roads.

## **INTEGRATED DEVELOPMENT**

The following does not apply to 'Integrated Development'

- Fisheries Management Act (Section 144, 201,205,219)
- Heritage Act 1977 (s58)
  - Martins Wharf Road is identified, but no impact as no work is proposed.
- Coal Mine Subsidence Compensation Act 2017 (s22)
- National Parks & Wildlife Act 1974 (s90)
- Protection of the Environmental Operations Act 1997 (ss43 a&b)

- Roads Act 1993 (s138)
- Rural Fires Act 1997 (s100B)
- Water Management Act 2000 & Water Management Amendment (General Regulation 2018) (s89,90,91).

The site has long history of agricultural use as grazing land and cropping. There are no issues of contamination regarding the State Environmental Planning Policy No. 55.

## **CONCLUSION**

The application for development seeks assessment and consent under the provisions of section 415 of the Environmental Planning Assessment Act 1979. The development is permissible use of land under the Maitland Local Environment Plan 2011 and displays compliance with the objectives and performance criteria of the Maitland Development Plan 2011. The construction of the arena and lighting is consistent with the objectives under the Maitland Local Environmental Plan as ANIMAL BOARDING OR TRAINING ESTABLISHMENT.

The land is used for the breeding, boarding, training, keeping and caring for horses for commercial purposes (other than agistment of horses).

The proposal meets the definition to operate an Equestrian Training Establishment.

Cumulative impact of noise, light spill and increase traffic flow have been addressed and further researched in various sections of this report and supportive consultive reports.

Council's favourable consideration of the application is requested so the arena and lights can be used by the client and amendment to trading hours be considered to reflect the appropriate land use as per previous approval for the stables and use of.

Thank you for your consideration on behalf of Eastern Hill Pty Ltd and Elite Equestrian Pty Ltd.