

Attachments:

Deemed Provisions – Cl 67 Matters to be considered by local Government

Land Use:

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
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Comment:Town Planning Scheme No.2 (TPS2)

The proposal relating to horse arena lights forms part of the broader stabling of horses previously approved at the site. The land use activity appropriately falls within the ‘Stable’ land use classification, which is as follows:

‘Stable’ defined as “any land, building or structure used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities”.

The site is zoned ‘Special Rural’ under TPS2, within this zone a ‘Stable’ land use is a discretionary use which requires development approval to be obtained prior to the use occurring. The objective of the ‘Special Rural’ zone under TPS2 is, *“to depict places within the rural area wherein closer subdivision will be permitted to provide for such uses as hobby farm, horse training and breeding, rural residential retreats and intensive horticulture, and also to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of the selected areas.”*

The ‘Stable’ land use activity is consistent with the objective of the zone and commonplace within the locality. There are several other horse arenas within the Cardup locality of which some are constructed with floodlights to enable the use of the arena during evening and night periods. Therefore, it is not uncommon to see arena lights within the locality. However, the objective of the zone highlights the importance of maintaining rural amenity in these areas. In this regard, should the proposal to remove the condition be supported by Council, then Council should ensure the amenity of the locality would be maintained. This has been further considered in the Amenity section of this report.

b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting of approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
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Comment:Local Planning Scheme No.3 (LPS3) and Local Planning Strategy (LPS)

The subject site falls within the Rural Residential policy area of the LPS and is proposed to be zoned ‘Rural Residential (RR2)’ under LPS3. Under LPS3 the proposal fits the definition of ‘rural pursuit’ as follows:

‘rural pursuit/hobby farm’ defined as meaning “any premises, other than premises used for agriculture - extensive or agriculture - intensive, that are used by an occupier of the premises to

carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household -

(a) the rearing, agistment, stabling or training of animals;

(b) the keeping of bees;

(c) the sale of produce grown solely on the premises."

This use is proposed to be a Discretionary 'D' use in the 'Rural Residential' zone and therefore Council can exercise its discretion and permit the use. In respect of the LPS the relevant objectives of the 'Rural Residential' area include:

- Provide for Rural Residential development in appropriate, well-located areas.
- Preserve and enhance the existing rural character of Rural Residential properties.

Further to the objective of the 'Special Rural' zone under TPS2, the objectives of the LPS3 and the LPS seek a balanced approach in considering development in 'Rural Residential' areas. Rural land use activities such as the keeping of horses should be supported, but only when impacts of such proposals on the character and amenity of the locality and environment are capable of being managed. This has been further considered in the following Amenity section of the report.

c) any approved State planning policy	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

g) any local planning policy for the Scheme area	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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Comment:			

i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

Development:

k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Clause 67(n) of the Deemed Provisions, requires the Local Government to consider the impact of the development upon the amenity of the locality. An objection was received during advertising raising concerns of the use of the horse arena lights resulting in amenity impacts, specifically light pollution. To address concerns of light pollution, the applicant provided a Lighting Report prepared by an accredited lighting consultant (attachment 1). The report has been prepared to address the AS/NZS			

4282-2019 which relates to the control of obtrusive effects of outdoor lighting. The AS sets acceptable limits of light that can be received at nearby residences. The acceptable limits differ depending on the character and form of development of the locality that the site is situated in. Several of the 'Environmental Zone' categories are extracted from the Australian Standard as follows:

Zones	Description	Examples
A0	Intrinsically dark	UNESCO Starlight Reserve. IDA Dark Sky Parks. Major optical observatories No road lighting - unless specifically required by the road controlling authority
A1	Dark	Relatively uninhabited rural areas No road lighting - unless specifically required by the road controlling authority
A2	Low district brightness	Sparsely inhabited rural and semi-rural areas
A3	Medium district brightness	Suburban areas in towns and cities

Figure 3: Environmental zones and their classifications ('A2' is applicable), as extracted from AS/NZS 4282-2019

In this instance, the locality has a low level of background light during night periods. This is due to the low intensity rural residential development that comprise the character of the area. Properties are generally 2-hectares in size, resulting in development that is sparsely located development. The low ambient light of the locality emanates mainly from lights surrounding dwellings or outbuildings. There are also a small number of street lights and lights on the gates or driveways of properties. Therefore, Officers consider that it is appropriate to apply an 'A2' environmental zone to this locality.

Based on the 'A2' category, the Australian Standard provides acceptable maximum light that should be received at sensitive receptors. These limits are depicted in the below extract:

Zone	Luminous intensity (<i>I</i>), cd		
	Non-curfew L1	Non-curfew L2	Curfew
A0	See Note	See Note	0
A1	2 500	5 000	500
A2	7 500	12 500	1 000
A3	12 500	25 000	2 500

Figure 4: Acceptable levels of light received in the different environmental zones, as extracted from AS/NZS 4282-2019

For the 'A2' environmental area, the maximum lumen intensity that should not be exceeded is 7,500 candela (cd) during non-curfew hours and 1,000cd during curfew times. The Australian Standard states that curfew hours are typically 11pm to 6am at night-time. The report details light measurements taken from several locations, including along property boundaries and at the neighbouring residences. It demonstrates that the lighting meets the 1,000cd curfew period limits at all locations. The neighbouring dwelling to the south-west would receive a maximum of 455cd. The highest readings of 927cd are recorded at the house of the neighbour to the south. Officers are satisfied that the report demonstrates that as the lights as a result of meeting the 'Luminosity Intensity Limits' of the Australian Standards, the visibility of the lights will not result in amenity impacts to the adjoining properties.

Furthermore, the use of the arena lights is proposed to occur for a maximum period of two hours, per day during the twilight to evening hours. This would occur between 6:00pm and 8:00pm, less during the summer months when the sun sets later in the evening. A condition to limit the use of the lights during the period between 6:00pm to 8:00pm for a duration of no more than two hours per day is recommended to be imposed to ensure the use of lights generally occur when there is generally background ambient lighting present, reducing the time the lights operate past sunset where the characteristic of the locality does not typically comprise of lights being visible beyond a property boundary.

In terms light spill, the application confirms that the lights have been angled to a 14-degree angle which results in light spill occurring to a depth of 3m to the property to the south. Officers note however, that based on the aerial drone image below the spill appears to be greater. To address this, Officers consider light shields can be installed which angles light in a controlled manner inside the property, avoiding light spilling outside of the boundary. A condition requiring further angling of the lights, or light shields being installed, is also recommended in order to reduce spill to no more than 3m to the property to the south.

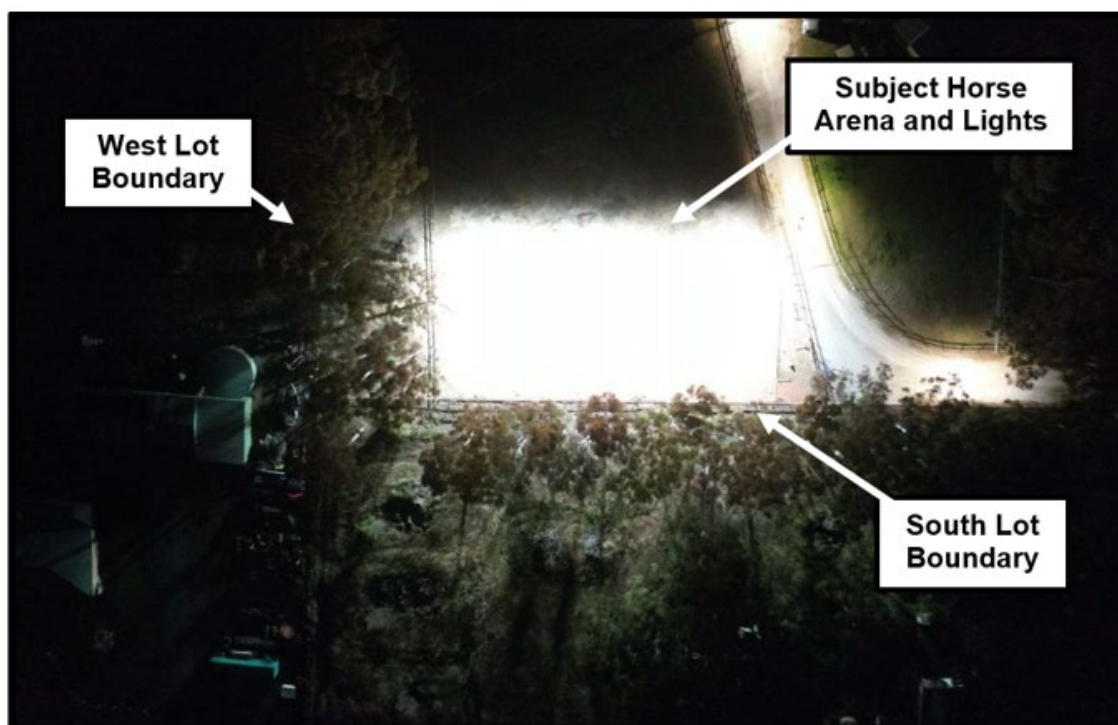


Figure 5: Drone footage showing arena light spill at night

o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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Comment:

p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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Comment:

q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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Comment:

r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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Comment:

s) the adequacy of –	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
I. The proposed means of access to and egress from the site; and			
II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles			

Comment:

t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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Comment:

u) the availability and adequacy for the development of the following –	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
I. Public transport services			
II. Public utility services			
III. Storage, management and collection of waste			
IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities)			
V. Access by older people and people with disability			

Comment:

v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

w) the history of the site where the development is to be located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Refer to the summary of submission attachment to this report.			

Za) the comments or submissions received from any authority consulted under clause 66	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

Zb) any other planning consideration the local government considers appropriate	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			