

Certification Rules for the use of the “Horse Capital of Australia logo”

Certification Trade Mark No. AU 1995988



Part 1 - Introduction

The Scone Horse Capital of Australia logo (the “Logo”) Certification Trade Mark (the “CTM”) as shown above, was developed for use by the equine industry within the Upper Hunter Shire, NSW Australia to for use as a geographic identifier to promote goods and/or services located within or produced by the Upper Hunter Shire (“UHS”) region.

The Logo is a marketing initiative developed by The State of New South Wales, C/- Upper Hunter Shire Council (UHSC)], in collaboration with local equine associations and industry representatives. The intention of the CTM is to promote and enhance the local equine industry and the quality of horses from the region in local and export markets, and to develop and enhance opportunities and positive relations with producers, service providers and industry associations in the region.

The UHSC is responsible for management of the use of the Scone Horse Capital of Australia CTM.

Enterprises within the UHS boundaries, as defined in Annexure A, who meet the eligibility criteria for the following Rules and accept the obligations in the Rules are encouraged to apply for approval as licensees to use the CTM. Approved users are encouraged to participate in the marketing opportunities including use of the CTM to promote their goods and/or services.

The Scone Horse Capital of Australia CTM may only be used by approved licensees and not by any other persons.

Part 2 - Rules

1. Scope of Rules

These Rules are the “rules governing the use of the certification trade mark” pursuant to Section 173 of the Trade Marks Act 1995.

2. Owner of Certification trademarks and Approved Certifier

The State of New South Wales, C/- Upper Hunter Shire Council (“UHSC”)(17 261 839 740) of 135 Liverpool Street, Scone, New South Wales, Australia is the owner of the certification trade mark (“CTM”) in the Scone Horse Capital of Australia logo (“the logo”), and UHSC the only person who may certify goods in relation to the CTM responsible for the administration of the CTM and the maintenance of the Rules.

The contact details for the owner and certifier are:

Upper Hunter Shire Council

Attention: Manager Business Services

Address: Upper Hunter Shire Council PO Box 208, Scone NSW 2337

Telephone: 02 6540 1100

Website: <http://upperhunter.nsw.gov.au/>

Email: council@upperhunter.nsw.gov.au

3. Certification Standards

The requirements that the goods and services of CTM applicants must meet to use the CTM are detailed in this section.

Licensees must satisfy the following criteria to be eligible to be accredited to use the CTM in relation to any goods and/or services:

a) Goods:

- i. UHS must be the region of origin of each significant ingredient or significant component of the goods (within meaning of the section 255 of the Australia Consumer Law & Regulations);
- ii. All or virtually all of the processes involved in the production or manufacture (within meaning of the section 255 of the Australia Consumer Law & Regulations) of the goods must take part in the UHS region;
- iii. Specific to horses, all horses must originate from the UHS region or spend at least 80% of the calendar year located in the UHS region, or the horse must have been trained for a period of at least 12 months, whether continuously or not, over the previous 18 month period in the UHS region;
- iv. UHS region of origin is as defined by the physical area within the UHS boundary as shown and described in the boundary map Annexure A (or as amended from time to time by UHSC);

v. Goods must be within the statement of goods and services covered by the CTM.

b) Services:

i. Enterprises providing services must be based in the UHS region or have a commercial presence in the UHS region for at least 80% of the calendar year;

ii. UHS region is as defined by the physical area within the UHS boundary as shown and described in the boundary map Annexure A (or as amended from time to time by UHSC);

iii. Services must be within the statement of goods and services covered by the CTM.

4. Attributes for person approved to assess approval of users and monitor compliance

The Manager Business Services of UHS (or another suitably qualified UHS economic or agribusiness unit or department as restructured from time to time), shall be the Assessor of applications and responsible for monitoring compliance with these Rules and may appoint such UHS officers as are reasonably qualified to undertake assessments on his/her behalf (an UHS officer).

An UHS officer appointed for CTM assessor and monitoring must have general qualifications, skills and abilities to be competent to assess whether horses, goods or services meet the certification requirements. To undertake inspections and meetings and to review applications and assess compliance with the Rules.

An MPS Officer will hold a position with the Business Services Unit of UHSC (or another suitably qualified UHS economic or agribusiness unit or department as restructured from time to time), or be responsible to it and must hold authority to access relevant UHS records and undertake required inspections and meetings. An UHS officer may obtain the assistance of local equine associations to assist in its approval and compliance roles.

5. Process of Licence Approval for determining Certification requirements and Compliance criteria

The process to determine whether goods meet the certification standards is as follows:

a) Applicants for a licence to use the CTM are required to submit a completed licence application in the form prescribed and made available by UHSC, including:

i. A goods and/or services list for each and all their goods and/or services which they seek to use the logo in relation to and which meet the Rules and standards of the scheme;

ii. Information about their registered business or trading name, street, postal and web addresses, contact details and authorised contact officer and their eligibility for use of the logo;

- iii. Specific to horses, an animal information sheet including certificate of birth, location of the horse (such as address of stables or agistment pasture), and any other informed deemed required by the UHSC to identify the origin of the horse;
- b) Applicant's agreement to advise UHS immediately in writing and cease to use the logo on any goods where any changes to the goods and/or services listed on the licensee's product list no longer meets the certification requirements;
- c) On receipt of a completed application form, an UHSC Officer will review the application, assessing the eligibility of the applicant based on the Certification requirements;
- d) An UHS officer may inspect Councils records of the Applicants property and/or production premises to verify any information in the application;
- e) An UHS Officer may seek an initial inspection of the Applicants property and or production premises, and any records or interviews with personnel which may reasonably be required to assess the application which access interviews and records the applicant will provide and arrange on reasonable notice at its own cost;
- f) An UHSC Officer will within a reasonable time after receipt of the Application provide a written report assessing the Application for compliance with the Rules including details of any inspection or interviews undertaken, for consideration by UHSC with the assistance of local equine associations or industry representatives;
- g) UHSC will within reasonable time after receipt of the Application make a final decision on the application and notify the Applicant in writing;
- h) Should the application be rejected, the rules provide a procedure for independent review of the decision; and
- i) Should the application be accepted, UHS will notify the licensees by issuing a Licence Certificate for a term.

6. Licence Register

UHSC will maintain a register of all current licensees including their registered business or trading name, street postal and web addresses, contact details and authorised contact officer and a goods and/or services list of each and all the goods and/or services of each Applicant that has been approved to use the logo in relation to (amended from time to time in accordance with these Rules).

7. Licensing terms and fees

UHSC will maintain a register of all current licensees including their registered business or trading name, street postal and web addresses, contact details and authorised contact officer and a product list of each and all their goods each Applicant has been approved to use the logo in relation to.

The **term** of each licence shall be **one (1) year** from the date of issue of the License or as otherwise stated in the Licence whichever is longer, and reviewed annually by the UHSC.

8. Licensee obligations

Licensees must on acceptance for Licence:

- a. Maintain adequate records to substantiate the compliance of all goods and/or services specified on their product and/or service list with the compliance requirements of the Rules, and produce such records to UHS or an Independent Reviewer upon request;
- b. Assist UHSC or an Independent Reviewer in relation to any random audits inspections or independent reviews which are undertaken;
- c. Establish and maintain policies and procedures to ensure their obligations under the Rules and their underlying legal obligations in relation to use of the CTM as a provenance mark are met and act to ensure that such policies and procedures are being effectively complied with by all employees and agents;
- d. Immediately advise UHSC in writing where any changes to the good and/or services listed on a licensee's product list no longer meet the certification requirements, cease to use the logo on such good and return the Licence Certificate to UHS for amendment or cancellation
- e. Immediately advise UHSC in writing of any change in contact details or any intention to terminate a licence before its expiry date;
- f. Immediately advise UHSC in writing of any complaints received by the Licensee about its use of the CTM.

9. Licensee use of Logo

On acceptance for Licence a Licensee must only use the Logo:

- a. On approved good and/or services as covered by the CTM;
- b. In accordance with the CTM Logo Usage and Style Guidelines which will be sent to licence holders on approval of their application;
- c. During the term of the approved licence period.

10. Dispute Resolution

An applicant may request in writing review of a decision by UHSC not to approve a licence or renewal of a licence such as whether goods meet certification requirements, or any other issue relating to the CTM. The procedure for review of a decision or for any dispute is as follows:

UHS staff will undertake a process of internal review by an UHSC officer with a record of the staff handling the process and decision made to be recorded and the decision after internal review to be notified to the Applicant

If the dispute is not resolved within 21 days, the Applicant may seek independent review by an Independent Reviewer to be appointed by agreement between UHS and the Applicant or may engage Alternative Dispute Resolution facilitated by the The Law Society of New South Wales.

The Applicant will bear the costs and disbursements of the Independent Reviewer

The independent reviewer will determine the dispute and the decisions of the Independent Review will be binding on the parties.

11. Complaints procedures

The procedure for dealing with any complaints received by UHS about use of the logo is as follows:

Where a complaint relates to use of the logo by a person who is not a current licensee

UHS will undertake a process of internal review of the complaint by an UHS officer with a record being made of the staff handling the process and the decision about whether or not the complaint is valid

12. Sanctions for Breach of Rules

UHS may use the following sanctions for a breach by the Licensee of these Rules:

- a. Suspension for a specified period or revocation of a licence;
- b. Amendment of a licence to delete specified goods and/or services;
- c. Publications of the details for a breach of these Rules, or a corrective statement approved by a Licensee on the UHS website or its reports.

13. Licensees liable for own compliance

Licensees acknowledge that they are liable in relation to the compliance of their usage of the logo with all laws including statutory compliance and UHS has not liability in this regard.

Annexure A – Map of Upper Hunter Shire Region showing boundaries.

See attached