



22 June 2009

Our ref: DB/08025

Mr Sam Haddad
Director General
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Dear Mr Haddad,

re: Application to Modify Approval to Southern Highlands Regional Shooting Complex (MP 06_0232 - Mod 1)

We write on behalf of the Hill Top Residents Action Group Inc (HTRAGI) in relation to the exhibition of an application to modify the approval to MP 06_0232 for the Southern Highlands Regional Shooting Complex. The modification application was lodged by NSW Sport and Recreation on 26 May 2009. HTRAGI objects to the proposed modifications for the grounds listed below.

1. A1 Development Description – Implications for Current 800 metre rifle range

NSW Sport and Recreation seek approval for the immediate use of the existing 800 metre range (used for high powered rifles) prior to the implementation of a number of measures designed to limit the impacts of the project on the local community and the environment required by the approval.

There is no justification for this use. The major project approval allows an intensity of use of the existing range that is significantly different to that under the previous consent under which the range operated and which has ceased to have effect. Conditions of approval were recommended by a Panel of Experts, officers of the Department of Planning and the Minister in order to limit the impacts of the approval on the community.

The proponent now seeks to take the benefit of the approval without any of the burden. This should not be approved.

Further, there is also a most critical issue which we bring to your attention, namely the current unauthorised use of the existing facility. Clause 8M of the Environmental Planning and Assessment Regulation 2000 states:

If development is declared to be a project under Part 3A of the Act as referred to in section 75ZA (1) of the Act, any development consent under Part 4 of the Act or approval under Part 5 of the Act that authorises the carrying out of all or part of the

development continues in force but ceases to have effect when the project is approved under Part 3A of the Act.

Therefore the consent granted for the existing facility ceased to have effect on 26 February 2009 and any use of the existing range since that time is not lawful. We are advised by residents that the range has been used every weekend since the major project was approved. The Director-General is requested to direct NSW Sport and Recreation to cease the unauthorised use.

Also the approval of 26 February 2009 requires the implementation of a number of conditions of consent prior to the use of the existing range for the purpose as now proposed including:

- Condition D2 requiring an operation and environmental management plan (OEMP). The OEMP is to include a large number of matters relevant to the proposal:
 - Limiting the use of high powered fire arms. It is noted that the proponent seeks to modify this requirement of the approval also (see below) to allow high powered firearms on the 800 metre range. This use is restricted by the existing NSW Registry Firearms License and is contrary to the specific recommendations Independent Expert Panel.
 - Measures to manage any Military use given that the approval specifically allows military use and this use needs to be managed and controlled notwithstanding any views on the approvals required for this Commonwealth activity under NSW law.
 - Attended noise monitoring to confirm noise measures. It is noted that the proponent seeks to modify this requirement of the approval also (see below) so as not to apply to the immediate use of the 800 metre range when this requirement was included by the Independent Expert Panel is specifically because of the potential for this range to be used by high powered and noisy firearms and it being the closest range to the existing residences of Hill Top.
 - A requirement for special approval for major meets. It would appear that the proponent would like to use the existing range for major meets without the requirement for approval from the Minister and allowing the storage of firearms and ammunition on the site when the facility is not in use contrary to conditions of approval.
 - Proposed fencing and range danger areas as may be required by NSW Firearms Registry.
- Condition D3 requiring road safety improvements introduced for the protection of the local community and required as a direct result of the increase in the intensity of use of the range including the existing range. There is no reason as to why these works should not be implemented prior to any use of the grounds and no justification is given by the proponent as to why these measures should not be implemented.
- Condition D4 requiring all proposed external range shelters to include acoustically absorptive material in accordance with the detailed plans included in the PPR. A reading of the PPR, the EA, the Independent Expert Panel report and the DGs assessment required give the impression that the proponent was committed to or required to provide additional acoustic measures at all firing points, including the

existing range. It would appear that the proponent takes a different view and interprets the approval as not requiring any such structures at the existing range. It seems clear that the intention of the approval is for such acoustic barriers to be constructed for the existing range in view of the increased intensity of use of this range and its use for firing more powerful and potentially noisy weapons.

- Condition D5 requiring fencing and warning signs having regard to the additional use of the existing range and its use by more powerful weapons.
- Condition E3 requiring a power generator which is considered necessary for emergencies and the like.

It is the proponent's intention to use the existing range in accordance with the approval but without undertaking any works or implementing any management measures (other than noise measures after 3 months). No assessment of the suitability of the use of the existing range for this purpose has been undertaken. This includes the suitability of the existing access arrangements, club house facilities, toilet facilities, energy and communications facilities, access through Hill Top. No assessment of the impacts of the use has been undertaken in order to identify what measures may be necessary to mitigate the impacts of the additional use of the existing range.

The proponent does not appear to have any rights to use the existing range. The conditions of development consent under which the existing range operated allowed the use of the range on Saturdays and Sundays only with typical monthly usage by being 96 shooters. There were limits on the events and the weapons used imposed under the existing Shooting Range Approval. This will change significantly under the major projects approval whereby the character of use will change from a very small local range used for limited clubs to a sports and recreation facility of regional and State significance to be used by a large number of clubs with the only limit on use (as identified by the proponent in the PPR being the number of firing points. The intensity of use scheduled for the 800mm range in the PPR is more than the scheduled use of the proposed new 500 metre range.

The proponent asserts that the modification would allow the *Army to return to the range under the approved Development Consent*. The HTRAGI continues its objection to the Army use of the range as it is not approved under the existing development consent (which ceases to have any effect) and is not a use to which the approval relates which is *a regional shooting complex where two or more shooting clubs or ranges within a defined region are consolidated into a single site* as defined in Schedule 1 of the Major Projects SEPP.

No assessment of the impacts of this use as now proposed by the proponent has been undertaken and no consideration given to the works or management measures to ensure that the use can occur in a safe manner which minimises impacts on residents and the environment.

This modification should be refused.

Also as part of the proponents request for a modification of the approval to allow immediate use of the existing range, the proponent asserts that the noise monitoring regime in Condition D2(d) is excessive. No analysis in support of this is given. The noise management issues were carefully considered by the Independent Panel of Experts and by

the Department and by the Minister in assessment following a site visit. There is no reason to suggest that the monitoring regime is unreasonable or onerous. No change to this requirement of the OEMP should be made in relation to the use of the 800 metre range or any other element of the project. Again it is noted that the proponent proposes no acoustic barriers around the firing positions on this range.

2. Condition A6(b) Restrictions on Range Use 9.00am to 10.00am

The proponent seeks to reduce the noise restriction on shooting between 9am and 10am in the mornings. This was a specific requirement of the Minister for Planning and is considered reasonable. The proponent cannot provide any guarantee that the use of the range between 9am and 10am would be inaudible at the nearest residence and so the condition should remain.

The proponent seeks to justify this amendment by claiming that there is no restriction on the use of farm or domestic machinery in the area between 9 and 10 and therefore there should not be a restriction on the use of the range. There are restrictions on the use of domestic and farm machinery that enables controls to be enforced if activities are noisy. Furthermore there is no similarity between domestic lawn movers and blowers and the sound of firearms.

This modification should be refused.

3. Condition B3 – Reduction in Size of the Sedimentation Ponds

The proponent requests a reduction in the size of the sedimentation ponds which control contaminated run-off contrary to the recommendations of the Sydney Catchment Authority (SCA). The SCA is the authority responsible for managing the catchment to Sydney's water supply. This authority requested the ponds be designed to accommodate the 1 in 100 year storm event as a means of protecting water quality resulting from contamination associated with the proposed use.

The proponent considers that the basins should be designed in accordance with the Landcom's Soils and Construction: Managing Urban Stormwater 2004, commonly referred to as the Blue Book. This publication deals with controlling erosion and sedimentation during construction. The SCA's comments related to the operational phase. Whilst the sedimentation ponds as proposed by the proponent may be adequate as a means for controlling sedimentation during construction, they are not, in the view of the SCA, big enough to control contamination and run-off potentially affecting Sydney's water supply.

It would appear that the EA documentation did not define the design capacity of the proposed ponds to ensure that contamination could be properly managed. The impacts of the larger ponds required to meet the needs of the SCA were not assessed.

In relation to the application for the immediate use of the existing range, it is noted that there are no measures to control the additional contamination from the additional and more intensive use of this range as there are no water quality treatment ponds for this range.

The smaller ponds cannot be justified on the basis of their size to control sedimentation during construction. They should be designed to control water quality and to allow efficient treatment of contamination. The proponent should be requested to provide additional

information on the size of the water quality controls ponds necessary to effectively manage contamination on the site, including means to control contamination from the more intensive use of the existing range.

This modification should be refused.

4. Condition C1 – Staged Vegetation Clearing

The proponent seeks to clear a wide area of land to make way for the entire project. This is justified on the basis of cost saving from all clearing being undertaken under one contract.

The consent requires that vegetation clearing should be carried out on a staged basis, according to the staging of the new facilities. This was a recommendation of the Independent Panel in response to the proponents stated intention to implement the project in stages with Stage 1 consisting of the first 3 ranges (the existing 800m range, new 500m rifle range and 50m pistol range) and new supporting facilities and infrastructure. Construction of the remaining 3 ranges (200m combined range, shotgun range and indoor air range) will be subject to future funding agreements. The impact assessment and the approval were predicated on the minimum amount of clearing be carried out to locate the new facilities.

The site has high environmental significance. It is imperative that clearing be minimised. Any additional cost in staging clearing of vegetation is considered minimal. If cost savings are to be achieved, the proponent should defer any works until all funding is available and the project can be constructed under one contract. This would result in greater savings to the public purse.

This modification should be refused.

5. Condition D2(a) – Scheduling High Powered Firearms

The proponent seeks to allow larger and noisier guns at the existing range which is closer to existing residents at Hill Top contrary to the recommendations of the Independent Panel. No acoustic barriers are proposed. The Independent Panel, after considering the noise impacts of the project, recommended that where practicable, the use of high powered firearms (e.g. 0.308, 12 gauge shotgun, and 0.357 magnum) should be scheduled on the new ranges and limit such firearms on the existing 800m range. The Department agreed with this recommendation.

The proponent provides not acoustic assessment to justify this modification. Consequently this modification should be refused.

6. Condition E1 – Storage of Fire Arms and Ammunition

The proponent seeks approval to store ammunition and firearms on the site overnight during State national or international meets when this was specifically precluded by the approval. The Director General of the Department of Planning recommended conditions to ensure no ammunition and firearms will be stored on site.



The site is isolated and provides no security. There is no electricity, no telephone and no water supply. The site is in a high fire danger area. There is no justification for storing any ammunition or fire arms on site or in the village of Hill Top.

This modification should be refused.

We request that these matters be taken into consideration in determining this application to modify the approval. We also submit the Minister has no legal basis upon which to modify the consent particularly in circumstances where the proposal is in breach of the law by using the site as a shooting range without any effective consent and/or approvals.

Yours faithfully

BBC Consulting Planners

Dan Brindle
Director