

29 November 2013

Community and Corporate

Reference No: F00678 13/208781

NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY 2001

Attn: Sarah McGirr

Dear MS McGirr

Re: Proposed Amendments to State Environmental Planning Policy 2007 (Infrastructure) in relation to Shooting Ranges

I refer to the proposed amendments to the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) to facilitate the planning for shooting ranges. Blue Mountains City Council provides the following comments on the proposed amendments. Please note that submission is lodged as a DRAFT ONLY at this stage, and will be confirmed by letter by COB on 6 December 2013.

1) Proposed Changes

It is understood that the Draft amendments to the ISEPP will provide for the following:

- a) make shooting ranges (including the range danger area) permitted with consent, where there is an existing lawful shooting range so that those facilities remain wholly permitted (despite how the land is zoned in the relevant local environmental plan); and
- b) make shooting ranges (including the range danger area) permitted with consent on land adjacent to an existing lawful shooting range, if the adjacent land is zoned RU1 Primary Production, RU2 Rural Landscape, RE1 Public Recreation, RE2 Private Recreation, E2 Environmental Conservation or E3 Environmental Management (or an equivalent land use zone).

It is understood that the draft amendments to the ISEPP are intended to overcome difficulties faced by operators of existing shooting range facilities following the making of Standard Instrument LEPs, as these may introduce prohibitions and development controls that prevent the reasonable operation and modification of these facilities.

Blue Mountains City Council response

Two rifle ranges operate in the Blue Mountains; Katoomba Rifle Club, and Springwood Small Bore Pistol Club. The current planning controls in relation to these shooting ranges are as follows:

- *Katoomba Rifle Club* is a Crown Reserve located at 508 Great Western Highway, Leura. The land is currently zoned Environmental Protection under LEP 1991, due to slope constraints, a watercourse and hanging swamp community recognised under the TSC Act. The site also has a Protected Area-Land Between Towns overlay. The current use of the site as a shooting range is not permissible under this zone. However, the rifle range has been in continuous use since 1930, and so benefits from "existing use rights". Under Council's Draft Standard Instrument based LEP (Draft LEP 2013) presently being prepared for public exhibition, the site will be zoned to E2 - Environmental Conservation. Under the DLEP 2013 the use of the site for "shooting ranges" falls within the definition of "recreation facility – outdoor", which would not be permitted in the E2 zone. However, the existing use rights by which the use currently operates would continue under the DLEP 2013.
- *Springwood Rifle Club* : The Springwood Club is currently zoned Recreation-Open Space, under LEP 2005, and also operates through existing use rights as a shooting range is not a permissible use in this zone. However, this zone has been translated into the "RE1 Public Recreation" zone in the DLEP 2013, and "recreation facilities (outdoor)" are permissible in this zone. The use of the site for a shooting range would be permissible under DLEP 2013, subject to development consent being obtained.

b) Comments on the Proposed Amendments. The proposed amendment clarifies that the use of an existing site for the purpose of a shooting range would be made legal, and development on adjacent land for the purpose of a shooting range would also be permissible, therefore allowing for the expansion of the shooting range (subject to owners consent).

In many ways the proposed amendments may enable the Council to have greater ability to enforce its environmental standards through conditions of consent. Nevertheless, Council is concerned that the proposed amendments focus on facilitating the development of shooting ranges, thereby missing an opportunity to improve the performance of shooting ranges that have been operating through existing use rights and which have largely been unregulated. Taking this approach to the proposed amendments would provide a more balanced outcome for planning shooting ranges, rather than simply supporting their operation, irrespective of their previous history.

For example, balance could be achieved through the ISEPP if a provision by which a shooting range operating through existing use rights (EURs) could be made legal, but that this was conditional upon the submission of an Environmental Management Plan for approval. There would be no obligation on a shooting range to submit such a Plan, and if such a Plan was submitted and was refused it would not alter the existing status of the shooting range. In providing this suggestion it is recognised that Sec 108 of the Act governs the operation of existing uses. Any further amendments to the ISEPP to address the performance of shooting ranges operating through EURs would need to be consistent with Sec 108 of the Act.

It is clear that the opportunity exists for the amendments to take a more balanced approach to shooting ranges. This should ensure that as well as providing for their permissibility, that shooting ranges which operate through EURs and which have a history of unsatisfactory performance are brought up to a satisfactory level of performance, before being made legal.

I trust that you will give these comments appropriate consideration. Please contact me on 4780 5740 if you wish to discuss this letter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'A. Turner', with a large loop at the top and a horizontal line at the bottom.

ANDY TURNER
Manager, City Planning