

**Submission
No 248**

**INQUIRY INTO PROVISIONS OF THE FIREARMS AND
WEAPONS LEGISLATION AMENDMENT (CRIMINAL
USE) BILL 2020**

Organisation: Clarence Valley Hunting Club

Date Received: 14 August 2020

The Secretary Committee of Inquiry NSW Legislative Council

14 August 2020

By Email

Honorable Members INQUIRY INTO THE PROVISIONS OF THE FIREARMS AND WEAPONS (CRIMINAL USE) AMENDMENT BILL 2020

Dear Committee Members,

I am writing to you as a licensed shooter and Law-abiding firearm owner and the President of Clarence Valley Hunting Club Inc currently representing over 100 members. Our members have significant concerns over the "Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020", currently before the NSW Parliament. We support evidence based Legislation that applies logic and common sense that achieves the desired result of removing firearms from criminal not making criminals out of honest law abiding citizens. We strongly believe that the provisions of this Bill are too ambiguous and open to police misinterpretation and abuse of power. As it stands the Bill creates a serious threat to all licensed firearm owners and other persons whilst doing nothing to address the real problems of organised crime and the illegal use of firearms in crimes. People who own and possess everyday tools and equipment which could now be perceived as firearm precursors used to make firearm parts, could be significantly negatively impacted by this Bill. The Bill does NOT differentiate between licensed firearm owners and criminals. The Bill entitles police to act on suspicion of an offence rather than evidence of an offence or without probable cause.

Section 51J establishes the offence of "take part in the manufacture a firearm or firearm part". Subsequent paragraphs explain the meanings of "Take Part" and what constitutes a "precursor" but they do not determine what constitutes "manufacture".

- Would the manufacture of a wing type safety fitted to a Winchester Model 94 Lever Action that does not come with a factory safety be classified as an offence? This is merely making the firearm safer to use. To make this a criminal act defies all logic and common sense.
- Does the threading of a barrel or the machining of sight mounting surface constitute manufacture and hence an offence?
- Does the alteration of a stock to allow the fitting of a cheek support or a bipod constitute manufacture and an offence?
- If someone was to alter or adapt a component that allows them to fit, a modern telescopic sight to an older firearm is that illegal "manufacture of a part" under this proposed legislation?
- If someone were to reproduce or make a replacement trigger guard for a broken one on their registered firearm would this constitute the manufacture of a firearm part and an offence?

- If someone is charged with the manufacture of a firearm or firearm part under these proposed legislation does that also mean that a co-owner of a home will also be charged? For example a spouse with no knowledge of their partners activities.

The examples of normal activities carried out by licenced law abiding firearms owners to maintain good working order and improve the efficiency and safety of their firearms are endless and if the answer to any of the questions above is yes then this proposed legislation needs some serious rethinking and reworking to avoid making criminals out of innocent law abiding citizens.

Section 51J, (2), (d) establishes the intent that “the person possesses a firearm precursor for the purposes of manufacturing a firearm or firearm part” but does not differentiate between legal (by licenced firearms users, as mentioned above) or illegal possession. As mentioned above, there are many alterations/additions/parts/substances that are commonly used legally on firearms by licenced users and pose no increased public risk.

The listing of “computer software and plans” as precursors is another ridiculous inclusion. Unless someone is found guilty of actually manufacturing a firearm illegally then the mere possession of computer software and plans should not be an offense. The DPI issue a fantastic resource for Firearms Safety Trainers use that contains many diagrams and descriptions detailing the operation and function of firearms and ammunition. Will these resources be caught by the proposed changes? Most firearms owners are students of their development and history. A lot of computer files and books have been published many of which show drawings or plans to explain the workings of firearms with the primary purpose of educating users on their safe operation and maintenance. Having full information of the method of operation and maintenance of a firearm is critical to using it correctly and safely.

As written this proposed bill could easily lead to misinterpretation. The proposed bill needs to specify that licenced firearm users who have a legitimate need to make a part or make minor modifications to a registered firearm, are not captured by this Bill; and the mere possession of everyday items or hardware by licenced firearm users is not an offence under this proposed bill. This proposed legislation could have the unintended effect of making any published material on firearms and their maintenance a “precursor” to illegal activity.

The requirement in section 51K (2) compelling a person to provide assistance or information to police could very well breach the common law right to silence. Every person has the right to silence and should not be coerced by threat of penalty to make any comment, or to provide assistance or information to police without first obtaining independent legal advice.

Some changes we feel are required to the Bill are:

1. Remove the presumption that persons who rent premises, supply finance, materials or equipment are actually involved in the manufacture of firearms or firearm parts. (Section (51 J (2) (a)-(c))
2. Remove the presumption that materials and equipment are firearm precursors, where police have no evidence of firearms or parts being manufactured. (Section 51 J (2) (d))

3. Decisions to confiscate firearms and equipment suspected of being firearms precursors, should only be made by police of the rank of Inspector and above, and only after careful consideration and such decision must be documented in writing.
4. Remove Section (51 K (2)) which breaches common law.
5. Add a requirement that internal reviews of decisions involving firearms matters have to be completed within a reasonable, defined period of time for example 28 days.
6. Amend the bill to make it perfectly clear that
 - a. the mere possession of everyday items or tools, published materials and other instructional materials in any form, by license firearm owners is not an offence under this bill;
 - b. licensed firearm owners who have a legitimate need to make a part or minor modification to a registered firearm, or a firearm that is not required to be registered under the Act, are not captured by this Bill.
7. Remove section (51 K (2) & (3)) which compels a person to provide assistance or information to police, as this breaches the right to silence under common law.

If you require further comment from myself or Clarence Valley Hunting Club Inc in relation to this matter please do not hesitate to contact myself or the secretary at

or

or on

Yours Sincerely

 Daniel Spears

Clarence Valley Hunting Club President

14/08/2020