

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

**Organisation:** NSW Farmers

**Date Received:** 4 March 2021

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James Jackson  
President  
21300C

4 March 2021

The Hon. Robert Borsak, MLC  
Chair, Portfolio Committee No. 5 – Legal Affairs  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Chair Borsak

***RE: Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020***

I write on behalf of the NSW Farmers' Association to raise our significant concerns around potential unintended consequences for farmers in relation to the amendments proposed by the *Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020* ('The Bill').

The stated intent of the Bill is not in question. That is, to create a new offence of knowingly taking part in the unauthorised manufacture of firearms or firearm parts, including being in possession of certain matter that could be used for the purpose of manufacturing these.

However, as the Bill currently stands NSW Farmers considers there is a lack of clarity regarding the evidence based processes to guide implementation of the proposed increased police powers and erosion of civil liberties under the Bill. In particular, farmers require confirmation that items and machinery they utilise to conduct day to day business activities will not trigger police suspicion and be captured by the section 51J offence of taking part in unauthorised manufacture of firearms or firearm parts.

The elements of the offence in accordance with section 51J(1) that require a person to knowingly take part in the manufacture of a firearm or firearm part, and know, or ought reasonably to know, that the manufacture of the firearm part is not authorised by a licence or permit appear clear. However, sub-sections 51J(2) and (3) are very broad, capturing any step in the process of manufacture, and any object, device, substance, material or document used or capable to be used in the process or manufacturing a firearm or firearm part, to be known as a firearm precursor.

Under this Bill, there is a significant risk that by merely being in possession of machinery and items that would be considered firearm precursors, in particular those listed under section 51J(3), that farmers will be subject to greater police scrutiny and suffer an erosion of civil liberties as a result of increased police seizure powers under section 51K.

I raise a further issue regarding the potential interpretation of technology access and use under section 51K. Under this section a person may be directed by a police officer to provide information including a password or a code to access any information held or contained in the thing that has been seized, and must not fail to comply with such a direction. This provides a very broad power based only on a police officer's suspicion on reasonable grounds that the seized item may provide evidence of the commission of an offence under section 51J, yet it erodes civil liberties and impinges on the right to silence.

**NSW Farmers' Association**

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NSW Farmers seeks assurance and clarification that the proposed legislation will not have unintended consequences for farmers carrying out their day to day business. The importance of the intent of this Bill in preventing unauthorised weapon manufacture, and convicting those engaging in it is recognised. However NSW Farmers considers that there is limited protections in the Bill as drafted, against excessive police powers and disproportionate erosion of civil liberties in order to achieve this goal.

NSW Farmers also seeks to clarify that landholders will not be liable for any third party activities conducted on farm premises that they were either unaware of or did not endorse. Farmers typically have large landholdings and potentially a number of employees residing on-farm, making it possible for activities to be conducted on-farm without permission or knowledge of the landholder. Additionally, farmers also lease land or have share farming arrangements. As the legal owner they should not be held liable for activities undertaken without their knowledge or approval as either an employer or under these lease arrangements.

I seek therefore, through the deliberations of the Committee to which the Bill has been referred and any subsequent response to the Committee recommendations, that enshrined rights and civil liberties are not lost through an over-zealous application of police powers to address or prevent criminal activity through measures to address the actions of a few who knowingly seek to manufacture fire arms or fire arm parts.

Your urgent consideration of the matters raised above is appreciated. I advise that we have raised our concerns with the Hon. David Elliott, MP as Minister for Police, the Hon. Adam Marshall, MP as Minister for Agriculture, and Ms Jenny Aitchison, MP as Shadow Minister for Agriculture. Should you require additional information, your office is invited to contact Kathy Rankin, Policy Director on \_\_\_\_\_ or by email at \_\_\_\_\_

Yours sincerely ✓

 James Jackson  
PRESIDENT