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Shooters Union New South Wales Preliminary Consultation Paper

Firearms – Edwards Inquests findings and other Legislative proposals

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BACKGROUND

In April 2021, NSW State Coroner Teresa O’Sullivan handed down her findings into the deaths of John, Jack & Jennifer Edwards. The report, which was scathing of failures in both New South Wales Police (NSWPOL) and the NSW Firearms Registry (NSWFAR).

Late in January 2022, the Shooters, Fishers & Farmers Party (SFFP) revealed a proposal before the NSW State Government Cabinet to implement a range of changes to the state’s firearm laws.

Shooters Union New South Wales is appalled by the State Government’s attitude towards the issue and have prepared this official response to address our concerns with the proposals outlined in the Cabinet documents.

SUMMARY

Shooters Union New South Wales has, on two occasions, tried to join the New South Wales Firearms Registry Firearms Consultative Council (FCC).

On both occasions our application to join the FCC has been rejected.

Shooters Union NSW has long been of the opinion that New South Wales Police (NSWPOL), using the NSW Firearms Registry (NSWFAR) as its conduit, has been implementing an agenda to harass and disrupt the lives and activities of the state’s approximately more than 240,000 law-abiding firearms users.

By taking the opportunity to include “other legislative proposals” to the discussion paper on the Edwards inquest findings, has once again showed the bias NSWPOL & NSWFAR has the against private firearm ownership in New South Wales.

In April 2021, NSW State Coroner Teresa O’Sullivan handed down her findings into the deaths of John, Jack & Jennifer Edwards.

The Coroners report was scathing of the NSWFAR, “I am satisfied that registry staff did have access to adequate information, because it is not disputed that they could have reviewed the COPS holdings in relation to John, ***which revealed an obvious pattern of domestic violence incidents***” (emphasis ours).



The Report goes on to state: “Registry staff had differing views about the tasks that they, and others, were responsible for, and alarmingly, several mistakenly assumed that another was undertaking a critical task that involved the assessment risk.”

“Training offered to registry staff in relation to the adjudication of application for firearm licenses at the time John Edwards applications were being determined was grossly inadequate.”

Despite the proposals contained in the FCC Preliminary Discussion Paper the fact remains that had NSWFA, NSWPOL and the Family Court acted upon the previous domestic violence incidents of John Edwards his children and his wife may still be alive.

Shooters Union submits NSWFA failed the Edwards family and is now attempting to reassign that blame to the state’s law-abiding firearms users, and is further seeking to capitalise on the tragedy as an opportunity to push through changes which impose further legislative restrictions on legitimate firearms owners while having no quantifiable benefit toward curbing illegal firearm violence.

AUTHORITY TO COMMENT

Shooters Union Australia is one of the three largest shooting organisations in Australia, and represents the interests of all law-abiding firearms users at State and Federal level.

Shooters Union NSW is the organisation branch active and representing Shooters Union members in New South Wales, and is formally affiliated with the Game Council Of New South Wales (GameCon).

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SHOOTERS UNION NSW RESPONSE TO EDWARDS RECOMMENDATIONS

Page 4 – Edwards Recommendation 6

Shooters Union NSW agrees, in principal, with updating the prescribed offences in cl.5 of the Firearms Regulation 2017 to include any personal violence offences or domestic violence offences as defined in the Crimes (Domestic and Personal Violence) Act 2007.

However, it must be noted that the Edwards incident arose from the fact that the NSW Firearms Registry and NSW Police did not consider nor act upon John Edwards criminal history of domestic violence despite it being known.

No changes to the current legislative will address past or future failings of the NSW Firearms Registry.

Page 5 – Edwards Recommendation 9

Option 1

This is **not acceptable** to Shooters Union NSW.

There is significant legal uncertainty around the status of revoked AVOs and their expiry as found in a parliamentary call for papers including when and who can revoke. This legal uncertainty should be resolved first before even considering incorporating such a proposal.

Option 2

This is **not acceptable** to Shooters Union NSW.

AVOs have a long history themselves of being used as weapons in even the most simplistic of domestic disputes.

An AVO being revoked because it was made on the basis of a false, misleading or vexatious claim *is not a rare or exceptional circumstance* and to call it such is a gross misrepresentation. To hold a false or vexatious claim against someone and use it to withdraw individual privileges is a gross abuse of power and discriminatory.



Option 3

Saying that revoked AVOs will still be considered as part of fit and proper person test is not acceptable as in option 2 it implies that a false and vexatious claim will be used to discriminate against a person, potentially re-traumatising the victim of domestic abuse in the process.

Additionally, the fit and proper person test has been subject to widespread abuse by the NSWFAAR taking advantage of its vagueness and non quantifiable components *in going beyond the currently set 10-year period to find reasons not to grant a firearms license.*

Page 6 – Edwards Recommendations 16-18

While it is difficult to comment on as-yet unrevealed amendments, Shooters Union NSW supports information sharing between NSWPOL, the Family Law Court and the Federal Court - but believes not everyone who ends up in family court should be excluded from obtaining a firearms licence or being able to shoot.

Having a marriage breakdown and using the family court as a way of resolving custody and/or financial disputes should not be a reason for exclusion from owning a firearm.

Reasons for not allowing someone to obtain a firearms license should generally remain as per the prescribed offences detailed in the Crimes (*Domestic and Personal Violence*) Act 2007, although we do question the relevance of crimes such as computer hacking (s308, *Crimes (Domestic and Violence)* Act 2007) to firearms ownership.

Page 7 – Edwards Recommendation 20

Neither option 1 nor 2 is acceptable to Shooters Union NSW.

Shooters Union NSW has no faith that the NSWFAAR can provide processing times for a replacement P650 'permit' that will not hinder or disrupt those who are wanting to complete a NSW Firearms Safety and Awareness Test.

The P650 form is critical for all shooting/hunting clubs running their 'Try Shooting Days', as well as being vital for conducting Firearm Safety Awareness Training Programmes.



The delays in registry completing probity checks were well discussed during the John Edwards Coronial Inquest.

Delays in processing times of probity tests have been raised at a parliamentary level and directly to both the Commissioner and Deputy Commissioner of Police over many years.

To our mind there has been no improvement in the processing times of license applications - if anything it has become worse since the Edwards tragedy - and excuses of an increased demand in firearms applications is not supported by evidence collected through parliamentary questioning at budget estimates or through calls for Parliamentary papers or through NSWFA's own data.

Page 8 – Edwards Recommendation 21

It should be noted that in the case of John Edwards, *the NSWFA was aware that he had not received club support for his application* as he was applying for a Commissioner's permit.

While this proposal does not impose any undue burden on clubs, some clubs impose limits on membership numbers, therefore someone being refused club membership because that club has reached its capacity for that financial year should not be part of any mandatory reporting scheme.

There is no evidence that this proposal will stop authorised decision makers in the NSWFA from failing to act with due diligence as was the case with the Edwards tragedy.

With the above in mind Shooters Union NSW **does not** support recommendation 21.

SHOOTERS UNION NSW RESPONSE TO OTHER RECOMMENDATIONS IN CABINET REPORT

Page 10, Item 1 – Number of Firearms owned by a Licence Holder

Firstly: Shooters Union believes the incorporation of "other legislative proposals" to the findings of the Edwards Inquest strongly suggests NSWFA and NSWPOL are 'dancing on the graves of victims' to capitalise on this tragedy and further impose draconian restrictions on law-abiding firearm users in NSW.



There was no finding by the Audit Office that said ‘excess amounts of firearms in any one place’ presented a significant risk to public safety, nor is there any evidence or data elsewhere in Australia that supports the frivolous claim by the author(s) of this document.

In fact, Shooters Union NSW believes that any suggestion to limit the number of firearms a person can own is a manifestation of ‘perception-based regulation’ trend which apparently has considerable support within the NSWFA & NSWPOL.

We suggest that NSWPOL and NSWFA, on the subject of public risk, have created a greater risk to public safety by allowing the release of information to the NSW Greens for their “How Many Guns Are In Your Suburb?” website (www.toomanyguns.org).

Shooters Unions NSW **does not** support either option.

Page 11 – Item 2 – Deceased Estates

Evidence obtained through a Parliamentary call for papers shows that the NSWFA has been inconsistent in its administration of deceased estates, particularly around the fee for multiple PTA's.

In proposing these changes NSWFA shows a complete lack of empathy or consideration in dealing with the death of a loved one and all the different processes involved. There is no consideration that a relative with an existing firearms licence could store the deceased estate firearms safely while a decision is made whether to either transfer ownership to a licensed person(s) or place with firearms with a firearms dealer for sale.

Shooters Union NSW would **support** Option 1 provided NSWFA worked on improving positive engagement with firearms owners as customers, rather than treating them as criminals or terrorists in waiting.

Shooters Union NSW will **not support** Option 2 if Option 1 provides a viable alternative.



Page 12 – Item 3 – Restriction on times a person may shoot unlicensed at a range each year

NSWFAR & NSWPOL are reminded that, as found by the Coroners Inquest, it was departmental failings that led to the John Edwards tragedy, not how many times a person can “try shooting”.

There should no limit to the number of times a person can “try shooting” in any 12-month period. To impose such a limit restricts the growth of the shooting sports while providing no commensurate public safety benefit.

Shooters Union NSW **rejects** Item 3.

Page 13 – Item 4 - Fingerprinting

The suggestion by Superintendent Bell at the Edwards Coroner’s Inquest was nothing more than an attempt to deflect blame from the failings of NSWPOL and NSWFAR to act on the information they already had on John Edwards.

Category D and H firearms are already subject to stringent requirements and the additional requirement of fingerprinting is completely unnecessary; in our view it is yet another example of an attempt to hamper the access of these firearms to people who need them, namely primary producers and professional shooters.

Shooters Union NSW **rejects** Item 4

Page 14, Item 5 – Medical fitness to use firearms

Shooters Union NSW flatly **rejects** this proposal.

It is clear now that by attempting to scrap the P650 Form **AND** impose a ‘medical fitness to use firearms’ criteria that the NSWFAR and NSWPOL are attempting to reduce the number of law abiding firearm owners in NSW by (1) making it harder to obtain a license and (2) making it harder to keep a license by imposing age and/or fitness limitations.

It is widely acknowledged that shooting/hunting are among the most inclusive sports/activities; being practised by people of all ages, genders, orientations, backgrounds and physical ability.



The sport of shooting is non-restrictive to age and provides clear mental health benefits, improved hand eye co-ordination and social stimulus to all that participate in it.

Clay target & rifle shooting record books are full of shooting achievements by Octogenarians.

Simply put this proposal is discriminatory and an imposition on a person's civil liberties.

Page 15, Item 6 – Prohibited Firearms: Item 5 Schedule 1

While *Bankowski v Commissioner of Police* (2020) was the precursor to the issues surrounding Category D firearms, the issue has been made infinitely worse by the state's 'Firearm Appearance Laws' (Item 7, Schedule 1, *Firearms Act 1996 No. 46*)

How a firearm can be regulated based upon appearance rather than functionality is, in our opinion, the epitome of stupidity and has caused mass confusion amongst firearms registry staff, firearm dealers and firearm importers alike.

In releasing a list of 'permissible' Category D firearms for primary production use the NSWFA showed itself to have little knowledge of the subject by recommending primary producers purchase firearms that had been out of production for a number of years.

We are adamant that firearms regulation and policy must not be set or guided by people who are clearly getting their information from cursory Google or Wikipedia searches.

It should be noted that NSWFA and NSWPOL have previously ignored NCAT decisions in firearm related matters.

The use of the terms 'military' and 'non-military' are overly restrictive interpretations by the Ballistics Investigative Section (BIS) and, as admitted in the fourth dot point overrides the National Firearms Agreement.

We cannot see how proposed options will address the subjective nature and interpretation by the BIS and we believe a reasonable proposal is for the Commissioner to utilise their discretion to issue approvals for Category D firearms.



Page 16, Item 7 – Special Category D license

We **recommend** that the Commissioner issue permits *in relation to this issue* based on the “Commissioner’s Discretion” clause in the current legislation.

Page 17, Item 8 - Criteria for future Peak Firearms Associations

Shooters Union NSW welcomes the clarification of exactly what is required to be considered a “Peak Firearms Association” in NSW, but has **reservations** about the potential for those requirements to be used to exclude shooting organisations who do not participate in extremely narrowly defined shooting disciplines.

The current situation is untenable, especially as it has led to situations such as Shooters Union – one of the three largest shooting organisations in Australia – being denied a “seat at the table” as a Peak Firearms Association in NSW for opaque reasons which NSWFA have so far been reluctant to specifically articulate.

In previous meetings with NSW Firearms Registry representatives, there also appears to be a reluctance to understand that Commonwealth Games, Olympic Games and even World Championships do not have events for every shooting discipline, and the requirement Peak Firearms Associations have some sort of top-tier global competition pathway also ignores peak associations whose focus is hunting or firearms collection (both of which are legitimate reasons for firearms ownership under the legislation in not only NSW, but every State and Territory of Australia).

Page 18, Item 9 - Use of Online Services

Shooters Union NSW does not support the forcible requirement of every transaction to be digitised without a paper alternative, due to continued internet accessibility issues in rural areas and among the elderly.

Improvements to the existing paper-based systems can be made without forcing end users to a digital system they have difficulty accessing. We suggest it can be simply noted to end users that the digitised system will see their applications/renewals etc processed more quickly, and it is up to the end user to choose which method works best for them.



Page 19, Item 10 - Certification of Adequate Safe Storage of Pistols by Clubs

Shooters Union NSW **supports** Item 10 in broad principle.

This issue has been mentioned by many clubs, particularly over concerns regarding the consequences for individual volunteers if their safe storage suitability determination is questioned by NSWPF in a subsequent safe storage inspection.

The proposed option will increase workload of Licensing Sergeants and there is valid concern that if this process is to occur for every subsequent acquisition, not just the initial acquisition, then it will cause undue and unnecessary delays in the already lengthy time it takes appropriate holders acquiring pistols. As long as storage details have not changed, we see no reason for the process to be repeated every time a licensee wishes to acquire a handgun.

There would need to be significant commitment to maintaining timely inspections, and a removal of the requirement for safe storage certification for subsequent permit to acquire applications, for us to support this proposal in any meaningful sense.

Page 20, Item 11 - Disqualifying Offences

Shooters Union NSW does **not support** this proposal in its current format, as it fails to take into account that a person shooting under a P650 is under the direct supervision of a qualified range officer and licensed shooter.

They are not taking the gun home with them, they are not possessing or using the gun on their own, they cannot purchase ammunition or parts etc. In short, an unlicensed person attending a shooting range under the direct supervision of a licensed person is not analogous to owning/acquiring a firearm and should not be subject to the same standards.



Page 21, Item 12 - Unauthorised Possession of Firearm Parts

Shooters Union NSW reserves specific comment on Item 12 until the actual wording of such amendment is made available, but we express concerns that the definition of “firearm parts” is likely to be excessively broad, as noted in the wording and spirit of the (failed) *Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020* towards the subject.

Page 22, Item 13 - Firearm Club Executives

Shooters Union NSW **does not** support Item 13.

This is a very ill thought out proposal at best and at worst is a blatant overreach by NSWFA.

We believe NSWFA fails to take into account the fact that there are clubs who have both target & hunting approval, therefore it is quite reasonable to conclude that a hunting club may have an Executive member who does not own a firearm but hunts via other legal means i.e dogs or bows.

Their expertise in those areas is invaluable to the committee and club members and should not be arbitrarily excluded.

Suitability to hold an office bearer position is a matter for consideration by election of the members of the club and the ultimately by the Office of Fair Trading not the NSWFA.

Page 23, Item 14 - Eligibility Criteria for Firearm Dealers

It is common practice for most Firearms Dealers to enlist the services of a qualified gunsmith (“armourer”), usually someone with a background as a fitter and turner. Currently no courses exist for ‘Gunsmithing’ in Australia that we are aware of.

To suggest that future Firearm Dealers have a background in such a trade is, in our opinion, trade restrictive and fails to take into account the growth of ‘one stop’ retail outlets that offer mixed outdoor retail services in the Hunting/Shooting/Camping/fishing market.

Not all dealers repair or manufacture firearms or ammunition. What is the definition of “repair or manufacture firearms and ammunition”?



Does manufacturing ammunition mean reloading? If so, how will this affect competition shooters and those who reload their own ammunition at home?

Armourers are mentioned in the initial sentence then they're not mentioned elsewhere - are they to be arbitrarily looped into the category of dealer when they perform a much more limited role?

Shooters Union NSW does **not support** this change.

Page 24, Item 15 - Safe Storage requirements during Transit for Manufacture and Competition

Shooters Union NSW believes this item is unclearly worded, especially as "Manufacture" and "Competition" are two completely different situations.

Manufacture implies commercial transportation is required – a matter on which the current regulations are quite clear.

Storage during transit pertaining to "Competition" is vague - does the proposal refer to transit to and from the competition location? How does this apply for a multi-day event, where it may take two or more days to drive to and from the event?

We also ask: how is transport to/from a competition venue different to travelling to/from a hunting destination?

More details are needed on how such a regulation would be worded before further informed comment can be made.

Page 25, Item 16 - Local Consent Authority Approval/Consent for Ranges

Firearm retail businesses cannot be discriminated against by Councils where they are located within designated retail precincts.

It was the NSWFA that initially imposed 'Council approval' requirements on applications for firearm stores shortly after, if memory serves correctly, Magnum Sports was opening and met fierce resistance from the local Council around 2010/2011.

The Land and Environment Court provides ample protection for firearm retailers that have issues with local Councils.

On the issue of firearm ranges, we agree appropriate Council approvals be sought, provided the approval process is handled fairly and impartially.