



SUBMISSION TO
CONSULTATION PAPER

Proposed amendments to the
Firearms Importation Regime

Regulation 4F and Schedule 6 of the
Customs (Prohibited Imports) Regulations 1956

INTRODUCTION

This submission is focussed on issues and proposals relating to the importation of noise-moderated technology and its utilisation with firearms (longarms).

There is an apparent underlying philosophy in the consultation paper that noise-moderation variously referred to as suppressors, silencers and moderators is a technology that must be limited in its use and elevated to the highest level of importation control. There is no discussion advanced to support this position.

It is our intention to demonstrate that this technology is not only widely utilised within the States of Australia but that it is in common and lawful usage in many countries throughout the world. We highlight the EC Directive 2003/10/EC on Noise:

([http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:042:0038:0044:EN: PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:042:0038:0044:EN:PDF)) which sets out general parameters for workplace noise, and measures that EU members are to take to control measures to reduce it, including particularly, *elimination of risks at source* by employers and *noise reduction by technical means*.

Further, this technology has significant advantages over non-moderated equipment in the areas of:

- User and public safety,
- Increased effectiveness in firearms usage,
- Environmental benefits, and
- Improvements in OH&S for the industry.

The proposals contained in the Consultation Paper will act as a deterrent to the utilisation of noise-moderated technology rather than gaining the very significant benefits offered by the equipment.

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INFLUENCING FACTORS

Licensing Requirements in the States

A discussion of each individual State's requirements at this point is not necessary since it is understood that most licensing regimes are similar. This paper will deal with licensing requirements for noise-moderated equipment in NSW. The requirements are:

- Relevant firearms licence,
- Substantiation of special need for the technology, and
- NSW Police Force Commissioners Permit.

Applications must be considered in the terms of the Firearms Act 1996, Firearms Regulations 2006 and the Weapons Prohibition Act 1998 and Weapons Prohibition Regulation 2009. These Acts and Regulations govern the acquisition, possession and use of the equipment.

There is no argument advanced that these control measures are currently inadequate.

This assessment and licensing framework constituted as the "police authorisation test" appears to be entirely satisfactory and, in any event, currently oversees the possession and use of the equipment in NSW whether the items are imported into the State or manufactured within the State, in the latter case having had no test applied at the Commonwealth level.

The Commissioner of Police will therefore determine who and how the technology can be utilised in the State. At present there is a significant inconsistency between Commonwealth and State legislation regarding the possession and use of this technology. The Commonwealth requires higher and more restrictive controls than are extant in State legislation and yet it is State legislation that governs the use of the equipment.

Manufacturing Requirements in NSW

It is understood that the requirement to manufacture noise-moderated equipment in NSW is for the manufacturer to hold a Prohibited Weapons Manufacturers Permit issued by the NSW Police Commissioner. There are no Commonwealth control measures on the manufacture of noise-moderated equipment within the State.

Current usage regime in NSW of noise-moderated equipment

There is widespread usage of noise-moderated equipment in NSW and other States, the vast majority of which is manufactured within the individual States under respective State legislation similar to the licensing regime outlined above.

The problem that has arisen as a result of the restrictive higher controls extant in the Customs (Prohibited Imports) Regulations 1956 evidences an outmoded attitude towards noise-moderation that is not consistent with international best practice. The control regime far exceeds the "police authorisation test" to the effect that the importation of superior equipment is largely restricted and limited to official use.

Noise-moderated equipment manufactured in Australia and utilised under the respective "police authorisation test" permits is inferior to that which is readily available overseas.

We can see no reason for this restrictive regime to apply or be expanded as suggested in the Consultation Paper given that satisfactory controls for noise-moderated equipment already exist within State jurisdictions.

We take this position advisedly because we are acutely aware of the advantages of noise-moderated technology to the animal management industry and indirectly to the public and the environment.

Advantages to the Animal Management Industry

What is Noise-moderation?

Rifles discharge either sub-sonic or supersonic cartridges.

In the case of sub-sonic ammunition the noise emission is muzzle blast. Routinely, a standard .22 calibre un-moderated rifle will emit a muzzle blast noise level of the order of 144 decibels (dB). There is no other noise generated as a result of the discharge.

High quality noise-moderation can reduce the noise emission of a subsonic cartridge to the order of 112dB.

Supersonic cartridges emit both a muzzle blast and a sonic "crack". Routinely, a .223 calibre un-moderated rifle will emit a noise level muzzle blast of the order of 155dB. With high quality noise moderation this noise level can be reduced to the order of 121dB. There is nothing that can be done to reduce or eliminate the sonic "crack".

It is interesting to note that a reduction of 3dB reduces the noise or sound pressure to 70 per cent of its original value (<http://www.animations.physics.unsw.edu.au/jw/dB.htm>). Therefore a reduction of 32dB with a .22 calibre firearm and a reduction of 34dB with a .223 calibre firearm is a significant reduction in noise level and pressure leading to valuable benefits for the public and the firearms industry.

Ear plugs and ear muffs will provide 5-10 dB of attenuation which is far short of that required to prevent ear damage.

To place these noise levels in perspective, the standard noise emission level for a motor vehicle is 90dB and for a motorcycle it is 94dB.

The noise levels quoted above result from actual testing of high quality best practice imported noise-moderated equipment compared with high quality un-moderated equipment of the same calibre. All tests were measured using the same high velocity ammunition.

It is well understood that lower noise readings can be achieved using lower velocity ammunition even to the extent of eliminating the sonic "crack" using subsonic centrefire ammunition. In general terms, however, this practice becomes a limiting factor in itself due to the decreased

ballistic capability and accuracy of the equipment. Apart from very specific instances, the practice of “loading” down ammunition creates more problems than it solves. The point that needs to be emphasised is that noise-moderation does not mean total silence. It might be a useful strategy to set a standard minimum of, say, 94dB if there is some concern about lower noise levels with firearms.

NOISE REDUCTION BENEFITS

Ear Damage/Hearing loss

We are told that ear damage and therefore loss of hearing can commence at around 130dB. This damage occurs through a combination of the excessive noise and pressure generated from the discharge of the cartridge.

Therefore a reduction of noise levels below or approaching 130dB can have significant advantages in reducing or preventing hearing loss.

This benefit to the shooter cannot be underestimated and it seems unconscionable that such technology should be denied, limited or restricted to the legitimate shooter who does not comply with the higher controls as proposed in the Consultation Paper because he is not a government employee or government contractor. Indeed, it may be that a liability arises in failing to facilitate the introduction of technology that is known to be readily available and which can limit or diminish injury.

Effectiveness of noise-moderation

Noise-moderation has a spectacularly positive effect on the effectiveness of animal culling and harvesting.

It is a matter of fact that animals confronted with noise moderation present a stationary target for longer periods, are less prone to flight and experience lower levels of distress.

These factors combine to enable the experienced operator to achieve much higher levels in cull and harvesting rates. Less time is spent on any particular task and significantly fewer shots need to be delivered in order to achieve desired outcomes.

This creates an enormous benefit to public safety and to the overall effectiveness of animal management with firearms.

In our opinion, poison baiting has had limited success in controlling feral animals in the environment. Baits are entirely non-discriminatory in what they kill.

Firearms are completely discriminatory and effective in animal management. Noise-moderated firearms increase this effectiveness level dramatically.

We cannot envisage any other technique than noise-moderated firearms that would have so successfully and safely eradicated a rabbit plague from Centennial Park in the heart of Sydney.

In our opinion, noise-moderated firearms should have been utilised in the cull of kangaroos at the Defence Communications site in Belconnen, ACT. Surely, the process that was carried out must have given rise to issues of animal cruelty in the minds of many onlookers.

In overseas countries today noise moderation in firearms is highly developed, widely and commonly used and highly effective in animal management. This equipment is routinely available in places like Europe, the UK and, indeed, in New Zealand noise-moderation is mandatory in any official cull or harvesting process. A firearm licence (police authorisation) is the test required to possess, use or import the equipment. We are not aware of any issues in

these countries arising from the use of noise-moderated equipment that would justify higher levels of control than currently exist.

ASSESSMENT OF SPECIFIC PROPOSALS

Amendment to the Specified Person Test – Vertebrate Pest Controllers (VPC) (Para 13)

The underlying philosophy to broaden the definition of VPC to include “partly or wholly” is supported but it still remains too restrictive and fails to recognise the wider use of and need for the equipment.

The proposal only facilitates VPC “who hold contracts from governments to eradicate pests”.

This is a very small sector of the market and governments can be inconsistent in their commitment to eradicate pests. There is, nonetheless, a constant demand for vertebrate pest control in all sectors of the environment. Little headway in the battle against feral animals can be made unless 50 per cent of a target species is eradicated every breeding season. Since this level of eradication is not being achieved, the environmental damage caused by feral animals is worsening.

There needs to be a change in mindset that will facilitate higher levels of feral animal control. The general tenor of the proposal to increase control processes to higher levels and therefore limit further access to noise-moderated technology is entirely counter-productive.

In addition to government contractors, all parties involved in the rural and environmental sector have a responsibility to involve themselves in controlling feral pests. This extends to rural land workers, private contractors and pest controllers, primary producers, kangaroo harvesters and wild meat harvesters, etc.

The definition of VPC needs to be broadened to take account of all parties who have a responsibility not only to the environmental well-being of the land but also effective economic management. There does not appear to be any imperative why the process should only involve government activity.

This discussion answers the question raised by the proposal. The answer is that the proposal does not “enable all legitimate VPC to import firearms and related articles necessary for their occupation” because the majority of legitimate VPC are excluded from the definition. Those who

do not have or maintain rolling government contracts must rely on inferior locally-made equipment and are excluded from the benefits of importing high quality equipment from overseas.

This is the precise situation the proposal sought to rectify when it refers to being “forced to use aging or worn articles”. It facilitates a misconception that governments have the sole responsibility for feral animal control while excluding the majority private sector.

In any event, whatever the definition of VPC becomes, the “specified person test” must be included in Item 5 of Schedule 6 of the Regulations to have any effect.

The end result is that the test is entirely superfluous given the fact that the only test that has practical effect and fair application is the “police authorisation test”. This test does not discriminate between private and government operators but deals with applications on a bona fide needs basis.

It is recommended the definition of VPC be expanded in the terms of the above discussion and that the “police authorisation test” be applied in Item 5 of Schedule 6 to the Regulations for the importation of noise-moderated equipment.

Amendment to the Specified Purposes Test – Research and Development (R&D) (para 14)

It is agreed that the current definition of R&D needs to be amended to include the “partly of wholly” concept argued in the preceding section. It is also agreed that the “proven history” concept should be removed.

It appears self-defeating, however, to then impose conditions such as the time limits, destruction of the article, etc, in respect of any article that was imported given that the process will hopefully lead to upgraded versions of the original article.

Again, the article should be processed and administered under the “police authorisation test” in Schedule 6.

Accessories – Prohibited firearm accessories (para15)

Discussion in the Consultation Paper on this issue does not appear to provide more clarity than currently exists. We are reluctant to undertake an examination of noise-moderation under the term “silencer” because the meaning of the term is unclear and appears to have become a catchall for all technology that assists with noise moderation.

Why should a bolt-action .308 calibre noise-moderated firearm that is used in the control of infestations of feral pigs, wild dogs and feral goats and that emits a noise level of 135dB (reduced from 157dB) require the higher controls mooted in para 15? We can see no imperative why the availability of this equipment should not simply be available under the “police authorisation test”

Does “silencer” mean a zero noise state? Even if zero noise could be achieved, what possible imperative would require a test higher than the “police authorisation test”?

The discussion paper appears to take a view, for some unexplained reason, that noise-moderation is an undesirable characteristic and should be limited in use and restricted in ownership. We are confident that the "police authorisation test" is a valid means of properly authorising noise-moderated equipment.

The proposal in para 15 to expand the list of exclusions under Item 1,2, 3, 6 and 9 regarding "silencers" (and presumably noise-moderated longarm equipment) is not understood and, accordingly, is not supported.

Integral Silencers (para 20)

The proposal creates a lack of clarity in respect of the terms "accessories", "built-in silencers", "integral silencers" and the term "incorporates". For example, does "incorporate" mean "built-in" or "integral"?

The consultation paper highlights the fact that current overseas technology has produced a "silencer" that is "incorporated within the firearm barrel". This item requires a sophisticated manufacturing process, is greatly superior to any other technology available in Australia and, under any reasonable test, must be considered as "integral".

This integral technology in bolt-action format therefore sits clearly within Item 1 or 2 of Schedule 6 and is adequately controlled by the 'police authorisation test'. No

argument is presented to justify increasing this control level and therefore further limit and restrict the use of the equipment.

Silencers and Sound Suppressors (para 21)

We have already argued that there is ambiguity over the terms used in the regulation. This is probably more likely the case that no provision has been made for new technology and modern animal control techniques such as integrated noise-moderation and therefore the new technology has simply been parked in the "silencer" bin.

This is despite the fact that there is an obligation to utilise noise-moderation and that the technology is presently available.

The question posed in para 21 of the consultation paper gives evidence of a concerning mindset that appears to consider noise-moderation as "inappropriate" and therefore requiring the highest levels of import control. These controls, of course, will continue to restrict importation and severely limit the use of the technology; a situation that was previously acknowledged in the consultation paper as being undesirable whereby operators rely on outdated, unserviceable and inferior equipment.

The proposal in para 21 fails to appreciate the nature of the equipment in question. We consider not only that existing regulations lack clarity but are also inappropriate. The following questions arise:

- Does "silencer" or sound suppressor" mean zero noise?

- What is the basis for the claim that noise moderation is “inappropriate”?
- What imperative would require all noise-related equipment to be categorised as a single “inappropriate” item requiring the higher levels of control?
- Why is the “police authorisation test” inadequate for the control of noise moderated equipment?

The proposal in para 21 is not supported.

CONCLUSION

We appreciate the opportunity to examine the issue of controls for noise-moderated equipment. We have taken a position based on a wide appreciation of the need for such equipment and the benefits that will arise from its reasonable use.

Our position in summary is that there does not appear to be any imperative why technology that will assist in noise moderation in Category A, B, C and D firearms should be restricted from importation or use beyond the control level of the “police authorisation test”.

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