



## **National Farmers' Federation**

### **Submission to the Review of the National Firearms Agreements**

September 2015

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# NFF Member Organisations



Australian Chicken Growers' Council Ltd



CANEGROWERS



COTTON AUSTRALIA



Goat Industry Council of Australia inc.



NEW SOUTH WALES IRRIGATORS' COUNCIL



RICEGROWERS' ASSOCIATION OF AUSTRALIA INC.



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## **1. Introduction**

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The National Farmers' Federation (NFF) is the peak national body representing farmers and, more broadly, agriculture across Australia. It is one of Australia's foremost and respected advocacy organisations.

Since its inception in 1979, the NFF has earned a reputation as a leader in the identification, development and achievement of policy outcomes - championing issues affecting farmers and dedicated to the advancement of agriculture.

The NFF is dedicated to proactively generating greater understanding and better-informed awareness of farming's modern role, contribution and value to the entire community.

One of the keys to the NFF's success has been its commitment to presenting innovative and forward-looking solutions to the issues affecting agriculture, striving to meet current and emerging challenges, and advancing Australia's vital agricultural production base.

Primary producers in particular and regional Australians generally, make up a very large percentage of the legitimate firearm users in Australia, using firearms on a daily basis as both tools of trade as well as sporting and recreationally.

The NFF is perfectly positioned to contribute and comment on potential and existing firearms regulation as it affects our areas of interest and members.

## **2. National Firearms Agreement**

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It is now nearly 20 years since the National Firearms Agreement was put in place and due to the fact that it was rushed into existence under emotional circumstances, without proper consultation or due consideration of unintended consequences or indeed research into what controls may or may not have proven effective (or ineffective) elsewhere in the world. It has long since required review.

Whilst there are some positive aspects to the NFA relating to background checks and safety training; unfortunately, from the perspective of primary producers who use firearms as tools of trade on a daily basis and are also highly responsible users of firearms (as well as many other potentially dangerous items from ammonia nitrates and other higher risk chemicals, through to large animal husbandry and operating complex machinery), the NFA specifically impacts legitimate firearm users, dealers and shooting clubs.

There is nothing in the agreement designed to address criminal misuse of firearms. In fact, state legislation related to the NFA actually treats legitimate shooters as criminals for the slightest departure from the restrictive nature of the legislation. An example of this is when a firearms owner has firearms stolen. It is now unfortunately common for the victim of this particular crime to be charged with an offence of insecure storage (even when the storage is demonstrably legally compliant). The actual criminal perpetrator in this instance is completely ignored and minimal effort seems to be made to bring them to justice and recover the stolen firearms.

Primary producers and other legitimate users of firearms are frequently vilified, criminalised and forced to jump through hoops pertaining to secure storage, licensing of an infinite variety and complexity, with each licence need requiring separate background checks, mandatory safety training, cooling off periods for each and every firearm purchased, delays in registration, permits to acquire (PTA), magazine capacity and accessory restrictions, heavily restricted access to all categories of firearms, and limits on the numbers of particular firearms available.

Further, as the recent *Senate Inquiry into the Ability of Law Enforcement Authorities to Prevent Firearm Related Violence* clearly showed, licensed firearm users are not the problem. Nor are firearms in legitimate hands very likely to be stolen, although this fact has been rarely acknowledged and frequently misquoted.

### **3. The Facts and their Relevance**

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The number of firearms stolen from legitimate licence holders is so small as to be statistically irrelevant, roughly equating to 0.05% of the total number of registered firearms in Australia.<sup>1</sup>

In 2005-2006, there were 5 incidents where a stolen firearm was identified as being used in a subsequent crime. In the same period, 634 incidents of firearms theft, resulting in the 1445 firearms stolen, were reported to police. This equates to 0.8% of stolen firearms being diverted for use in criminal activities.<sup>2</sup>

Those found to have stolen firearms in the above-mentioned period were prosecuted in just 14% of incidents.

The consequences of the illicit firearms trade are easy to see in ever increasing restrictions on legitimate firearms owners and users. These are not the people who commit the offences, but they are the ones held responsible.

Unfortunately the ability of our police agencies to reduce firearm related violence has been seriously undermined and compromised by political actions over the past 20 years or so. Existing strategy has focussed massive police resources into regulating (and consequently alienating) the legitimate users of firearms and neglecting almost completely the criminal misuse of firearms.

It is estimated that since the NFA was developed, well over \$1 billion has been spent on controlling legal firearms and their owners.

Two unintended consequences of the NFA were: firstly, a large reduction in both the number and frequency of primary producers carrying firearms on a daily basis while going about their work (due largely to fear of criminal prosecution if they inadvertently violated the complex requirements for storage). Secondly, it created a massive reduction in the number of “town based” volunteer feral pest controllers helping primary producers control feral animals. These consequences have undoubtedly contributed significantly to the explosive growth in feral

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<sup>1</sup> Bricknell, S., & Mouzos, J. (2007). *Firearms theft in Australia 2005-2006. Research and Public Policy Series No. 82, Australian Institute of Criminology.*

<sup>2</sup> <http://www.aic.gov.au/publications/rpp/82/>

animal numbers and environmental damage caused by them over the past 19 years. Today, it is estimated that feral animals cause more than \$740 million<sup>3</sup> in damage to Australia per year, threatening agricultural viability and harming our natural environment.

Following the introduction of the NFA, every objective study completed has shown no serious statistical reduction in firearms related violence in Australia over the past 19 years. In fact, our larger cities have seen a dramatic increase in gang-related shootings, especially when compared with other Commonwealth nations such as Canada and New Zealand which have seen better crime reductions than Australia with less legislative intervention. These countries have not seen any need to introduce the type of costly restrictions Australia has done. In fact, both Canada and New Zealand have totally disbanded the most expensive, least effective parts of their requirements, being the individual registration of common long arms (rifles and shotguns), which they found to be very expensive and totally ineffective in crime prevention and detection/prosecution. The reason being that criminal misuse of firearms is not the intent of legitimate firearm owners who are forced to obey legislation that addresses only their activities and not the activities of criminals.

Australian figures indicate that less than 5% of any firearm related violent crimes are committed by licensed firearm owners using a legal firearm, therefore no matter what restrictions various Australian governments introduce on legal ownership and use of firearms, no matter how much of our limited budget is spent on these restrictions, the total possible reduction in violence through the further regulation of registered firearms is less than 5%.

The vast majority of firearms used in crimes in Australia are either imported (smuggled) without reference to licensing and registration procedures or manufactured specifically for criminal usage. The reduction in funding and focus by Customs into stopping the importation of firearms for criminal use over the past 20 years has facilitated a growing and successful criminal market in firearms. This comes at a time when the growth of the internet and international trade has made our borders far more porous than ever before. The rise of the “dark net” has made it easier for criminals and others to illegally import all manner of dangerous items into our country.

#### **4. Firearms and Suicide**

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Despite recent improvements, rural communities face disproportionately high rates of suicide. This is an issue of huge significance to the farming community and one which the NFF, along with many specialist organisations, is committed to addressing.

Although most firearm-related deaths are suicides, firearm suicides are a very low percentage of suicides overall. Firearm suicide rates began falling in the 1980s.

A number of studies, from a range of different sources, have shown that<sup>4</sup>:

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<sup>3</sup> <http://www.invasiveanimals.com/research/phase1/goals/goal-12/12d6/>

<sup>4</sup> Numerous sources: Baker, J., & McPhedran, S. (2007). *Gun laws and sudden death: Did the Australian firearms legislation of 1996 make a difference?* *British Journal of Criminology*, 47: 455-469; and De Leo, D., Dwyer, J., Firman, D., & Neulinger, K. (2003). *Trends in hanging and firearm suicide rates in Australia: substitution of method?* *Suicide and Life Threatening Behaviour*, 33(2): 151-164; and Klieve, H., Barnes, M., & De Leo, D. (2009). *Controlling firearms use in Australia: Has the 1996 gun law reform produced the decrease in rates of suicide with this method?* *Social Psychiatry and Psychiatric Epidemiology*, 44: 285-292.

- the 1996 firearms legislation did not have a significant impact on the pre-existing downward trend in firearm suicides;
- declines in firearm suicide have been accompanied by an increase in the use of other suicide methods (people who have decided to end their own life simply use whatever method is available, therefore a lack of firearm availability does not affect total suicide rates at all, just the method); and,
- declines in non-firearm suicides began at around the same time, as the gun laws were changed, but coinciding with the introduction of the National Suicide Prevention Strategy.

A recent report backed by the Public Health Association of Australia concluded that the 1996 gun laws were "not a cost effective intervention" for suicide prevention.<sup>5</sup>

The NFF would strongly support increased investment to deliver better mental health outcomes for rural communities. Reducing the regulatory burden on registered firearm owners would potentially free up resources for investment in this important cause.

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## 5. Firearms and Homicide

Firearm homicide rates began falling in the early 1980s. Reports from the Australian Institute of Criminology consistently show that almost all firearm homicides involve unlicensed individuals using unregistered firearms.

The NFF has been unable to find any peer-reviewed research paper concluding that the 1996 gun laws have reduced firearm homicides.<sup>6</sup>

The authors of some papers have claimed to have found an effect, however the statistical basis for those claims do not withstand serious scrutiny.

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## 6. Firearms Storage

State legislation requires compliance with secure storage requirements. In the case of firearm dealers and those with a large number of firearms, electronic alarm systems are required under existing legislation. Alarms only make a noise. They do not necessarily result in any form of police intervention, particularly if the alarm is sounded at a place that is isolated from the community, e.g. a farmhouse, or a house on peri-urban acreage. Reports consistently indicate that more handguns (the favoured item for criminals to target) are stolen from police and private security firms than from private owners.

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<sup>5</sup> Vos, T., et al. (2010). *Assessing Cost-Effectiveness in Prevention (ACE-Prevention). Final Report.* University of Qld, Brisbane and Deakin University, Melbourne.

<sup>6</sup> Lee, W-S, & Suardi, S. (2010). *The Australian firearms buyback and its effect on gun deaths.* *Contemporary Economic Policy*, 28(1): 65-79; *and* Vireuda, M., & Payne, J. (2010). *Homicide in Australia: 2007-08 National Homicide Monitoring Program annual report.* Australian Institute of Criminology: Canberra.

The vast majority, if not all firearm owners, are happy to have secure storage for their firearms because they don't want them stolen, nor do they want them mistreated or neglected. A safe is perfect storage as it is secure and it keeps firearms together.

A more appropriate way to reduce the theft of firearms would be to implement a greater legal deterrent. **The NFF would support the establishment of a standalone offence for the theft of firearms under state legislation.** Consideration should also be given by the review to the implementation of mandatory minimums for firearm theft and subsequent violent offences committed using firearms.

The anomalies that exist between jurisdictional legislation are surpassed only by the inconsistencies between states' legislation. However, the issue is not the anomalies but the vast resources that are poured into the various state licensing registries to establish and maintain the registers that govern the ownership and movement of common types of legally held firearms across Australia. The registers are inaccurate, inflexible and incomplete and are such an obvious flaw in the whole system that both Canada and New Zealand have chosen to disband them because they contribute nothing to the safety of the community, nothing to the efforts of law enforcement to solve crimes, and cost more than education and health.

## 7. Firearms Registration

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In 1996, Australia's National Firearms Agreement required all firearms to be registered with a state-controlled authority. There are approximately 2.6 million registered firearms in Australia.<sup>7</sup>

The error rate in firearms registries is withheld (and likely not to be completely known even to the various registry authorities themselves) from publication and has not even been made available to relevant Senate inquiries. However, there is strong anecdotal evidence that the error rates could be significant. The annual cost, nationwide, of maintaining the firearms registries is not publically available either, but estimates place the cost somewhere between \$27 million and \$100 million annually. These funds could be better spent putting more police officers into our communities actively focussed on apprehending and prosecuting offenders of firearm-related crimes.

Almost all firearms used to commit homicide in Australia are unregistered and used by unlicensed offenders.

There is no substantial body of evidence to indicate that firearms registration in Australia has prevented any criminal acts. The majority of police time and effort goes into licensing low risk, legal firearms owners and administering firearms registration.

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<sup>7</sup> Numerous sources: *Bricknell, S. (2009). Firearm theft in Australia 2007-08. Australian Institute of Criminology: Canberra; and Custom data tables. AIC NHMP 2007-08 computer file. Australian Institute of Criminology, Canberra; and Dearden, J., & Jones, W. (2008), Homicide in Australia: 2006-07 National Homicide Monitoring Program annual report. Australian Institute of Criminology: Canberra; and Mouzos, J., & Houliaris, T. (2006). Homicide in Australia: 2004-05 National Homicide Monitoring Program annual report. Australian Institute of Criminology: Canberra; and NOUS Group (2007). National Firearms Management System: Business case project. Canberra.*

## **8. The Adler Shotgun**

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The Adler shotgun has been the subject of intense public debate. Unfortunately much of this has lost sight of the facts. The design of this shotgun is not new. It has been around for more than 100 years. The "new technology" label is also being used to indicate that all lever action firearms are a concern. We have seen no evidence of any misuse with lever action firearms and believe that debate around this firearm could lead to poorly reasoned policy changes which affect law abiding firearms owners.

There are likely hundreds of thousands of lever action firearms already in Australia; many thousands of them are lever action shotguns with the same design as the Adler.

Not only has false information regarding the design been circulated widely, but also a ban on the importation of the shotgun in its original form was enacted before the review of the National Firearms Agreement was announced.

The NFF's views this decision to ban the importation of the Adler as an unfortunate and ill-conceived reaction to a poorly informed public furore.

## **9. Re-categorising Lever Action (and other types) Firearms**

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According to the minutes of a 2005 National Firearms and Weapons Policy Working Group (FWPWG) meeting, there has long been a plan to re-categorise lever action (and other) firearms to a class for which very few primary producers have licences.

In Queensland and New South Wales in particular, licencing authorities rarely authorise Category C & D licences for primary production use. It has become virtually impossible to obtain a licence for a Category C or D firearm for many primary producers despite the fact that the NFA specifically makes allowance for such licensing.

It seems clear, the potential re-categorisation of the firearms mentioned above will remove a tool commonly used by primary producers for pest management purposes.

## 10. Proposed Changes to the National Firearms Agreement

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The NFF makes the following recommendations for consideration as part of the NFA Review:

1. New offences should be created with possible mandatory sentences for theft of a firearm and an offence committed using a firearm.
2. The NFA review must focus on the criminal misuse of firearms and the trafficking of guns by those unlicensed to deal in firearms.
3. The requirement to register all Category A & B firearms should be disbanded.
4. To ensure access to common firearms on which farmers are heavily reliant:
  - Category C licences be made readily available to any primary producer (or volunteer feral animal controller) who is eligible for a firearms licence;

**OR,**

  - both pump action shotguns and semi-automatic rimfire rifles should be recategorised back into Category B
5. Category D licences should be made available to primary producers and volunteer feral animal controllers to begin to reduce feral animal numbers before irreparable environmental damage is done.
6. No permit to acquire should be required for Category A and B firearms (the firearm licence should act as an effective permit).
7. Move to lifetime firearm licences, or at the very least 10 year minimum licences, across the board.
8. A valid licence should allow the licensee to use a legitimately held firearm wherever it is legal to do so (currently many Category C and D licensees may only use the firearm in a highly specific location, sometimes resulting in primary producers actually purchasing additional firearms for use in different locations (a very strange unintended consequence)).
9. The removal of the “genuine need” (not the “genuine reason” provision) provisions for Category B, C, D and H firearms. This “genuine need” provision has seen denial of licences simply based on the unclear legal definition of the word “need”.
10. The establishment of state Firearms Advisory Councils to advise the state ministers on firearms related matters, and acknowledged as experts in their field.

In addition to the recommendations above aimed at streamlining our existing framework, we would encourage the Review to further consider the New Zealand model (similar to the Canadian) where firearms and licenses are (for the most part) broken into 3 categories only, being:

- 1) common sporting long arms (including all rimfire/centrefire bolt, pump and semi-automatic sporting guns);
- 2) handguns; and
- 3) military style semi-automatic firearms.

Category 1 are available to all licensed firearm owners; however Category 2 and 3 are restricted to specific clubs and collectors. This has proven a very simple and effective method for New Zealand over an extended period.

## **11. Conclusion**

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In making this submission, the NFF seeks to find positive ways to affect both public safety as well as protecting the legitimate use of firearms by farmers.

As mentioned throughout this submission, it is critical that the focus of any changes to the NFA be both: cognisant of the need for primary producers to continue to access effective pest management tools; and focussed on addressing the heart of the problem (being criminal misuse of firearms, rather than law abiding gun owners).

The NFF looks forward to playing a constructive role as the Review continues and would welcome the opportunity to discuss the ideas put forward in this submission in more detail.