

# Update on Firearm Suppressors\* in NSW

Steve Larsson<sup>1,2</sup>

<sup>1</sup> Office of Hon. Robert Borsak MLC, Shooters Fishers and Farmers Party, Parliament of New South Wales, Sydney NSW

<sup>2</sup> NSW Firearms Registry, Stakeholder Committee (Legislation Group)

E: [stephen.larsson@parliament.nsw.gov.au](mailto:stephen.larsson@parliament.nsw.gov.au)

## 1. INTRODUCTION

In NSW firearm suppressors are classified as 'prohibited weapons' and listed in schedule 1 of Weapons Prohibition Act 1998.

The Act provides nine genuine reasons one may apply for a permit from the Commissioner of Police.

For applications under the recreational/sporting purposes genuine reason applicants must demonstrate that the recreational or sporting activity concerned 'requires' the possession and use of a suppressor.

Applications under the business/employment genuine reason must demonstrate that a suppressor is 'necessary' in the conduct of the applicant's business or employment.

In February 2016 the NSW Firearms Registry's 'genuine reason' application form was amended to include the recreational/sporting purposes genuine reason, which prompted a substantial increase in suppressor applications which had previously been suppressed.

Table 1. Outcome of suppressor applications

Year	Status	Applicant's 'Genuine Reason' (purpose)	
		Recreational/ Sporting	Business/ Employment
2015	Approved		16
	Refused	7	
	Withdrawn		
	To Be Assessed		
	<b>Total</b>	<b>7</b>	<b>16</b>
2016	Approved	1	44
	Refused	39	
	Withdrawn		
	To Be Assessed		
	<b>Total</b>	<b>40</b>	<b>44</b>
2017	Approved		48
	Refused	25	1
	Withdrawn	2	
	To Be Assessed	14	12
	<b>Total</b>	<b>41</b>	<b>61</b>
2018 YTD	Approved		
	Refused		
	Withdrawn		
	To Be Assessed	15	46
	<b>Total</b>	<b>15</b>	<b>46</b>

## Inconsistent Adjudication of Applications

There is marked inconsistency in interpretation of the 'required' and 'necessary' threshold for suppressor approval e.g.

- "the constant noise of gunshots disturbing the sleep and peace of residents" was considered relevant in approval of a suppressor for NPWS' Northern Illawarra Wild Deer Management Program<sup>1</sup>
- However in *Marando* an expert witness (a serving police officer) for the Commissioner said "the use of a silencer would not provide any significantly (sic) advantage to a hunter."<sup>2</sup>
- In *Henney* the expert witness (a serving police officer) for the Commissioner said "the use of a suppressor would not reduce disturbance to stock."<sup>4</sup>

## Cost to the public purse

The cost for the Commissioner of Police to appeal decisions in the NSW Civil and Administrative Tribunal are considerable - legal representation in the *Allen* case cost \$42K.<sup>#</sup>

## 2. APPLICATION OUTCOMES

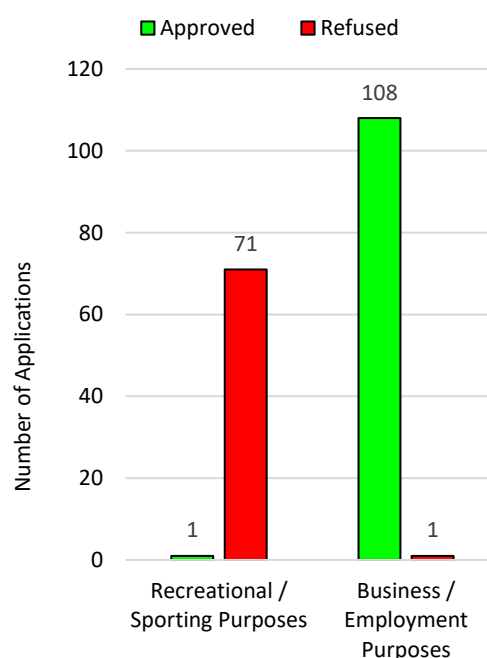
Between February 2016 and August 2018 only one of 72 (1.4%) applications assessed under the recreational/sporting purposes genuine reason was approved.

By contrast, 108 of 109 (99%) applications assessed under the business/employment genuine reason were approved (Table 1, Figure 1).

As at October 2015 no primary producer in NSW had been issued with a permit for a suppressor.<sup>1</sup>

As at 30 August 2018 25% (26 of 102) of the applications made in 2017 and 100% (61 of 61) of the applications made in 2018 (YTD) had not been assessed.

Figure 1. Recreational applications are mostly refused; Business applications are mostly approved



## 3. DISCUSSION

### Criminal use of suppressors

Expert witnesses (police officers) appearing for the Commissioner of Police in administrative review of refusal decisions at the NSW Civil and Administrative Tribunal (NCAT) have suggested suppressors may be used to conceal the use of a firearm in the course of criminal activity, however no evidence has been presented.

A review<sup>#</sup> of 23 gangland murders in NSW shows witnesses heard the gunshots in every case, suggesting that criminals do not attempt to conceal gunshots with a suppressor.

## REFERENCES

1. *Allen v Commissioner of Police*, NSW Police Force [2015] NSWCATAD 224
2. *Marando v Commissioner of Police*, NSW Police Force [2018] NSWCATAD 29
3. *Larsson v Commissioner of Police*, NSW Police Force [2018] NSWCATAD 149
4. *Henney v Commissioner of Police*, NSW Police Force [2018] NSWCATAD 174
5. GIPA application No. 2017-6208, NSW Police Force
6. Response to summons to produce documents issued to NSW Firearms Registry
7. NSW Parliament. Budget Estimates 2018-2019, Answers to supplementary questions

\* Suppressors are known as "silencers" in the Weapons Prohibition Act  
# Available on request

## 4. CONCLUSIONS

- Assessment of suppressor applications by the NSW Firearms Registry is marked by extensive delays and inconsistent adjudication
- There is no rational justification for the marked differences in the observed outcomes for recreational/sporting versus business/employment suppressor applications
- Adjudicators of suppressor applications are said to be "experienced officers who have the ability to read, interpret and apply legislation to decisions"<sup>5</sup>
- Training for NSW Firearm Registry staff is provided 'on-the-job' and staff "rely on the firearms legislation and reference fact sheets and material which can be found on the NSWPF website"<sup>6</sup>
- A response by the Minister for Police gives no evidence that NSW Firearms Registry staff receive training by qualified experts in audiology, acoustics or in medical conditions<sup>7</sup> where a legitimate need for a suppressor exists such as existing noise-induced hearing loss, tinnitus or physical disability
- The adjudication of suppressor applications by the NSW Firearms Registry requires urgent review