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Submission on the Police Offences Amendment (Knives and Prohibited Weapons) Bill 2026

Thank you for the opportunity to comment on this draft Bill. This response has been approved by the Board of the Tasmania Law Reform Institute (TLRI).

About the Tasmania Law Reform Institute

The TLRI is Tasmania's peak independent law reform body. It was established on 23 July 2001 by agreement between the Government of the State of Tasmania, the University of Tasmania and The Law Society of Tasmania.

The work of the Institute is to conduct impartial and independent reviews or research on areas of law and legal policy in order to provide independent and impartial advice and recommendations on the area investigated, with a view to, or for the purposes of:

i. the modernisation of the law; and/or
ii. the elimination of defects in the law; and/or
iii. the simplification of the law; and/or
iv. the consolidation of any laws; and/or
v. the repeal of laws that are obsolete or unnecessary; and/or
vi. adopting new or more effective methods for administering the law and dispensing justice; and/or
vii. providing improved access to justice; and/or
viii. uniformity between laws of other states, territories and the Commonwealth; and/or
ix. the codification of laws; and/or
x. promoting equality before the law.

Feedback on the *Police Offences Amendment (Knives and Prohibited Weapons) Bill 2026*

As noted in the Consultation Information Sheet, the proposed Bill makes amendments to the *Police Offences Act 1995* (Tas) to:

- Creates an offence relating to the sale of knives to persons under the age of 18. This is done by the insertion of Part II Division VIII in the *Police Offences Act 1995* (Tas), including interpretation sections (s 34C, 34D and 34E) and an offence section (s 34F).
- Creates an offence relating to the supply, manufacture, display, advertising, sale, purchase and possession of a prohibited weapon with machetes proposed to be prescribed as a prohibited weapon. This is done by the insertion of Part II Division IB in the *Police Offences Act 1995* (Tas), including an interpretation section (s 14E) and an offence section (s 14F).

(1) 'Knife' crime

The Consultation Information Sheet states that the reforms are 'aimed at reducing knife-related harm and strengthening regulatory controls around the sale, supply and possession of knives and prohibited weapons'. Concern about 'knife crime' has existed for some time across international and Australian jurisdictions,[1] with more recent focus placed in legal responses on the sale of knives to young people and in some jurisdictions on the use of machetes. The prohibition on sale of knives to young people, as noted in the Consultation Information Sheet, is underpinned by concerns about community safety and to 'prevent access to knives by young people'. Community safety is a fundamental function of the criminal justice system, however, it is important that reforms are informed by evidence about the extent of the problem and the effectiveness of additional criminalisation.[2] Further, the TLRI recognises that knives are used in a dangerous way, and when used in violent crimes can have a lasting impact on victims. However, misconceptions can exist in relation to the prevalence of knife crimes committed by young people, and questions arise as to whether changes to the criminal law will reduce knife-related crime: 'There is more harm to society from knives in domestic violence homicides [than stabbing by children]'.[3] In NSW, BOCSAR data on knife violence show that there has been a decline in the rate per 100,000 population of persons under 18 proceeded against by the NSW Police Force for assault or robbery with a knife from 2006 to 2026.[4] This can be contrasted with research in Victoria which shows a tripling in number of police-recorded machete incidents from 2021 to 2024.[5]

In the Tasmanian context, the TLRI has previously observed that the Tasmanian data does 'not present clear evidence of an increase in knife violence in public places or the possession of knives in public places'.[6] The 2024-25 Crime Statistics Supplement reports that armed and aggravated armed robbery fell by 11% in 2024-25 and knives were used in 53% of these robberies which is relatively consistent with the previous year.[7] It is also not clear that there is an increase in youth knife crime perpetrated through the use of knives purchased from stores or that there is evidence of the use of machetes in offences of violence in Tasmania.

Caution has been urged in relation to introduction of criminal law reforms that are 'performative rather than preventative' by 'communicat[ing] social condemnation and reassur[ing] communities that governments are responding to perceived problems, even where their practical effects remain uncertain'.[8] This has been expressed by McNamara and Quilter as a criticism of contemporary law-making that there is an urge to use the criminal law too willingly "broadly and casually as a regulatory tool," and "in an unprincipled way, as a high

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[1] See Bartel, *'Knife Crime' in Australia: Incidence, Aetiology and Responses* (AIC Reports: Technical and Background Paper 45, 2011).
[2] See for example discussion in McGuire et al, 'Responding to Performance Crime: Post and Boast Offences in Australia' (2026) *Current Issues in Criminal Justice,* 1 https://doi.org/10.1080/10345329.2026.2693341.
[3] Victoria joins Queensland and NSW with tougher knife crime laws, but the impacts are still debated - ABC News.
[4] Offences involving weapons | BOCSAR
[5] See Characteristics of machete-related incidents | Crime Statistics Agency Victoria.
[6] TLRI, *Submission on Knives and other Weapons Bill 2025.*
[7] Yearly editions of the Department of Police, Fire, and Emergency Management's Crime Statistics Supplement are available on the Tasmanian Police website: <https://www.police.tas.gov.au>.
[8] McGuire et al, 'Responding to Performance Crime: Post and Boast Offences in Australia' (2026) *Current Issues in Criminal Justice,*1, 15 https://doi.org/10.1080/10345329.2026.2693341. See also McNamara and Quilter, 'The 'bikie effect' and other forms of demonisation: The origins and effects of hyper-criminalisation' (2016) 34(2) *Law in Context. A Socio-Legal Journal* 5, 7 – 8.

visibility quick fix rather than as a carefully considered and designed policy instrument".[9] Researchers examining concepts of criminalisation have recognised (described as a 'thick' conception of criminalisation) that:

(a) Criminalisation is one of the public policy options available to a government that is moved to address and identified social or economic harm or risk; its deployment is not pre-ordained but the result of a political choice.

(b) Criminalisation is employed in relation to a diverse range of harms and risks – from the minor to the very serious.

(c) Criminal offences can take a multiplicity of forms (including in terms of constituent conduct and fault elements and defences), can be enforced by a diverse range of agencies using different methods (criminalisation is not synonymous with policing), and transgression can produce a broad range of sanctions (from no action to penalty notice/fine to court conviction/incarceration).

(d) Criminalisation is not only a phenomenon of law creation; how criminal laws operate must also be addressed as part of any assessment of alleged over-criminalisation or under-criminalisation, or any other examination of legitimacy.

(e) Criminalisation is a set of practices that includes not only the enforcement of offences, but the operation of allied criminal procedures and the deployment of coercive police powers which produce comparable punitive effects (for example, denying bail resulting in detention on remand).[10]

In an environment where criminal laws are introduced as a response to a perceived danger or threat, there is a need for great care to be taken 'about when, why and how governments turn to the criminal law and policy as public policy mechanisms for addressing an identified harm, risk or anxiety'.[11] Concerns are raised about hyper or over-criminalisation given that the offences will apply to everyone and may result in unintended consequences though the criminalisation of behaviour that was not the target of the laws, and, further if the new laws are a duplication of existing offences, there may be 'little or no place for the new offence in the day-to-day operations of police and prosecutors'.[12] This may serve in turn to create community dissatisfaction and may ultimately undermine confidence in the criminal law and the criminal justice system.[13]

Caution has also been expressed about 'cross jurisdictional borrowing' where states 'borrow' tools (offences and powers) without evidence of efficacy.[14] While there is an argument to be made for consistency in the law between jurisdictions, care needs to be taken to ensure that laws imported from elsewhere are appropriate and necessary in the Tasmanian context. It is also important to consider the evidence about the consequences (including effectiveness) of the reforms made in other jurisdictions.

(2) Sale of knives to persons under 18 years

In the proposed Bill, it is an absolute offence to sell a knife to a person under the age of 16. It is also an offence to sell a knife to a young person aged 16 or 17 years unless they have a genuine reason to use or possess the knife (s 34F). Genuine reason is defined in the similar terms as 'lawful excuse' in relation to possession of dangerous articles in the *Police Offences Act 1935* (Tas) s 15C (see (2) below), and includes lawful occupation, lawful educational or training activity, lawful activity in respect of collection, display or exhibition, and lawful religious observance (s 34E). The maximum penalty is a fine not exceeding 50 penalty units or imprisonment not exceeding 12 months or both.

A knife is not defined in the proposed Bill, but certain knives are defined as 'exempt knife': knives designed, manufactured, supplied or sold as a tool that is used for the purposes of consuming food or assisting in

[9] McNamara and Quilter, 'The 'bikie effect', ibid, 8 (citations omitted).
[10] Ibid 9 referring to McNamara, 'Criminalisation Research in Australia: Building a Foundation for Normative Theorising and Principled Law Reform' in Crofts and Loughnan (eds), Criminalisation and Criminal Responsibility in Australia (Oxford University Press, 2015).
[11] Ibid 8.
[12] Ibid 7 – 8.
[13] Ibid 8.
[14] Ibid 33; McGuire et al, 'Responding to Performance Crime: Post and Boast Offences in Australia' (2026) *Current Issues in Criminal Justices,*1, 15; McNamara et al, 'Understanding processes of criminalisation: Insights from an Australian study of criminal lawmaking' (2021) 21(3) *Criminology and Criminal Justice* 387, 402.

consuming food or generally applicable as a tool for consuming food. Knives are not exempt knives if they are designed, manufactured, supplied or sold as a tool that is used for the purposes of preparing or cooking food.

The TLRI notes that legislation regulating the sale of knives to young people exists in most other Australian jurisdictions (other than Tasmania and the Northern Territory). A comparison table prepared by the National Retail Association provides an overview of the scope of the provisions in other Australian jurisdiction (see <https://www.nationalretail.org.au/app/uploads/2024/06/National-Knife-Laws-Comparison-Table-Dec-2024.pdf>):

- In Victoria, it is unlawful to sell a knife (as a controlled item) to a child.[15] The penalty is a fine not exceeding 20 penalty units. For a prohibited weapon (a machete), sale to a child has a maximum penalty of 240 penalty units or imprisonment for 2 years. There are no exemptions in relation to the sale of a knife based on the child having a lawful reason to possess a knife. Controlled weapon is defined to include a knife, but does not include a disposable knife made of plastic, bamboo or wood and designed for eating purposes.[16]

- In South Australia, a person cannot sell a knife to a minor with a maximum penalty of $20 000 or imprisonment for 2 years.[17] There are similarly no exemptions relating to any lawful reasons for a young person to have the knife. A knife means a blade (for example a knife blade or razor blade).[18]

- In New South Wales, it is an offence to sell a knife to a child under 16 or to sell a knife to a 16- or 17-year-old without reasonable excuse (satisfied that the child reasonably requires the knife of the lawful pursuit of the child's occupation, education or training).[19] The maximum penalty is 100 penalty units or imprisonment for 12 months or both. A knife is defined as a knife blade, a razor blade or any other blade.[20]

- In Western Australia, it is an offence to sell or supply an edged weapon to a child. There are defences that apply in Western Australia in relation to the sale and supply of edged weapons to a child where the accused believed on reasonable grounds that the child had a lawful excuse to carry or possess the weapon.[21] This means lawful employment, duty or activity, a lawful sport, recreation or entertainment or the lawful collection, display and exhibition.[22] The maximum penalty is a fine of $36 000 and imprisonment for 3 years. An edged weapon includes a knife, a machete, a sickle or scythe, an axe or axe head, an article with a sharpened edge that is reasonably capable of being held in 1 or both hands and that is made or modified to be used to injure or disable a person, to cause a person to fear that someone will be injured or disabled by that use or for attack or defence in the practice of a martial sport, art of similar discipline.[23]

- In Queensland, it is an offence to sell a controlled item to a minor.[24] This includes a knife.[25] There are no exemptions or defences relating the intended use of the knife by the child. The maximum penalty is 140 penalty units for a first offence, 280 penalty units for a second offence and 420 penalty units for a third or later offence. Certain types of knives are exempt: a plastic or wooden knife designed to be used for eating, a knife with a rounded or dull edge (eg a butter knife) or a knife designed for use as a cheese knife.[26]

[15] *Control of Weapons Act 1990* (Vic) s 6(1AB).
[16] *Control of Weapons Act 1990* (Vic) s 3, 6(1AC).
[17] *Summary Offences Act 1953* (SA) s 21D.
[18] *Summary Offences Act 1953* (SA) s 21A.
[19] *Summary Offences Act 1988* (NSW) s 11F.
[20] *Summary Offences Act 1988* (NSW) s 3.
[21] *Weapons Act 1999* (WA) s 6B.
[22] *Weapons Act 1999* (WA) s 5A(1).
[23] *Weapons Act 1999* (WA) s 3A.
[24] *Summary Offences Act 2005* (Qld) s 19G.
[25] *Summary Offences Act 2005* (Qld) s 19E.
[26] *Summary Offences Act 2005* (Qld) s 19E.

- In the Australian Capital Territory, it is an offence to sell a knife to a child under 16.[27] There are no exemptions or defences. A knife is defined as a knife blade, a razor blade or any other blade.[28] The maximum penalty is 10 penalty units, imprisonment for 6 months or both.

Based on its consideration of the offence provision in the proposed Bill and the approach elsewhere, the TLRI notes that there are a variety of legislative responses to regulate the sale of knives to people under 18 years, including the age of the young person, the availability of a lawful excuse for sale, the definition of a knife and the penalty. As discussed at (1) above, the TLRI urges caution in relation to the creation of new offences in the absence of evidence of the necessity of the reforms in Tasmania and effectiveness of the reforms that have been made elsewhere. The TLRI notes that the laws impose a considerable regulatory burden on business, in part through the need for businesses to make determinations about whether or not a young person has a genuine reason to use or possess a knife.

(3) Prohibited weapons

The proposed Bill will create a category of prohibited weapons that expressly includes machetes. Machete is not defined. Under the proposed Bill, it will be an offence to possess, use, sell, purchase or manufacture a prohibited weapon. The penalty is a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 years or both. Exceptions exist for a limited category of people:

- A police officer acting in the performance of the officer's duties
- A state service employee acting in performance of duties
- An agricultural professional.

Currently in Tasmania, it is an offence under the *Police Offences Act 1935* (Tas), section 15C to have possession of or carry or use a dangerous article in a public place. This covers a broad category of items, and would include possession, carrying or using a machete in a public place. A dangerous article is defined (in section 3) to include weapons, articles adapted so as to be capable of being used as weapon, articles intended to be used as a weapon and knives. A public place is defined to include a wide range of places including parks, railways, wharves, religious buildings, public halls, places with paid admission, streets, schools, banks, shops and offices.

A person can establish that they have a lawful excuse to carry a dangerous article which excludes self-defence but includes:

- The pursuit of a lawful occupation, duty or activity using that dangerous article
- Participation in a lawful sport, recreation or entertainment using that dangerous article
- The lawful collection, display or exhibition of that dangerous article
- The use of that dangerous article for the lawful purpose for which it was intended
- Religious observance (s 15C(4)).

A police officer acting in the performance of his or her duties is exempt (s 15C(1A)).

Under s 15C, the penalty is fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 years, or both. In the period 2022 – 2026, there were 195 offences where a sentence was imposed in the Magistrates Court on an offender for unlawfully possessing a dangerous article in a public place as a standalone sentence. The most common sentencing outcome was a fine (86.2% of offences) followed by an adjourned undertaking (13.8%).[29]

[27] *Crimes Act 1900* (ACT) s 383.
[28] *Crimes Act 1900* (ACT) Dictionary.
[29] See SAC Stats, Sentencing Advisory Council : Magistrates Court Statistics.

Offences specifically in relation to machetes also exist in South Australia and Victoria as set out below

	South Australia	**Victoria:**
Relevant legislation	*Summary Offences Act 1953* (SA)	*Control of Weapons Act 1990* (Vic)
Prohibited weapons	A machete is a prohibited weapon (along with a range of other knives, daggers and other weapons) s 3	A machete is a prohibited weapon (along with imitation firearms) s 3
Offences	It is an offence to manufacture, sell, distribute, supply or otherwise deal in prohibited weapons (s 21F(1)(a)) It is an offence to use or have possession of a prohibited weapon (s 21F(1)(b)) Other offences relating to offensive weapons and dangerous articles (s21C)	It is an offence to bring into Victoria, manufacture or display or advertise for sale a prohibited weapon without an exception or approval (s 5(1)). It is an offence to sell a prohibited weapon without an exemption or approval (s5(1)AA)). It is an offence to purchase a prohibited person without an exemption or approval (s5(1)AA)). It is also an offence to possess, use or carry a prohibited weapon without an exception or approval (s 5AA). A knife is a controlled weapon (s 3, 6) Other weapons are dangerous articles (s 3, 7)
Exemptions	Exemptions available by declaration of the Minister or in Schedule 2 (see South Australia Police - SAPOL - Prohibited weapons, items and explosives). These include a wide range of circumstances including business and religious purposes, sport and recreation, ceremonies, museums and art galleries, collectors, heirlooms. People are not able to make use of some exemptions if they have been found guilty of certain offences.	Exemptions by Governor in Council order for agricultural reasons or traditional historical and cultural reasons (see Victoria Police - List of prohibited weapons) It is also possible to obtain Chief Commissioner Approval (CPP Approval). People are not able to make use of some exemptions if they have been found guilty of certain offences.
Maximum penalty for prohibited weapons offence	$20 000 or imprisonment for 2 years	240 penalty units or imprisonment for 2 years If possessed carried or used in a licenced premises or in a public place that is in the immediate vicinity of licensed premised: 480 penalty units or 4 years imprisonment.

Other information	SAPOL - Prohibited weapons, items and explosives	List of prohibited weapons

Based on its consideration of the offence provision in the proposed Bill and the approach elsewhere, the TLRI makes the following comments:

(1) The new offence of possession and use of a prohibited weapon (machete) differs from the existing offence in s 15C to include places that are not 'public places'. However, possessing, carrying or using a machete in a public place is already an offence in Tasmania (unless a lawful excuse exists) and this offence has the same maximum penalty as the new offence. As well as becoming a 'prohibited weapon', a machete also falls within the definition of 'dangerous article'. In contrast, in Victoria, a machete (as a prohibited weapon) is excluded from the definition of a controlled weapon (which means a knife other than a knife that is a prohibited weapon). In Victoria, there is a hierarchy of weapon offences under the *Control of Weapons Act 1990* (Vic).

The proposed Bill does not create an offence hierarchy with increased maximum penalties for prohibited offences compared to dangerous articles and/or controlled weapons offences, as occurs in Victoria and South Australia. As noted, the maximum penalty under the proposed Bill is the same as the current offence.

Further consideration is also suggested in relation to the scope of the offences, and the structure of the *Police Offences Act 1995* (Tas) as it applies to weapons, including machetes. As David Brown has written (referring to Andrew Ashworth), criminal offences should only be created when absolutely necessary' taking into account factors including whether the conduct could be dealt with under existing legislation and whether the proposed offence is tightly drawn and legally sound'.[30] As noted, the TLRI is not suggesting that machetes are not dangerous, or that (as with other knives) when used in violent crimes they do not have lasting impacts on victims. However, as discussed at (1), in relation to the possession of a machete in a public place, this is already an offence. In this way, it can be categorised as 'over-criminalisation'. It can also be seen as an example of 'cross-jurisdictional borrowing' without a clear empirical basis establishing the need for such laws in Tasmania.[31]

(2) In contrast to the current offence relating to dangerous articles, the category of exemptions under the proposed Bill is very limited. It is also considerably more restrictive than the exemptions that apply in South Australia and Victoria, and do not appear to make it lawful for a museum or a collector to possess a machete for example.

The proposed Bill makes it an offence to sell, manufacture or purchase a prohibited weapon. There are no exemptions provided in relation to sale or manufacture of prohibited weapons as the only exemptions created are limited to the possession or use of a machete. Section 14F(2)(c)(i) creates the exemption for agricultural professionals if the person possesses and uses the prohibited weapon solely for a purpose connected with the person's work. This approach appears contrary to the intent of the proposed Bill as set out in Consultation Information Sheet that 'an exemption will be provided for agricultural purposes, including for training and the supply of equipment to agricultural businesses'. Further, while the definition of 'agricultural professional' encompasses those employed in the training of persons undertaking training in the production of agricultural produce, it does not encompass those undertaking the training (unless they fall within the category of a person employed in the production of agricultural produce).

In contrast, in South Australia there is an exemption in Schedule 2 of the *Summary Offences Act 1953* (SA) for those wishing to conduct a business in prohibited weapons (see Prohibited-Weapons-

[30] Brown, 'Criminalisation and Normative Theory' (2013) 25(2) *Current Issues in Criminal Justice* 604, 612.
[31] McNamara and Quilter, 'The 'bikie effect' and other forms of demonisation: The origins and effects of hyper-criminalisation' (2016) 34(2) *Law in Context. A Socio-Legal Journal* 5, 33; McGuire et al, 'Responding to Performance Crime: Post and Boast Offences in Australia' (2026) *Current Issues in Criminal Justices,*1, 15.

Exemptions-Dealers.pdf). In Victoria, the sale of a prohibited weapon without an exemption or approval is an offence (other than sale of a prohibited weapon to a child). There are other restrictions on sale with offences created for failing to comply (see *Control of Weapons Act 1990* (Vic), s 5(2), 5A, 5B). Exemptions can be provided for the manufacture, sale or purchase of prohibited weapons under Governor in Council Exemptions or Chief Commissioner Approvals.

Further consideration is suggested in relation to the need for the offence and if an offence is introduced, in relation to its scope and the exemptions that apply to ensure that the proposed Bill does not have unintended consequences.