

LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Report No. 41 on the

G20 (Safety and Security) Bill 2013

QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

On 20 August 2013, the G20 (Safety and Security) Bill 2013 (the Bill) was introduced into Parliament.

The Bill was subsequently referred to the Legal Affairs and Community Safety Committee (the Committee) with a report due on 22 October 2013.

On 22 October 2013, the Committee tabled Report No. 41 in relation to the Bill (the Report).

The Queensland Government response to the Committee's recommendations and application of fundamental legislative principles are provided below.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1

The committee recommends the G20 (Safety and Security) Bill 2013 be passed.

- Queensland Government response:

The Queensland Government thanks the Committee for its timely consideration of the Bill and appreciates the Committee's recommendation that the Bill be passed.

Recommendation 2

The Committee recommends clause 18 of the Bill be amended to remove unnecessary duplication between the criterion involving damage to property and the definition of violent disruption offence.

- Queensland Government response: **Not Supported.**

Clause 18 of the Bill provides:

18 When assembly is lawful

- (1) An assembly in relation to any part of the G20 meeting is lawful if—
 - (a) it is held in a declared area; and
 - (b) the assembly does not disrupt any part of the G20 meeting; and
 - (c) an offence is not committed under this Act by at least 2 persons who are acting in concert and participating in the assembly; and
 - (d) a violent disruption offence is not committed by a person participating in the assembly; and
 - (e) an offence involving damage or destruction to property is not committed by a person participating in the assembly; and
 - (f) the assembly does not enter into a restricted area or motorcade area.

- (2) In this section—
assembly means an assembly held in a public place, whether or not the assembly is at a particular place or moving, but does not include a group of unrelated spectators.
violent disruption offence means an offence if—
(a) the offence involves violence against a person or damage to property; and
(b) the offence is intended or is likely to disrupt any part of the G20 meeting.

The Committee has commented that there is duplication in clauses 18(1)(d) and (e) which may be avoided by amending the definition of ‘violent disruption offence’ to mean an offence if (a) the offence involves violence against a person or damage **or destruction to property**; and (b) the offence is intended or is likely to disrupt any part of the G20 meeting.

The Committee contends that adopting this amendment would remove the need for clause 18(1)(e) entirely.

The Government supports retaining clause 18 of the Bill in its present form. Clause 18(1)(e) has the effect of making an assembly unlawful upon the participants committing a wilful damage offence regardless of whether the offence is intended or is likely to disrupt a part of the G20 meeting.

Further, the proposed amendments to the definition of a ‘violent disruption offence’ would apply the term to violent offences only if they are directed at disrupting the G20 meeting. It is the Government’s view that the commission of any offence involving damage or destruction to property by a person participating in an assembly, and not necessarily intended or likely to disrupt a part of the G20 meeting, is justifiably sufficient to make an assembly unlawful for the purposes of the Bill.

Recommendation 3

The Committee recommends that examples and non-examples be added after clause 18 of the Bill to aid in the interpretation of what would and what would not constitute a disruption to the G20 meetings under the Bill.

- Queensland Government response: **Not Supported**

The Government considers that determining whether a person has disrupted any part of the G20 meeting will be dependent on examining all the circumstances surrounding each individual case.

Providing a general example in the Bill of when a person may be considered to have disrupted the G20 meeting would be of limited value in making such a determination as all the facts cannot be outlined in the example.

Similarly, providing detailed examples of when a person would or would not be disrupting the G20 meeting is also of limited value, as it is not feasible to comprehensively prescribe all the different ways the G20 meeting may be disrupted as that is only limited by one’s imagination.

It is the Government’s view that the phrase ‘disrupt any part of the G20 meeting’ should be defined by its ordinary meaning. An example is not required for this phrase to be interpreted this way.

Recommendation 4

The Committee recommends the Minister for Police and Community Safety engage in further discussions with the Attorney-General and Minister for Justice and Legal Aid Queensland to investigate the establishment of a G20 Legal Hotline similar to that put in place for the Sydney APEC meeting.

- Queensland Government response: **Supported**

The Minister for Police and Community Safety will liaise with the Attorney-General about the possible establishment of a G20 Legal Hotline.

Recommendation 5

The Committee recommends the Queensland Police Service take steps to ensure appropriate interpreting services are available during the G20 meeting.

- Queensland Government response: **Supported**

The QPS G20 Group has established an External Engagement Team dedicated to liaising with critical infrastructure and service groups so that issues arising whilst conducting the G20 meeting can be addressed. The QPS G20 Group will advise the Translating and Interpreting Service (TIS) of the potential increased requirement for their services over the G20 period.

Recommendation 6

The Committee recommends a note to be included in the search chapter directing readers to the relevant section of the Police Powers and Responsibilities Act 2000 setting out the safeguards in relation to searches that will continue to apply throughout the G20 meeting.

- Queensland Government response: **Not Supported**

Clause 4 ‘Application of Police Powers and Responsibilities Act 2000 and related matter’ of the Bill provides that the Bill will prevail over any inconsistent provision of the *Police Powers and Responsibilities Act 2000* (PPRA). This clause also specifically provides that for a basic search, a recording of the search as an enforcement act not need be made.

It is the Government’s view that the Bill clearly outlines the powers and responsibilities a police officer has when conducting a search. These obligations are further outlined in the Explanatory Notes associated with the Bill. The provision of further notes is unlikely to substantially enhance the understanding of the Bill and may in fact confuse the reader because of the limited manner in which the PPRA applies.

Recommendation 7

The Committee recommends a note similar to that contained in clause 37(3) of the Bill be included in both clause 38(3) - Power to require personal details for offence etc, and clause 58 – Powers relating to excluded person, to ensure there are consistent references to the provisions dealing with the removal of headwear.

- Queensland Government response: **Not Supported**

The Government considers the Bill and the Explanatory Notes clearly describe the powers and responsibilities outlined in the Bill. The provision of further notes is not supported as they will not substantially enhance the understanding of the Bill.

Recommendation 8

The Committee recommends a note be inserted after clause 44 directing readers to the appropriate provisions of the Police Powers and Responsibilities Act 2000 relating to forfeiture of items to the State.

- Queensland Government response: **Not Supported**

The Government considers the Bill and the Explanatory Notes clearly describe the powers and responsibilities outlined in the Bill. The provision of further notes is not supported as they are unlikely to substantially enhance the understanding of the Bill and may in fact confuse the reader because of the limited manner in which the PPRA applies.

Recommendation 9

The Committee recommends clause 51(3) of the Bill be amended to require the Commissioner of Police to give written notice of a decision under clause 51(2) to a person who made written submission, as soon as reasonably practicable.

- Queensland Government response: **Not Supported**

The Government considers the principles of procedural fairness to be sufficient in ensuring that decisions made by the Commissioner pursuant to section 51(2) of the Bill will be made, and notified, without unnecessary delay.

Recommendation 10

The Committee recommends clause 51 of the Bill be amended to require the Commissioner of Police, in his notice given under clause 51(1) to include written reasons as to why a person has been included on the prohibited persons list. The requirements to give reasons should be subject to the situations set out in clause 54(4) and clause 54(5) should similarly apply to a notice under clause 54(1).

- Queensland Government response: **Not Supported**

Part 5 ‘Prohibited persons and excluded persons’ of the Bill authorises the Commissioner to compile a prohibited persons list. The Commissioner may only place a person’s name on this list if reasonably satisfied the person:

- may pose a serious threat to the safety or security of persons or property in a security area;
- may, by the person’s actions opposing any part of the G20 meeting, cause injury to persons or damage to property outside a security area; or
- may disrupt any part of the G20 meeting.

There are only a small number of grounds that would qualify a person for inclusion on the prohibited persons list. These grounds relate to the threat the person poses, or actions the person may take, in relation to the G20 meeting or security areas. The Commissioner’s decision will be informed by a person’s past and present conduct or threats and in most cases will be based on information and confidential intelligence received by the QPS or other Australian and international police and intelligence agencies.

The prohibited persons list is intended for persons who pose a serious threat to the safety and security of the G20 meeting or G20 delegates. The list is likely to include persons of significant international concern given the nature of the G20 meeting and the world leaders who will be in

attendance. For example, international intelligence may identify a person who has threatened the life of a G20 delegate or a person who intends to detonate an explosive device on a motorcade route.

Historically, events of this nature attract a particular type of individual or group intent on causing significant disruption to a G20 meeting and/or damage to infrastructure as part of their protest activities. This list may include persons who have in the past, demonstrated a propensity to undertake acts of this nature. For example, intelligence may identify a person who has caused significant damage to infrastructure at a previous event.

Given the limited number and nature of the grounds that would qualify a person for inclusion on the prohibited persons list and the fact that most decisions of the Commissioner will be informed by confidential information and intelligence reports, it is considered that amending clause 51(1) to require the Commissioner to outline the grounds for the Commissioner's decision would have limited value. In the unusual case where the Commissioner was able to disclose reasons for his decision to include a person's name on the prohibited persons list, the person would still be able to receive notice of the reasons for the Commissioner's decision under clause 51(3) upon lodging a written submission.

The Queensland Government thanks the Committee for its consideration of the Bill.